



# 2023-2024 FACULTY SENATE

The third regular meeting of the 2023-2024 Faculty Senate will be held on **Tuesday, November 7, 2023**, at 2:10 pm in Main Campus Student Center 249.

## **AGENDA** [Livestream Link](#)

I. Call to Order

II. Approval of Minutes

[October 3, 2023](#)

III. Special Order of the Day

A. Roll Call

B. [Announcements](#)

C. Robin Coger, Provost and Senior Vice Chancellor for Academic Affairs

D. Brandon Frye, Vice Chancellor for Student Affairs

E. Meghan Millea, Faculty Assembly Delegate\*

[Report on October 6 and November 3, 2023](#) UNC Faculty Assembly Meetings

F. Anne Ticknor, Chair of the Faculty

G. Question Period

IV. Unfinished Business

V. Graduate Council, Ron Preston

Formal faculty advice on curriculum and academic matters acted on and recorded in the [October 23, 2023](#), Graduate Council meeting minutes, including the level I action items from the [September 6, 2023](#), [September 20, 2023](#), and [October 4, 2023](#), Graduate Curriculum Committee meeting minutes which were approved by its delegated authority and are reported here for informational purposes.

Programmatic action item (GC 23-07) recorded in the [October 23, 2023](#), Graduate Council meeting minutes included an [establishment of a new certificate \(level II\), Physical Activity and Public Health Certificate](#) from the Department of Kinesiology within the College of Health and Human Performance; and a [revision of an existing degree \(level III\), Interdisciplinary Doctoral Program in Biology, Biomedicine, and Chemistry, PhD](#) from the Department of Interdisciplinary Professions within the Thomas Harriot College of Arts and Sciences.

Policy action item (GC 23-08) recorded in the [October 23, 2023](#), Graduate Council meeting minutes, including a revision to the Graduate Faculty Criteria submitted by the Department of Occupational Therapy for clarification on the point system and how many years of records will be reviewed to align with the Graduate Faculty criteria policy in the Graduate Faculty manual.

## VI. Report of Committees

### A. Writing Across the Curriculum Committee, Melissa Wrenn

Curriculum and academic matters acted on and recorded in the [October 16, 2023](#) meeting including:

- Approval of writing intensive course designation (WI) for NURS 4511 Clinical Capstone
- Retention of WI designation for JUST 3501 Criminal Procedure and JUST 3502 Legal Aspects of Correction after prerequisite revision
- Proposed revisions to *University Undergraduate Catalog*, Academic Advisement, Progression and Support Services, Additional Requirements for Degrees, Writing Intensive Requirement (attachment 1).

### B. Undergraduate Curriculum Committee, Stacy Weiss

Curriculum and academic matters acted on and recorded in the meeting of [September 28, 2023](#) including curricular actions in the following units:

- Department of Health Education and Promotion within the College of Health and Human Performance

And in the meeting of [October 12, 2023](#), including curricular actions in the following units:

- Department of Recreation Sciences within the College of Health and Human Performance
- College of Business

### C. Distance Education and Learning Technology Committee, Scott Walfield

1. Proctoring/media release information (*for information only*, attachment 2)\*.
2. “Hy-flex rooms” renamed to “high technology rooms” (*for information only*).

### D. General Education and Instructional Effectiveness Committee, Mary Tucker-McLaughlin

Curriculum and academic matters acted on and recorded in the meeting of [October 15, 2023](#) including:

- The following transfer credit approvals:
  - Domestic Diversity (DD) credit for HIS 1120-103/104 Society and History: Women in History Fall from Appalachian State
  - Global Diversity (GD) credit for POLS 2401 Global Issues from University of North Georgia
  - Global Diversity (GD) credit for PDHU 480EF Interculturalism and Global Exploration from Southern New Hampshire University
  - General Education Humanities (GE:HU) credit for CJ 203 01 Criminal Justice Ethics from Elizabeth City State University

### E. Faculty Governance Committee, Jay Newhard\*

Proposed revisions to *East Carolina University Faculty Manual*, Part XII. Faculty Appellate Provisions (attachment 3).

F. Educational Policies and Planning Committee, Mark Bowler

Curriculum and academic matters acted on and recorded in the meeting of [October 13, 2023](#) including:

- APR unit response of the Adult Education Program
- Request to Deliver 70% Online the BS in Public Health within the Department of Health Education and Promotion within the College of Health and Human Performance

G. Committee on Committees, Toyin Babatunde

First reading of proposed revisions to charge for Educational Policies and Planning Committee (attachment 4).

VII. New Business

Faculty Senate Agenda  
November 7, 2023  
Attachment 1.

**WRITING ACROSS THE CURRICULUM COMMITTEE REPORT**

Proposed revisions to *University Undergraduate Catalog*, Academic Advisement, Progression and Support Services, Additional Requirements for Degrees, Writing Intensive Requirement

Once approved, these changes would appear in the 2024-2025 *University Undergraduate Catalog*.

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

Students enrolling at East Carolina University must fulfill the writing across the curriculum requirement prior to graduation. Writing intensive courses at ECU help student writers meet the University Writing Outcomes, which involve communicating effectively with diverse audiences about complex and significant issues. To fulfill this requirement, each student must complete a minimum of four writing intensive courses, typically including [ENGL 1100](#) and [ENGL 2201](#); at least one writing intensive course in the major; and any other writing intensive course of the student's choice. WI courses that are 6 or more credit hours count for two WI courses. Students enrolled in multiple majors are required to take a WI course in only one of their majors, while dual degree students are required to complete one writing intensive course in each major. **Students must take at least 2 of their 4 required WI courses at ECU, excluding ENGL 1100 and ENGL 2201.** ~~A course will transfer into ECU as WI if the course is a writing intensive course in a writing across the curriculum program at the university or college where it was taken, or transfers as~~ **Only courses** equivalent to ENGL 1100 or ENGL 2201 **will transfer to ECU with WI credit.** Students transferring credit for only ENGL 2201 are not required to take ENGL 1100 but must still fulfill the WI course requirement **by taking 3 more WI courses.** Similarly, students who receive placement credit for a course have not satisfied the WI requirement for that course. Courses that do not meet the above criteria must be approved by the director of the University Writing Program.

A list of courses that have been awarded the writing intensive designations can be viewed by going to the [Courses](#) section of this catalog.

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Faculty Senate Agenda  
November 7, 2023  
Attachment 2.

**DISTANCE EDUCATION AND LEARNING TECHNOLOGY COMMITTEE REPORT\***

Proctoring/media release information

*(For information only)*

The following syllabus statement, from University Counsel, replaces the Media Consent and Release Forms:

Students should be aware that class lectures may be recorded. These recordings may include images and voices from students who are present and participating in the course. Should students want their voice and/or image withheld from these recordings, they will need to make a written request to their instructor. However, doing so may limit a student's ability to participate in the

course. To protect the privacy of other students, students are not permitted to make their own recordings of class lectures (unless provided this accommodation from the Department for Disability Support Services). Likewise, students are not to share class recordings without the permission of the instructor or through an accommodation from the Department for Disability Support Services. For more information, see the [Family Educational Rights and Privacy Act \(FERPA or Buckley Amendment\) PRR](#).

**Note:** Similar language should be added if the course requires students to record presentations that are shared with the class and/or instructor.

- University Counsel is reviewing the current Media Consent Release forms and recommended revisions will be provided in the future.
- External participants and other scenarios as provided in the Media Consent and Release Guidelines continue to require to Media Consent Forms. Should you have any questions please contact University Counsel or the DELTC chair.

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**Faculty Senate Agenda**  
**November 7, 2023**  
**Attachment 3.**

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed revisions to *East Carolina University Faculty Manual*, Part XII. Faculty Appellate Provisions

The Faculty Governance Committee is proposing substantial revisions to Part XII of the Faculty Manual. The motivation for the changes and a summary of the key changes can be viewed [HERE](#). A tracked-changes version of the document can be viewed [here](#), with the clean version appearing below. **Note:** after the first posting, one section of text was amended and appears in **blue highlighted text**.

PART XII

FACULTY APPELLATE PROVISIONS

SECTIONS

- I. General Appellate Procedures
- II. Non-Reappointment, Denial of Tenure at the End of the Probationary Period, Denial of Promotion, and Non-Conferral of Early Tenure
- III. Disciplinary Discharge, Suspension, or Demotion
- IV. Separation Due to Financial Exigency or Program Curtailment
- V. General Grievances and Non-Disciplinary Separation
- VI. Complaints of Unlawful or Prohibited Harassment, Discrimination or Improper Relationships
- VII. Effective Date

## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION I

#### General Appellate Procedures

#### CONTENTS

- I. The Appellate Committee and Appellate Steering Committee
- II. Descriptions of Grievants and Respondents
- III. Legal Counsel or Advisor in Appellate Procedures
- IV. The Record of Appeal
- V. Communications and Notifications
- VI. Constituting Appellate Panels
- VII. Deadlines
- VIII. Confidentiality of Proceedings
- IX. Annual Reports
- X. Jurisdiction of the Board of Governors

#### I. The Appellate Committee and Appellate Steering Committee

A. The 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:

- 1) Hearing Panel for cases of Non-Reappointment, Denial of Tenure at the End of the Probationary Period, Denial of Promotion, and Non-Conferral of Early Tenure (Part XII, Section II),
- 2) Due Process Panel for cases of Disciplinary Discharge, Suspension, or Demotion (Part XII, Section III),
- 3) Reconsideration Panel for cases of Separation Due to Financial Exigency or Program Curtailment (Part XII, Section IV)
- 4) Grievance Panel for Faculty Grievances, including Non-Disciplinary Separation (Part XII, Section V)

An Appellate Committee member who becomes a grievant or respondent while serving will be replaced by the usual procedure for vacancies between annual elections and cannot serve on the Appellate Committee for the period of one three-year term from the date of the final decision on that appeal.

At its initial organizational meeting each year, the 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: hearing appellate, due process appellate, reconsideration appellate, and grievances appellate. These individuals will be designated as the “appellate chair” for appeals in their respective areas. Once constituted, the steering committee will elect an Appellate Steering Committee chair and secretary.

The Appellate Steering Committee chair, the appellate chair, and the appellate panel chair provide procedural information to the grievant and respondent(s). Except during the hearing itself, the parties are prohibited from engaging them, the panel members, witnesses of the opposing party, or the opposing party in any issues that are not procedural information. The hearing is the only place to

litigate a party's case. Any party disobeying this prohibition will be reminded not to do it again, and any such non-procedural information will not be entered into the record of appeal.

## II. Descriptions of Grievants and Respondent(s)

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 employed by East Carolina University. Affiliate faculty are not entitled to any rights under Part XII of the *Faculty Manual*.

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. Legal Counsel or Advisor in Appellate Procedures

Grievants can have the assistance of legal counsel or other advisors at hearings. The legal counsel or other advisor is permitted to participate actively in the hearing. If the grievant is assisted by legal counsel, East Carolina University should provide legal counsel to the respondent(s).

For grievants, legal counsel 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.

For respondents, legal counsel is defined as an attorney in the East Carolina University Office of University Counsel.

Advisors for grievants and respondents are defined as East Carolina University faculty members (with or without administrative title). It is recommended that advisors be tenured professors with extensive experience in faculty governance, as evidenced by service on university governance/appellate committees, and not associated with the conflict in any way. Association with the conflict includes individuals who may reasonably be called as a witness by either party. A list of potential faculty advisors is maintained by the Faculty Senate Office.

## IV. The Record of Appeal

Communications to and from parties that are part of the appeal process, documents or media submitted for hearings, transcripts, and the panel reports make up the Record of Appeal and are maintained in the Faculty Senate Office. The Record of Appeal may grow as additional petitions, memoranda, and material procedural communications are filed by the parties and decision makers in the process. Some or all of this record may become part of the personnel records of the parties, with access restricted by law (see NC General Statutes, [Chapter 126, Article 7](#)).

## V. Communications and Notifications

Communications and notifications to and from parties that are part of an appeal process must be made in a manner that provides adequate proof of delivery. Email does not ensure confidentiality and shall only be used for notification of electronic submission. Information about electronic submission of appeal requests and materials related to appeals can be found [here](#).

## VI. Constituting Appellate Panels



To determine panelists for appellate panels, at the beginning of each academic year, the Appellate Steering Committee will develop a rank order for all members of the 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 Appellate Steering Committee will return to the top of the ranked list and proceed through the Appellate Committee membership again in the same order.

Because hearings 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 Appellate Steering Committee members and appeal panels are appropriately trained in accordance with guidelines and procedures jointly established by the faculty officers and the chancellor, and that relevant administrators and aggrieved faculty members have access to information regarding the appeal processes. Training is provided by the Office of University Counsel. Shortly after the organizational meeting of the Appellate Committee, the Appellate Steering Committee is trained to perform their roles within each appellate process. This training involves an overview of all the appeal processes and procedures for initial review of a petition for redress/request for review of a decision and formation of panels for each type of appeal. Panel trainings are conducted after the formation of a panel and are tailored to the appeal type.

A request for an appeal panel is directed to the [chair of the Appellate Steering Committee](#), and the process and information required for that request is determined by the type of appeal. If a faculty member is unsure of their options for appeal or have questions about the process, they should consult with the chair of the faculty, a faculty advisor (see link at <https://facultysenate.ecu.edu/>), or the [Office of the University Ombuds](#). Upon receiving the request, the Appellate Steering Committee will confirm that the request falls under the jurisdiction of one of the faculty appellate processes, then the appropriate 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 random lottery rank order of Appellate Committee members. The names of the parties will be shared with the assembled panel so those with a conflict of interest due to personal or professional contacts with the parties may recuse themselves. The appellate chair will then notify the parties with the names of the panel members and provide the deadline by which either party may request panel members be recused for conflict of interest. If the panel member declines recusal, the established panel, including the alternate, shall determine obligatory recusal by majority vote (with the member in question not participating in the vote). The recused panel member will be replaced by the alternate, and another alternate will be appointed by the appellate chair. Once established, the appeal panel will elect a chair and secretary, and follow the appropriate provisions, detailed below, for the specific type of appeal files.

## VII. Deadlines

The appellate processes each have their own deadlines and they are described in the relevant appellate process section. When calculating the dates for deadlines, the day on which the notice is received is not counted, but the last day of the time period is counted. Each appellate process has provisions for extensions that can be issued by the Appellate Steering Committee and/or the appeal panels.



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 provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) of the timing and basis of a deadline extension.

#### VIII. Confidentiality of Proceedings

Hearings for all appellate processes will be closed to the public. Only the immediate parties to the proceeding, the responsible administrators and attorneys, and the members of the University governing boards and their respective committees and staff are permitted access to materials collected for and during hearings, unless otherwise specified by law. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential. Access to confidential personnel files is restricted by law (see NC General Statutes, [Chapter 126, Article 7](#)).

#### IX. Annual Reports

Annually, the Faculty Senate Office 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. The report will be submitted to the Faculty Governance Committee for review at the beginning of the fall semester.

#### X. 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 *East Carolina University 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.

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION II

Non-Reappointment, Denial of Tenure at the  
End of the Probationary Period, Denial of Promotion, and Non-Conferral of Early  
Tenure.

#### CONTENTS

- I. Deadlines for Review
- II. Request for a Hearing Panel
- III. Procedures for the Hearing
- IV. Procedures After the Hearing
- V. Appeal of Chancellor's Decision

- 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 ECU Board of Trustees; 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 chair of the Appellate Steering Committee. The Appellate Steering Committee shall decide for good cause on an extension within 10 calendar days of receiving a request.

See *East Carolina University Faculty Manual* Part XII, Section I, subsection III for guidance on calculating the deadline date and <https://facultysenate.ecu.edu/electronic-submission/> for information about submitting documents through electronic means. E-mail does not ensure confidentiality and shall only be used for notification of electronic submission.

## II. Request for a Hearing Panel

Within 30 calendar days of receiving written notice from the Provost of non-reappointment, non-conferral of permanent tenure, or denial of promotion, a faculty member (hereafter, the grievant) may request a review of the decision before a hearing panel by sending the request to the chair of the Appellate Steering Committee and delivering it to the Faculty Senate Office following the method described [here](#). The Faculty Senate Office will promptly notify the provost.

The Hearing appellate chair will convene a Hearing Panel within 10 calendar days of receiving this request. See Section I. Subsection I for role of Hearing appellate chair before the hearing and appropriate engagement between the parties.

### 1. Initiation of the Hearing Process

The basis for a request for a hearing must state that the decision was based on any ground stated to be impermissible in [Chapter 100.1, Section 604C\(d\) of The UNC Policy Manual and Code of The University of North Carolina](#). Chapter 100.1, Section 604C(d) of The UNC Policy Manual and Code states: “ *A decision under Section 604A shall not be based upon (1) 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; (2) the faculty member’s membership in a group protected from discrimination under state or federal law; (3) other violation of state or federal law; or (4) material violation of applicable university policies for reappointment, promotion, and tenure that materially affected the decision.*”

A material violation of applicable university policies that materially affect the decision means a departure from prescribed procedures governing reappointment, promotion and/or 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 material violation occurred, and whether it materially affected the decision, 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.

The grievant’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 available 14 calendar days prior to the hearing);
- d) identification of persons who may be willing to provide information in support of the contention; and a brief description of the information those persons identified may provide, and
- e) a copy of the Provost's notice of non-reappointment, denial of promotion, or non-conferral of permanent tenure.

## 2. 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 (per Part IX, Section I.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 of the panel 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 constitution of appellate panels specified in Part XII, Section 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 chair or secretary 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 grievant's request for a hearing, those Appellate Committee members who (i) hold an appointment in the grievant'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.3, 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 grievant and those individuals or groups who are alleged to be responsible for the action or actions described by the grievant in the request for the hearing [hereafter, the respondent(s)] are permitted to challenge panel members for just cause. If the panel member declines recusal, the established panel, including the alternate, shall determine obligatory recusal by majority vote (with the member in question not participating in the vote).

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

The panel may at any time consult with an attorney in the Office of University Counsel. 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.

## III. Procedures for the Hearing

### 1. Time and Date of Hearing

After the membership of a Hearing Panel is determined by the Hearing appellate chair, the hearing panel chair shall provide a complete copy of the request for a hearing to the individuals named in the request for a hearing (by the method described [here](#)).

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 hearing 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. The panel may, upon one of the parties' written request and for good cause, postpone the date of the hearing by written notice to both parties, the hearing appellate chair, the chair of the faculty, and the chancellor.

At least 21 calendar days before the hearing, the grievant shall notify the panel, the respondent(s), the chair of the faculty, and the chancellor of the identity of the grievant's legal counsel or advisor (for definition of legal counsel or advisor see Part XII, Section I, Subsection III). Within 14 calendar days before the hearing, the grievant 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 (please consult Part XII, Section I, Subsection VI for guidance in calculating the dates).

## 2. Submission of Hearing Documents

One paper copy and one digital copy of all information and documents shall be submitted to the Faculty Senate Office. Parties can visit <https://facultysenate.ecu.edu/appellatecommittee/> for guidance on submission of digital copies of hearing documents or contact the Faculty Senate Office Administrator for more information. 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. Exhibit G and Exhibit R shall include all information necessary to support or defend the grievance

Once the copies as described above are received from both parties, the digital copies will be made available to each party. The hearing 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 panel, the grievant and the respondent(s) no less than 5 calendar days prior to the hearing date (see Part XII, Section I, Subsection VI. for guidance on calculating the date).

## 3. Conduct of the Hearing

A professional court reporter must be used to record and transcribe the hearing. 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 legal counsels, and the members of the University governing boards and their respective committees and staff are permitted access to such materials.

Attendance at the hearing is limited to the panel members and alternate, the grievant, the legal counsel or advisor who may advise the grievant, the respondent(s), and the legal counsel or advisor who may advise the respondent(s) (See Part XII, Section I, Subsection III for definition and role of legal counsel or advisor during hearings). If there is more than one respondent, the respondents will designate a spokesperson for the hearing. 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.

The hearing panel chair is responsible for conducting the hearing and 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 hearing shall begin with an opening statement by the hearing panel chair. This statement shall be limited to explaining the purpose of the hearing and the procedures to be followed. The hearing panel chair explicitly will note that the panel shall consider only information bearing on the allegations presented in the grievant's request for the hearing. The chair shall then enter into the hearing record the documentation submitted by the grievant and respondent(s) as Exhibits G and R.

Following the opening remarks by the panel chair, the grievant or their legal counsel/advisor shall present his or her contentions and any supporting witnesses and documentary evidence. The respondent(s), through their spokesperson or their legal counsel/advisor, may then reply to these contentions and present any supporting witnesses and evidence. Each party shall have up to 90 minutes for examining their own witnesses. During these presentations, the grievant or legal counsel/advisor, and the respondent(s), through their spokesperson or legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the grievant and any respondent or spokesperson.

At the conclusion of the hearing, the grievant or their legal counsel/advisor will be given the opportunity to make a 10-minute summary final statement, and then the respondent(s), through their spokesperson or their legal counsel/advisor, 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 panel, in its discretion, may allow. The grievant 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 grievant'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 grievant, respondent(s), chair of the faculty, and the chancellor with a copy of the panel's report, including materials entered as evidence, and, a copy of the court reporter's transcript of the hearing.

If the Hearing Panel determines that the grievant's contention has not been established, it shall, by simple, unelaborated statement, so notify the grievant, the respondent(s), the chair of the faculty, and the chancellor. Such a determination confirms the decision not to reappoint, to deny promotion and/or not to confer permanent tenure.

If the Hearing Panel determines that the grievant's contention has been satisfactorily established, it shall notify the grievant, 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 grievant, 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, to deny promotion and/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 their 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 their 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 grievant 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 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 by filing a written notice of appeal with the Board of Trustees.

#### V. Appeal of Chancellor's Decision

The appeal to the Board of Trustees 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; (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.

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION III

#### Disciplinary Discharge, Suspension, or Demotion

#### CONTENTS

- I. Bases for Serious Disciplinary Sanctions or Discharge
- II. Notice to Faculty of Imposition of Discharge, Suspension, or Demotion
- III. Deadlines for Request for a Due Process Hearing
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#### 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 formal discharge, suspension, or demotion. A faculty member serving in a fixed-term or probationary appointment shall be regarded as having tenure, with its protections, until the end of the stated term. During the period of such guarantees, the faculty member may be discharged from employment, suspended without pay, or demoted in rank or title 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 but not limited to, the sustained failure to: meet assigned classes, respond to communications from individuals within the faculty member's supervisory chain, report to their employment assignment and by continuing to be absent for fourteen (14) consecutive calendar days without being excused by their supervisor, or to perform other essential duties of their position; 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 or engaging in other unethical conduct, violation of university policy or law, mistreatment of students or other employees, research misconduct, financial or other fraud; or criminal or other illegal or inappropriate conduct. To justify formal discharge, suspension, or demotion, such misconduct should be either (i) sufficiently related to a faculty member's academic responsibilities as to disqualify the individual from effective performance of job 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 II), termination of employment based on institutional considerations (governed by provisions in Part XII, IV), or non-disciplinary separation (governed by provisions in Part XII, Section V). The provisions may apply if the faculty member is subjected to administrative sanction(s) for violations of University policies on harassment, discrimination, or improper relationships and wishes to appeal the sanction (see Part XII, Section VI).

## II. Notice to Faculty of Imposition of Discharge, Suspension, or Demotion

The provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) shall provide written notice to the faculty member of intent to discharge, suspend, or demote. The written notice must include: (i) the proposed date of discharge, suspension, or demotion; (ii) a written specification of the reasons for discharge, suspension, or demotion; (iii) the faculty member's right to request a disciplinary hearing; and (iv) the deadline and process for the faculty member to request a disciplinary hearing in writing. The notification shall be sent by a method that provides delivery verification.

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, suspended, or demoted without recourse to any institutional grievance or appellate procedure. For extension on deadline for submission see section III.1 below.

At any point during these procedures, the chancellor, provost, or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) shall have the discretion to either reassign the faculty member to other duties or to place the faculty member on administrative leave with pay.

## III. Deadlines for Request for a Due Process Hearing

Failure to submit a request for a Due Process Hearing and the review documents specified below within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the ECU Board of Trustees. 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 chair of the Appellate Steering Committee. The Appellate Steering Committee shall decide for good cause on an extension within 10 calendar days of receiving the request for extension of deadline.

See *East Carolina University Faculty Manual* Part XII, Section I, subsection III for guidance on calculating the deadline date and <https://facultysenate.ecu.edu/electronic-submission/> for information about submitting documents through electronic means. E-mail does not ensure confidentiality and shall only be used for notification of electronic submission.

## IV. Request for a Due Process Hearing

Within 14 calendar days of receiving written notice from the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority), a faculty member (hereafter, the grievant) may request a review of the reason for the sanction before a Due Process Panel by sending the request to the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) and the chair of the Appellate Steering Committee.

The grievant's request for a hearing shall specify the contention that the decision to discharge, suspend, or demote was arbitrary or capricious, and shall include a short, plain statement of facts that the faculty member believes support that contention.

The Due Process appellate chair will convene a Due Process panel within 10 calendar days of receiving this request. See Section I, Subsection I for role of Due Process appellate chair before the hearing and appropriate engagement between the parties.

#### V. 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 I.IV(A)) 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 constitution of appeals panels described in Part XII, Section 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 chair or secretary 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 grievant'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 grievant and the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) are permitted to challenge panel members for just cause. The other members of the panel will decide by majority vote (excluding the panel member being challenged) on any potential disqualifications if a panel member is so challenged but wishes to remain.

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

#### VI. Procedures for the Hearing

##### 1. 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 the Appellate Steering Committee receives the faculty member's written request for a hearing.

The panel shall promptly notify the grievant, the provost, or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority), and the chair of the faculty of the time, date, and place of the hearing following the method described [here](#). The panel ordinarily will endeavor to complete the hearing within 90 calendar days from the time the faculty member submits the request for a hearing to the Appellate Steering Committee, 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. The panel may, upon one of the parties' written request and for good cause,

postpone the date of the hearing by written notice to both parties, the due process appellate chair, the chair of the faculty, and the chancellor.

At least 14 calendar days before the hearing, the parties shall notify the panel, the chair of the faculty, and the chancellor of the identity of their legal counsel or advisor (for definition of legal counsel or advisor see Part XII, Section I, Subsection III). The parties will also submit documents and a list of witnesses to be used in the hearing along with a brief statement of the relevance of each witness. Please consult Part XII, Section I, Subsection VI for guidance in calculating the dates.

## 2. Submission of Hearing Documents.

One paper copy and one digital copy of all information and documents shall be submitted to the Faculty Senate Office. Parties can visit <https://facultysenate.ecu.edu/appellatecommittee/> for guidance on submission of digital copies of hearing documents or contact the Faculty Senate Office Administrator for more information. 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. Exhibit G and Exhibit R shall include all information necessary to support or defend the grievance

Once the copies as described above are received from both parties, the digital copies will be made available to each party. The due process 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 panel, the grievant and the respondent no less than 5 calendar days prior to the hearing date (see Part XII, Section I, Subsection VI. for guidance on calculating the date).

## 3. Conduct of Hearing

A professional court reporter must be used to record and transcribe the hearing. 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 legal counsels, and the members of the University governing boards and their respective committees and staff are permitted access to such materials.

Attendance at the hearing is limited to the panel members and alternate, the grievant, the legal counsel/advisor who may advise the grievant, the respondent, and the legal counsel/advisor who may advise the respondent. (See Part XII, Section I, Subsection III for definition and role of legal counsel or advisor during hearings). 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.

The Due Process panel chair is responsible for conducting the hearing and 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 due process 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 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 panel chair explicitly will note that the panel shall consider the written specification of reasons for the intended discharge, suspension or demotion. The. The chair shall then enter into the hearing record the documentation submitted by the grievant and the respondent as Exhibits G and R.

Following the opening remarks by the panel chair, the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) or legal counsel/advisor shall present their contentions and any supporting witnesses and documentary evidence. The grievant or legal counsel/advisor, may then reply to these contentions and present any supporting witnesses and evidence. Each party shall have up to 90 minutes for examining their own witnesses. During these presentations, the grievant or legal counsel/advisor, and the respondent or legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the grievant and the respondent.

At the conclusion of the hearing, the grievant or legal counsel/advisor will be given the opportunity to make a 10-minute summary final statement, and then the respondent or legal counsel/advisor, will be given the same opportunity.

#### VII. Procedures After the Hearing

After the hearing, the panel shall meet in executive session within 3 calendar days and begin its deliberations within three calendar days. In reaching its decisions on which the panel's written recommendation 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 panel, in 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, suspension, or demotion 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, chair of the faculty, 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.

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..

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 by a written notice of appeal with the Board of Trustees.

#### VIII. Appeal of Chancellor's Decision

The appeal to the Board of Trustees 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 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.

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 an initial review 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 consider written or oral arguments, subject to any policies, regulations, or guidelines that may be adopted by the Board of Governors. 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.

#### IX. Suspension During a Period of Intent to Discharge or Impose Serious Sanctions

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.

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION IV

#### Separation Due to Financial Exigency or Program Curtailment

#### CONTENTS

- I. Reasons Justifying Termination and Consultation Required
- II. Termination Procedures
- III. Deadline for Request for a Reconsideration Hearing
- IV. Request for a Reconsideration Hearing

- V. The Reconsideration Panel
- VI. Procedures for a Hearing
- VII. Procedures After a Hearing
- VIII. Appeal of Chancellor's Decision

## 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 designee 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 give access to information that formed the basis for the decision.

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 include the advice and recommendations given during the consultation period 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. 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 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. Deadline for Request for Reconsideration Hearing

Failure to submit a request for a Reconsideration Hearing and the review documents specified below within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the ECU Board of Trustees 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 chair of the Appellate Steering Committee. The Appellate Steering Committee shall decide for good cause on an extension within 10 calendar days of receiving the request for extension of deadline

See *East Carolina University Faculty Manual* Part XII, Section I, subsection III for guidance on calculating the deadline date and <https://facultysenate.ecu.edu/electronic-submission/> for information about submitting documents through electronic means. E-mail does not ensure confidentiality and shall only be used for notification of electronic submission.

### IV. 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. The request shall be submitted to the chancellor and copied to the chair of the faculty and the Appellate Steering Committee chair. The request 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. The Reconsideration appellate chair will convene a Reconsideration Hearing Panel within 10 calendar days. , See Section I, Subsection I for role of Reconsideration appellate chair before the hearing and appropriate engagement between the parties.

### V. 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 of the panel 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 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 Reconsideration 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 chair or secretary 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) participated directly in the decision to terminate the grievant's employment, (ii) hold an appointment in the faculty member's academic unit, (iii) might reasonably expect to be called as witnesses, (iv) 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 in the activities of a panel related to this specific request for a hearing. The grievant 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 being challenged) 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 Reconsideration appellate chair will select additional members of the Appellate Committee to serve on the panel as specified in Part XII, Section I of the *Faculty Manual*.

The panel may at any time consult with an attorney in the Office of University Counsel. 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 Steering Committee 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 following the method described [here](#). The panel may, upon the one of the parties' written request and for good cause, postpone the date of the hearing by written notice to the faculty member, chancellor, Reconsideration appellate chair, and chair of the faculty.

At least 14 calendar days before the hearing, the parties shall notify the panel, the chair of the faculty, and the chancellor of the identity of their legal counsel or advisor (see Part XII, Section I, Subsection III for definition of legal counsel or advisor). The parties will also submit documents and a list of witnesses to be used in the hearing along with a brief statement of the relevance for each witness (please consult Part XII.I.VI for guidance in calculating the dates).

#### 1. Submission of Hearing Documents.

One paper copy and one digital copy of all information and documents shall be submitted to the Faculty Senate Office. Parties can visit <https://facultysenate.ecu.edu/appellatecommittee/> for guidance on submission of digital copies of hearing documents or contact the Faculty Senate Office Administrator for more information. 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. Exhibit G and Exhibit R shall include all information necessary to support or defend the grievance.

Once the copies as described above are received from both parties, the digital copies will be made available to each party. The Reconsideration 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 panel, the grievant and the respondent no less than 5 calendar days prior to the hearing date (see Part XII, Section I, Subsection VI. for guidance on calculating the date).

## 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.

A professional court reporter must be used to record and transcribe the hearing. 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 legal counsels, and the members of the University governing boards and their respective committees and staff are permitted access to such materials.

Attendance at the hearing is limited to the panel members and alternate, the grievant, the legal counsel/advisor who may advise the grievant, the respondent, and the legal counsel/advisor who may advise the respondent. (See Part XII, Section I, Subsection III for definition and role of legal counsel or advisor during hearings). 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.

The panel chair is responsible for conducting the hearing and 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 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 panel chair explicitly will note that the review of the grievant's appeal shall be limited solely to determining whether the decision to terminate employment was arbitrary or capricious. The chair shall then enter into the hearing record the documentation submitted by the grievant and the respondent as Exhibits G and R.

Following the opening remarks by the panel chair, the grievant or legal counsel/advisor shall present their contentions and any supporting witnesses and documentary evidence. The respondent or legal counsel/advisor may then reply and present any supporting witnesses and evidence in rebuttal of the grievant's contentions or in general support of the decision to terminate the grievant's employment. Each party shall have up to 90 minutes for examining their own witnesses. During these presentations, the grievant or their legal counsel/advisor, and the respondent or their legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the grievant and the respondent.

At the conclusion of the hearing, the grievant or legal counsel/advisor will be given the opportunity to make a 10-minute summary final statement, and then the respondent or legal counsel/advisor, will be given the same opportunity.

## VI. Procedures After the Hearing

After the hearing, the panel shall meet in executive session within 3 calendar days and begin its deliberations on whether the decision to terminate employment was arbitrary or capricious. In reaching its 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 panel, in its discretion, may allow. The burden of proof is on the grievant and the standard of proof is preponderance of evidence. 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 or receipt of the court reporter's transcript, whichever is later, the panel shall provide the faculty member, the chair of the faculty, 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.

If the Reconsideration Panel determines that the burden of proof has not been met by a preponderance of evidence, 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 burden of proof has been met, 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 notify by a method that provides delivery verification the faculty member, the chair of the faculty, and the Chair of the Reconsideration Panel of 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, 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.

## VII. Appeal of the Chancellor's Decision

The appeal to the Board of Trustees 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 and shall end the University's appeal process.

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION V

#### General Grievances and Non-Disciplinary Separation

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

#### I. Faculty Grievance Classifications

There are two classifications of grievances covered by this section:

- 1. General Grievance
- 2. Appeal of a Non-Disciplinary Separation

Faculty subject to disciplinary actions arising from complaints of unlawful or prohibited harassment, discrimination, or improper relationships have recourse to appeal those disciplinary actions using the

general grievance process if the disciplinary action does not rise to the level of a serious sanction (see Part XII, Section VI).

No grievance that involves matters related to a formal proceeding for the imposition of discharge, suspension, demotion, or termination of a faculty member's employment, or that is within the jurisdiction of another appellate panel, falls within the charge of these Faculty Grievance provisions (See Part XII, Sections II covering review of non-reappointment, denial of tenure at the completion of a probationary term, denial of promotion, and non-conferral of early tenure; Section III covering due process before discharge, suspension, or demotion; and Section IV covering appeals of separation due to financial exigency or program curtailment).

## II. General Grievances

According to [UNC Policy Manual and Code Chapter VI](#), Section 607, general grievances shall include matters directly related to a faculty member's terms and conditions of employment within East Carolina University. Grievances must be based upon a decision made by an administrator in a supervisory role (immediate or higher) over the faculty member. The grievance must allege that the decision was in violation of a right or privilege based on federal or state law, UNC Policy or Regulation, university policies or regulations, and that the faculty member was negatively affected by such a decision. UNC Policy Manual [Regulation 101.3.1.3 \(Regulation on Grievances Filed Pursuant to Section 607 of The Code\)](#) states:

*“For clarity, a grievance shall not include disputes between faculty colleagues, disputes between faculty and staff members, disputes between faculty and students, decisions that do not directly affect the faculty member’s terms and conditions of employment, decisions on teaching loads and assignments, or business decisions about the allocation of university resources other than the faculty member’s compensation.”*

### A. Informal Conflict Resolution

Prior to initiating a grievance with the Appellate Steering Committee, a faculty member is encouraged to resolve the issue through the Office of the University Ombuds. The ombuds is an impartial and independent third party trained to facilitate discussion. Mediation (led by an ombuds between two or more parties) is an informal discussion conducive to fair and just agreements. Mediation is also confidential. Consequently, mediation records may not be used as evidence in a hearing, and there is no information an ombuds may reveal to other parties. The ombuds cannot be compelled to testify, share, or pass judgment on office visitors or their information, and cannot serve as a witness in a formal grievance procedure.

When attempting to resolve issues through informal conflict resolution, the following procedures are recommended:

- a. Before meeting face to face, faculty member shall provide the other party 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 other party an opportunity to identify, understand, and address each concern.
- b. During attempts to resolve conflicts, each party may select an advisor. The advisor may serve in this role if a formal grievance process is initiated but shall not be called as a

witness in a formal grievance process (see Part XII, Section 1, Subsection 3 for definitions and roles of advisors).

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 during the informal conflict resolution, 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”). No requests for access to information from current or past grievances at ECU shall be granted.

#### B. Deadlines to Initiate a General Grievance

Failure to submit a request for a Hearing and the review documents specified below within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the ECU Board of Trustees. 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 chair of the Appellate Steering Committee. The Appellate Steering Committee shall decide for good cause on an extension within 10 calendar days of receiving the request for extension of deadline.

See *East Carolina University Faculty Manual* Part XII, Section I, subsection III for guidance on calculating the deadline date and <https://facultysenate.ecu.edu/electronic-submission/> for information about submitting documents through electronic means. E-mail does not ensure confidentiality and shall only be used for notification of electronic submission.

The deadline for initiating a grievance (Step One) is the end of the following Spring semester for an incident alleged to have occurred during the Fall semester (August 16<sup>th</sup> to December 31<sup>st</sup>) 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 1<sup>st</sup> to August 15<sup>th</sup>).

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. See Section I, Subsection I for role of the Appellate Steering Committee chair, Grievance appellate chair, Grievance panel chair before the hearing and appropriate engagement between the parties.

The grievant may terminate the grievance at any time during the process by emailing the Grievance appellate chair. The Grievance appellate chair will issue a communication to all parties regarding the termination of the grievance. Any such notice of termination is final and the grievance is closed. The communications terminating the grievance will be added to the record of appeal (see Part XII.I.III)

#### B. General Grievance Process

##### 1. Step One (Petition for Redress)

A Petition for Redress by the grievant should be addressed to the Appellate Steering Committee chair. The Petition for Redress should set forth the nature of the problem and the redress sought. If there are multiple claims, each should be presented clearly. This petition should include all information necessary to support each of the grievant’s claims, and should not exceed 20 pages. Please visit <https://facultysenate.ecu.edu/electronic-submission/> for information about electronic submission of materials. The Appellate Steering Committee chair will ensure the respondent has access to a copy of the petition.



Either party to the grievance may request that the Appellate Steering Committee or Grievance Panel (once a grievance has proceeded to Step Three) 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 Grievance appellate chair/panel chair and to all parties to the grievance.

Based on information contained in the grievant's Petition for Redress, the Appellate Steering Committee shall determine whether the grievance is within the scope of Part XII, Section V.II. 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 scope of Part XII, Section V.II 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. The Appellate Steering Committee chair will notify the parties of the decision regarding the petition for redress following the method described here:

<https://facultysenate.ecu.edu/electronic-submission/>. If the Appellate Steering Committee finds that the grievance is not within the scope of Part XII.IV.II, then the grievance must be dismissed and notice of dismissal provided in writing to the faculty member, respondent, the chair of the faculty, and the chancellor.

All material collected as part of the grievance shall be collected in the record of appeal maintained in the Faculty Senate Office under the grievant's name (please see Part XII.I.III).

## 2. Step Two (Mediation, Chancellor Review, and Remaining Options)

After the Appellate Steering Committee has determined which, if any, issues raised in the grievant's Petition for Redress are within the scope of Part XII.V.II, the grievant may request:

- A. Mediation (see 2.i).
- B. Mediation (see 2.i) followed by the Chancellor Review on any unresolved issues (see 3.ii).
- C. Mediation followed by a hearing on any unresolved issues (see Step Three).
- D. The Chancellor Review without mediation (see 2.ii).
- E. A hearing without mediation (see Step Three).
- F. Termination of the grievance (see Step Three).

### i. Mediation

The Grievance appellate chair shall offer the parties to the grievance the opportunity to seek a resolution through mediation. 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 Grievance appellate chair as to their acceptance of mediation (see Part XII.I.VI. for guidance on calculating the date). 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 (in Step Three), the Grievance appellate chair will notify the parties that a Grievance Panel will be formed and will set a grievance hearing date.

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 (see Part XII.I.VI. for guidance on calculating the date). 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 Grievance 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 Three).

If an acceptable mediator is identified, the Grievance appellate chair will inform the parties of the selection and provide the Petition for Redress and the Appellate Steering Committee's memorandum to the mediator. The mediator will communicate to the Grievance appellate chair and the parties the beginning date of the process. The mediator will inform the Grievance appellate chair and the parties 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 Grievance appellate chair or 60 days without the formal approval of the full Appellate Steering Committee (see Part XII.I.VI for guidance on calculating the date).

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 Grievance appellate chair that further mediation is unlikely to be successful.
- c. A party to the grievance writes to the Grievance appellate 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 Grievance appellate chair to notify the parties that the mediation process is being terminated and, unless the grievant requests Chancellor Review, inform the grievant to move to Step Three 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 Appellate Steering Committee's memorandum to the grievant and respondent as determined in Step One. A signed copy of the partial agreement shall be placed in the record of appeal. The grievant may request a Chancellor Review or a hearing for remaining issues (Step Three).

#### ii. Chancellor Review

Within 20 calendar days from the request for a Chancellor Review, the grievant shall provide to the chancellor, the respondent, the chair of the faculty, and the Grievance appellate chair copies of the Petition for Redress along with the Appellate Steering Committee's memorandum and any information that supports the grievant's contentions (see Part XII.I.VI. for guidance on calculating the date). Within 10 calendar days, with copies to the grievant, the chair of the faculty, and Grievance 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 Grievance appellate chair, the chair of the faculty, 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 record of appeal and the grievance closed.

### 3. Step Three (Request for a Hearing)

If the grievance is not resolved, by memorandum to the Grievance appellate 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 Grievance appellate chair 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.V. In this case, the Appellate Steering Committee shall provide an updated memorandum to the grievant and respondent(s) explaining remaining issue(s) to address in a hearing. Should the Appellate Steering Committee determine that remaining issues are no longer within the purview of a Grievance Panel, this decision will exhaust the administrative appeals process, and shall be communicated to all parties to the grievance.

If mediation has not occurred, the Grievance Appellate chair will establish a Grievance Panel, as described below.

#### 1. 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.

Upon receipt of the grievant's Request for Hearing (Step Four), the Grievance appellate chair 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.

Upon receipt of a request for a hearing (Step Three), the Grievance 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 Grievance appellate chair will ensure that representatives from the respective ranks of both the grievant and respondent are included on the panel. The Grievance appellate chair will communicate the membership of the panel to the parties. 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 Grievance appellate chair no later than 5 calendar days after notification of panel membership (see Part XII.I.VI. for guidance on calculating the 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 Grievance appellate chair will appoint a new alternate following the same procedure as above. A quorum for the panel shall be the five members or four members and the alternate.

## 2. Notice of Hearing

Once a Grievance Panel is established, the panel will elect a chair and a secretary. The 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. 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 a panel was selected for a grievance prior to the end of the spring semester and their work has to extend into the fall semester, all members on the panel should continue work on that grievance even if their terms on the Appellate Committee concluded with the end of the spring semester. In those situations, panel members will only be replaced under special circumstances (e.g., the member has taken on administrative duties that would render them ineligible to serve).

The panel may, upon one of the parties' written request and for good cause, postpone the date of the hearing by written notice to both parties, the Grievance appellate chair, the chair of the faculty and the chancellor.

At least 14 calendar days before the hearing, the parties shall notify the panel, the chair of the faculty, and the chancellor of the identity of their legal counsel/advisor (for definition of legal counsel/advisor, see Part XII, Section I, Subsection III). The parties will also submit evidence in whatever form and a list of witnesses to be used in the hearing along with a brief statement of the relevance of each witness. (Please consult Part XII, Section I, Subsection VI for guidance in calculating dates). The panel may also call other witnesses that it deems relevant to the grievance. If the panel does call other witnesses, the panel chair will present the parties with a list of those witnesses no later than 7 calendar days prior to the hearing date. 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.

### 3. Submission of Hearing Documents

One paper copy and one digital copy of all information and documents shall be submitted to the Faculty Senate Office. Parties can visit <https://faculty senate.ecu.edu/appellatecommittee/> for guidance on submission of digital copies of hearing documents or contact the Faculty Senate Office Administrator for more information. 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. Exhibit G and Exhibit R shall include all information necessary to support or defend the grievance.

Once the copies as described above are received from both parties, the digital copies will be made available to each party. 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 (see Part XII.I.VI. for guidance on calculating the date).

### 4. Step Four (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 Three and at the hearing. Except as noted in Part XII.V.II the authority of the Grievance Panel shall be solely to hear the testimony of the grievant, the respondent, and witnesses.

A professional court reporter must be used to record and transcribe the hearing. 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, attorneys, and the members of the University governing boards and their respective committees and staff are permitted access to such materials.

Attendance at the hearing is limited to the panel members and alternate, the grievant, the legal counsel/advisor who may advise the grievant, the respondent, and the legal counsel/advisor who may advise the respondent. (See Part XII, Section I, Subsection III for definition and role of legal counsel or advisor during hearings). 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.

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 Three by the grievant and the respondent as Exhibits G and R.

Exhibit G and Exhibit R 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 petition to submit additional documents during the hearing. All such documents 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. The method for submitting additional information will be communicated to the grievant and respondent prior to the hearing.

Following the opening remarks by the panel chair, the grievant or legal counsel/advisor shall present their contentions and any supporting witnesses and documentary evidence. The respondent or legal counsel/advisor may then reply and present any supporting witnesses and evidence in rebuttal of the grievant's contentions. Each party shall have up to 90 minutes for examining their own witnesses. During these presentations, the grievant or their legal counsel/advisor, and the respondent or their legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the grievant and the respondent.

At the conclusion of the hearing, the grievant or legal counsel/advisor will be given the opportunity to make a 10-minute summary final statement, and then the respondent or legal counsel/advisor, will be given the same opportunity.

#### 5. Step Five (Grievance Panel Report)

After the hearing, the panel shall meet in executive session within 3 calendar days and begin its deliberations. In reaching its decisions on which the panel's written recommendation 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 panel, in its discretion may allow. The grievance panel report shall be based on applicable law, UNC Policy or Regulation, and university policies or regulations, and that the faculty member was negatively affected by such a decision.

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

Panel recommendations are to be based on, but are not limited to, the grievant's requested redress.

Within 14 calendar days of finishing its deliberations or receipt of the court reporter's transcript, whichever is later, 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 record of appeal, and will be open to the Grievance Panel and all parties to the grievance until the grievance is closed.

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 record of appeal. 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. Appeals of the chancellor's decisions can be made in certain cases (See Step Six (Appeal to Board of Trustees)). The grievant's request will be added to the grievance file.

## 6. Step Six (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 a copy to the chair of the faculty), with adequate evidence of 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. All correspondence that is copied to the chair of the faculty will be added to the record of appeal maintained by the Faculty Senate Office.

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-Disciplinary Separation

### A. Bases for Non-Disciplinary Separation

[Chapter VI, Section 602 of the UNC Policy Manual and Code](#) specifies that if a faculty member wishes to appeal a non-disciplinary separation, then they can file a grievance pursuant to Section 607. Section 602(6)(d) states:

*“The non-disciplinary separation from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before the term expires when:*



*(i) the faculty member is unable to perform the essential functions of the job due to a medical condition or the vagueness of a medical prognosis and the university and the faculty member are unable to reach agreement on a return-to-work arrangement that meets both the needs of the university and the faculty member's condition, and the university has demonstrated a business or operational need to fill the faculty member's position; or*

*(ii) notwithstanding any unexhausted leave credits and leave benefits, the faculty member is unable to perform all of the position's essential duties due to a court order, or due to the loss of credentials or certification required for the position and that would render the faculty member unable to perform all of the essential functions of the job."*

#### B. Notice to Faculty of Non-Disciplinary Separation

The provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) shall provide written notice to the faculty member of intent to discharge as part of a non-disciplinary separation. The written notice must include: (i) the proposed date of discharge; (ii) a written specification of the reasons for discharge; (iii) the faculty member's right to a hearing; and (iv) the deadline and process for the faculty member to request a hearing in writing. The notification shall be sent by a method that provides delivery notification. If no written request for a hearing is received within 14 calendar days after receipt of this notification, the faculty member may be discharged without recourse to any institutional grievance or appellate procedure.

#### C. Deadlines for Request for a Non-Disciplinary Separation Hearing

Failure to submit a request for a Non-Disciplinary Separation Hearing and the review documents specified below within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the ECU Board of Trustees 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 chair of the Appellate Steering Committee. The Appellate Steering Committee shall decide for good cause on an extension within 10 calendar days of receiving the request for extension of deadline

See *East Carolina University Faculty Manual* Part XII, Section I, subsection III for guidance on calculating the deadline date and <https://faculty senate.ecu.edu/electronic-submission/> for information about submitting documents through electronic means. E-mail does not ensure confidentiality and shall only be used for notification of electronic submission.

#### D. Request for a Non-Disciplinary Separation Hearing

Within 14 calendar days of receiving written notice from the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority), a faculty member (hereafter, the grievant) may request a review of the reason for the sanction before a Grievance Panel by sending the request to the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) and the chair of the Appellate Steering Committee.

The grievant's request for a hearing shall specify the contention that the decision for a non-disciplinary separation was arbitrary or capricious, and shall include a short, plain statement of facts that the faculty member believes support that contention.

The Grievance appellate chair will convene a Grievance Panel within 10 calendar days of receiving this request.

## E. The Grievance Panel

The Grievance Panel (or “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, chosen from the Appellate Committee in accordance with Part XII, Section I. When membership of the panel falls below the specified five members and one alternate, the Grievance appellate chair will select additional members of the Appellate Committee to serve on the panel as specified in Part XII, Section I of the *Faculty Manual*.

Upon receipt of the grievant’s request for a hearing, the Grievance appellate chair 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 Grievance 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 Grievance appellate chair will ensure that representatives from the rank of the grievant are included on the panel. The Grievance appellate chair will communicate the membership of the panel to the parties. 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 Grievance appellate chair no later than 5 calendar days after notification of the panel membership ((see Part XII.I.VI. for guidance on calculating the 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 Grievance appellate chair will appoint a new alternate following the same procedure as above.

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 chair or secretary for the purposes of the hearing. A quorum for the panel shall be the five members or four members and the alternate.

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.

## F. Procedures for the Hearing

### 1. Time and Date of Hearing

The Grievance 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 the Appellate Steering Committee receives the faculty member’s written request for a hearing.

The panel shall promptly notify the grievant, the provost, or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) , and the chair of the faculty of the time, date, and place of the hearing following the method described here: <https://facultysenate.ecu.edu/electronic-submission/>. The panel ordinarily will endeavor to complete the hearing within 90 calendar days from the time the faculty member's submits the request for a hearing to the Appellate Steering Committee, 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. The panel may, upon one of the parties' written request and for good cause, postpone the date of the hearing by written notice to both parties, the due process appellate chair, the chair of the faculty and the chancellor.

At least 14 calendar days before the hearing, the parties shall notify the panel, the chair of the faculty, and the chancellor of the identity of their legal counsel/advisor (for definition of legal counsel or advisor see Part XII, Section I, Subsection III). The parties will also submit documents and a list of witnesses to be used in the hearing along with a brief statement of the relevance of each witness. (Please consult Part XII, Section I, Subsection VI for guidance in calculating the dates).

## 2.Submission of Hearing Documents.

One paper copy and one digital copy of all information and documents shall be submitted to the Faculty Senate Office. Parties can visit <https://facultysenate.ecu.edu/appellatecommittee/> for guidance on submission of digital copies of hearing documents or contact the Faculty Senate Office Administrator for more information. 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. Exhibit G and Exhibit R shall include all information necessary to support or defend the grievance

Once the copies as described above are received from both parties, the digital copies will be made available to each party. The due process 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 panel, the grievant and the respondent no less than 5 calendar days prior to the hearing date (see Part XII, Section I, Subsection VI. for guidance on calculating the date).

## G. Conduct of Hearing

A professional court reporter must be used to record and transcribe the hearing. 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 legal counsels, and the members of the University governing boards and their respective committees and staff are permitted access to such materials.

Attendance at the hearing is limited to the panel members and alternate, the grievant, the legal counsel/advisor who may advise the grievant, the respondent, and the legal counsel/advisor who may advise the respondent. (See Part XII, Section I, Subsection III for definition and role of legal counsel or advisor during hearings). 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.

The Grievance panel chair is responsible for conducting the hearing and 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 due process 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 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 panel chair explicitly will note that hearing shall be concerned with the written specification of reasons for the intended discharge and the steps taken to avoid separation. The chair shall then enter into the hearing record the information submitted by the grievant and the respondent as Exhibits G and R.

Following the opening remarks by the panel chair, the provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) or legal counsel/advisor shall present their contentions and any supporting witnesses and documentary evidence. The grievant or legal counsel/advisor, may then reply to these contentions and present any supporting witnesses and evidence. Each party shall have up to 90 minutes for examining their own witnesses. During these presentations, the grievant or legal counsel/advisor, and the respondent or legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the grievant and the respondent.

At the conclusion of the hearing, the grievant or legal counsel/advisor will be given the opportunity to make a 10-minute summary final statement, and then the respondent or legal counsel/advisor, will be given the same opportunity.

#### H. Procedures After the Hearing

After the hearing, the panel shall meet in executive session within 3 calendar days and begin its deliberations. In reaching its decisions on which the panel's written recommendation 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 panel, in its discretion, may allow. The University has the burden of proof. In evaluating evidence, the panel shall use the standard of preponderance of evidence in determining whether the institution has met its burden of showing that the faculty member was unavailable based on one of the grounds listed in Section 602(6)(d)(i) and (ii) and that the university took reasonable steps to avoid separation. 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 or after the full transcript is received, whichever is later, the panel shall provide the faculty member, chair of the faculty, 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.

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.

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 by a written notice of appeal with the Board of Trustees.

#### I. Appeal of Chancellor's Decision

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](#).

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 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.

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.

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 clear and convincing 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.

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION VI

## 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

- A. Federal and state laws and/or university policies prohibit 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 (including relationship or association with a protected veteran; or Active Duty or National Guard service). 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) (<https://oed.ecu.edu/policies/nondiscrimination/>).

- 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 provost or dean/executive dean of Brody School of Medicine (as appropriate according to supervisory authority) or the chancellor may take such disciplinary action as they deem appropriate, including discharge from employment, suspension, or reduction in rank or title in a manner that is consistent with the policies and procedures stated in the *East Carolina University Faculty Manual* (see *Part XII.III*).

### 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.
- B. When disciplinary actions, if any, do not include discharge, demotion, or suspension, a faculty member may appeal minor sanctions, reprimands, or seek other redress through provisions governing general grievances contained in Part XII.V of the *Faculty Manual*.
- C. Disciplinary actions that include a serious sanction (discharge, suspension, or demotion) may be appealed following provisions in Part XII, Section III of this *East Carolina University Faculty Manual* (Disciplinary Discharge, Suspension, or Demotion). Note that [The UNC Code, Section](#)

[603](#) 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 (<https://oed.ecu.edu/policies/nondiscrimination/>).

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## PART XII – FACULTY APPELLATE PROVISIONS

### SECTION VII Effective Date

Except as otherwise provided below, these provisions shall become operative immediately after they are approved by the President of the University of North Carolina .

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

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Faculty Senate Resolution #99-4, March 1999 (superseded by #06-19, January 2007)  
Faculty Senate Resolution #99-10, March 1999 (superseded by #06-19, January 2007)  
Faculty Senate Resolution #03-37, March 2004 (superseded by #06-19, January 2007)  
Faculty Senate Resolution #03-49, April 2006 (superseded by #06-19, January 2007)  
Faculty Senate Resolution #06-19, January 2007  
Faculty Senate Resolution #12-17, February 2012, Chancellor  
Faculty Senate Resolution #14-32, April 2014, Chancellor  
Faculty Senate Resolution #19-69, April 2021  
Faculty Senate Resolution #19-70, April 2021



## COMMITTEE ON COMMITTEES REPORT

First reading of proposed revisions to charge for  
Educational Policies and Planning Committee

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

Name: Educational Policies and Planning Committee

2. Membership:

8 elected tenured faculty members.

Ex-officio members (with vote): The Chancellor or an appointed representative; the Provost or an appointed representative; the Associate Provost for Institutional Planning, Assessment and Research or an appointed representative; the Dean of the Graduate School or an appointed representative; the Chair of the Faculty or an appointed representative; one faculty senator selected by the Chair of the Faculty; and one student member from the Student Government Association. The Chair of the Faculty should, to the extent possible, ensure faculty representation from both east and west campuses.

The chair of the committee may invite resource persons as necessary to realize the committee charge. The chair of the committee may appoint such subcommittees as he or she deems necessary.

3. Quorum: 4 elected members exclusive of ex-officio.

4. Committee Responsibilities:

A. The committee considers the adequacy, balance, and excellence of all of the University's undergraduate and graduate programs relative to accepted academic standards. This consideration shall cover the undergraduate and graduate programs as problems or concerns arise.

B. The committee advises the Chancellor on the educational policies and organizations, goals, standards, and procedures of the University following such consideration, as outlined in Section 4.A., or as requested otherwise by the Chancellor or the Faculty Senate.

C. The committee reviews information concerning proposals for all new curricula, programs, and academic policies, or for revisions in all existing policies, prior to the implementation of such proposals in the long-range planning of academic programs in the College of Arts and Sciences, the various professional schools, the Graduate School, and the Division of Continuing Studies. The Committee uses information regarding university academic standards and resources as the basis for its reviews. The committee reviews Seven Year Unit Program Evaluations (*ECU Faculty Manual, Part IV*, Section III) and unit responses to same, and provides written reports to the unit reviewed and Office of Academic Programs.

D. The committee acts upon requests for permission to plan and establish all new degree programs and requests for permission to establish new minors. The committee shall use information regarding university academic standards and resources as the basis for its review.

**E. The committee annually reviews program productivity data and notifies the program and the home unit of potential actions to be taken. The Committee may use enrollment, completion, application, and acceptance data, as well as academic standards and resources as the basis for its review.**

**F.** The committee advises the Chancellor of action to be taken if the University

experiences financial exigency, or in the event that a major curtailment of an existing teaching, research, or public service program is considered (*ECU Faculty Manual, Part IX*, Section I. Tenure and Promotion Policies and Procedures).

**F.G.** The Committee reviews at least annually those sections within the *University Undergraduate Catalog* and *University Graduate Catalog* that correspond to the Committee's charge and recommends changes as necessary.

**G.H.** The chair or appointed representative serves as ex-officio member on **other relevant committees as necessary** the **University Online Quality Council**.

5. To Whom The Committee Reports:

The committee advises the Chancellor through their report to the Faculty Senate as described in 4.B. above. The committee reports to the Faculty Senate concerning requests it has received from the Chancellor. The committee reports to the Faculty Senate the action it has taken on requests for permission to plan and establish new degree programs and requests for permission to establish new minors.

6. How Often The Committee Reports:

The committee reports to the Faculty Senate at least once a year and at other times as necessary.

7. Power Of The Committee To Act Without Faculty Senate Approval:

The committee is empowered to advise the Chancellor as described in 4.B above.

8. Standard Meeting Time:

The committee meeting time is scheduled for the second Friday of each month.