

SPECIAL CALLED MEETING OF THE FACULTY SENATE

December 18, 1975

The Faculty Senate met on Thursday, December 18, 1975, at 2:00 p.m. in Room C-103, Brewster Building. The following members were absent: Henderson, Keusch, Everett, Mills, Williams, Adler, Jones, Shank, Penry. The following alternates were present: Bernard Kane for Davis, John Satterfield for Reep, David Sanders for Wang, Tom Johnson for Grimsley. The following ex-officio members were absent: Jenkins, Holt, Howell, Monroe, P. Daugherty.

Beth Moore reported that more material on collective bargaining has been received and is on reserve in Joyner Library.

The Chairman explained that the purpose of this special meeting was to consider Appendix D - East Carolina University's Tenure Policies and Regulations. He expressed thanks to the members of the subcommittee, the staff in the Provost Office and the office secretary of the Faculty Senate. Mr. Benjamin stated that he wished to reply to the comment that this document "sells out" the faculty. He reported that this is not the case and explained that the document results from a joint effort by faculty and administration to comply with Chapter Six of the UNC Code. Mr. Campion reported that the document was finished late Sunday night. He introduced the members of the subcommittee: Mr. Benjamin, Mr. Yarbrough, Mr. Schmidt, Mr. Bellis, and Mr. Howell and Mr. Ferrell as resource persons. He commented that the full Faculty Affairs Committee approved this draft unanimously. Mr. Benjamin explained that each paragraph would be considered separately. No action to adopt the entire document would be taken until all parts have been considered. He noted that the entire document was open for amendments, and he asked that each senator speak only twice on each section.

Mr. E. Ryan questioned the segments in Section I, paragraph (2). He asked if they could be changed. Mr. Benjamin replied that this is dictated by the Code and cannot be changed. Mr. Campion noted that the draft committee had been chaired by Mr. Schmidt and referred the question to Mr. Schmidt who replied that this was correct. Mr. Benjamin added that this does not preclude making resolutions. Mr. E. Ryan asked if Chapter Six of the UNC Code would be printed along with the ECU Tenure Statement in the next Faculty Manual. Mr. Benjamin responded that after this document has been approved by the Board of Governors, it will be included along with Chapter Six of the UNC Code in the Faculty Manual.

In discussion of Section I, paragraph (3), Mr. Garrison asked why we have to approve things included in this document that are dictated by Chapter Six. Mr. Benjamin answered that we must include the complete text and follow the form of Chapter Six. Mr. Schmidt added that some portions of Chapter Six dictate procedures and must be included verbatim. He asked the senators to observe 603, paragraph 5 on page 29 of the UNC Code. Here the institution is directed to elect a standing committee. He noted that this is the leeway an institution has because the leeway is the due process committee. Section 603 must be included in the document we have. Mr. Garrison voiced an objection. He said that we were being asked to vote on something that was not clear as to whether it had been dictated to us or not. Mr. Benjamin noted that certain portions had been dictated by the Board of Governors. He added that the mimeo sheet with errata changes clarifies which sections we have a voice in and that the committee changed only these. Mr. Garrison then asked why are we voting on something we are not voting on. Mr. Ferrell responded that this issue developed a year ago in December and the document was mandated to everyone. The North Carolina statute 12-64 says the Board of Governors will establish tenure policies. Because of the great divergency in the schools, chancellors and higher administration officials in Chapel Hill were getting grievances. The Personnel and Tenure Committee of the Board of Governors drafted a statement on tenure. At first, this statement was for the whole university system. However, the situation opened up and it was decided that this would be a minimum statement. Each school

could add what they thought necessary to these minimums. Mr. Ferrell remarked that whether or not we vote on this draft was an interesting question. He said that the chancellors at other schools drafted the tenure statements instead of involving faculty persons and committees. He noted that ECU has the most involvement of faculty in drafting of this document. Mr. E. Ryan asked if the Chair would rule it in order to pass only the segments we have control over. Mr. Benjamin replied that this would not be acceptable to the administration at Chapel Hill and the Board of Governors. It is better to approve or reject the entire document.

Mr. E. Ryan stated that he would like to see references to the ECU Code and the various unit codes in Section III C d, paragraph (1). He amended that "and the code of ECU and the codes of the various units of ECU" be added to the end of the first sentence. Mr. Yarbrough asked if the Faculty Manual should include all the unit codes. Mr. E. Ryan responded yes. There was no second to the amendment. Mr. T. Johnson asked what protection does the Senate have in this document against the possibility of some chancellor in the future making revisions in this chapter in the process of his publishing it. Mr. Ferrell replied that after this document goes to the Board of Trustees it will then go to the General Administration and the Board of Governors. It will become a policy of the Board of Governors; and if a chancellor wants to change it, he would have to go through an amendment procedure in which we would be aware of the changes.

In reference to Section III, C 2 a, paragraph (1), Ms. Kares asked where tenure begins when converting from a fixed term appointment. Mr. Schmidt responded that no explanation was felt required by the committee. If an individual holds a position of no tenure, then no probationary period is underway. Ms. Kares remarked that this problem had occurred in her unit this year and asked if this would happen when this document goes into effect. Mr. Ferrell responded that it would not happen unless the Chancellor confers tenure at that time.

Mr. Coulter noted the importance of the last sentence in Section III C 2 c, paragraph (1). He moved to delete the first two sentences and in their place put "the normal maximum term of fixed term contract shall be six years." Mr. Yarbrough suggested that the term "employment" be used rather than "contract." Mr. Thiele seconded. Mr. Champion stated as a point of information that "normal" was added to allow for flexibility. Ms. Koldjeski said that it would not apply to research assistants anyway since the term "faculty" is not used. Mr. Schmidt noted that the intent of this paragraph was to avoid re-employment of an individual without tenure from year to year. If this amendment is passed, then a person could be employed for six-year term contracts one after the other. This would subvert the intent of the paragraph. He cautioned that a liquid pool of faculty who would never be under tenure was in the process of being created. Limits should be imposed on this practice. He added that Chapel Hill agreed with our limitation. Mr. Coulter noted that this would apply the same terms to people who do not have tenure and who do not expect it. Mr. Champion responded that these people are not full-time faculty members such as adjunct professors and therefore this would not affect them. Mr. Yarbrough stated that we should not mention a six-year limit because some medical school people will not want to be on the tenure track and subjected to a six-year contract. He noted that the committee moderated this position so the administration can continue after six years to employee people even though it frowns on this. He said that he favored keeping the same language. Mr. Ferrell agreed with Mr. Yarbrough. The question was called and the amendment failed.

Mr. South questioned Section III C 3 a, paragraph (1), which calls for the separation of an instructor who fails to become an assistant professor by the end of the probationary period. He asked if it would apply to a presently-tenured instructor. Mr. Schmidt replied that it would not affect instructors who are presently tenured. Mr. Ferrell commented that UNC is beginning to object to tenured instructors. Mr. Satterfield asked if there are times in which a promotion from instructor might be denied because of economic reasons and thus make the instructor liable to lose his

position at the end of six years in spite of the desire of the unit to retain them. Mr. Schmidt replied that this was very possible and is one of the reasons for the elaborate appeals procedure.

In discussion on Section III C 3 e, paragraph (1), Mr. E. Ryan, as a point of information, said that the document seems to differentiate between permanent tenure as found on page 13 and that on page 15. There is no provision for removal from tenure after death on page 15. This provision is on one page and not the other. Mr. Benjamin said that all categories of tenure are subject to Chapter Six of the Code.

Mr. Woodside moved to adopt the new wording of Section III C 3 f, paragraph (1). Mr. Johnson seconded the motion. Mr. Kane questioned the difference between the use of two years and five years. Mr. Ferrell replied that "not later than" does not preclude "earlier than." The question was called and the amendment passed. It should be noted that "f" was changed to "i" in the final revision of this document.

Concerning Section III C 3 g, paragraph (1), Ms. Koldjeski asked if this meant that someone coming in from another university might be granted immediate permanent tenure. Mr. Benjamin replied yes that this was true. It should be noted that "g" was changed to "ii" in the final revision of this document.

Mr. Coulter questioned Section III C 3 h, paragraph (1). He observed that according to the Faculty Manual on page 130, the unit chairman must hold an annual evaluation. Mr. Ferrell remarked that since this is the Board of Governors' document later changes will have to be made according to the amendment procedure. If we put this in, then it will be sealed in forever. He added that you really cannot evaluate a person so why put it in. Mr. Benjamin commented that there is a reluctance to relate achievement and tenure. Mr. Ferrell added that the idea of review will still be in effect at ECU if this passes. Mr. Campion asked if passages in the Faculty Manual that provide for an annual evaluation will stay there. Mr. Benjamin replied yes. Mr. Coulter asked if Appendix D supercedes D in the Faculty Manual. Mr. Ferrell answered that some will be superceded but unit codes have already affected this. The annual review has not changed and will not be changed by Appendix D. It should be noted that "h" was changed to "f" in the final revision of this document.

In discussion on Section III C 4 a, paragraph (1), Mr. E. Ryan made the following amendment: A faculty member appointed to the rank of professor with permanent tenure shall be regarded as having permanent tenure until retirement, voluntary resignation or removal according to the provisions of Sections IV and V of this Appendix. Mr. Woodside seconded. Mr. Brown commented that this was adding two more reasons to get rid of them. Mr. Coulter asked if this applied to full professors or other professors such as associate professors. Mr. Benjamin answered that it applied to full professors. Mr. Ferrell commented that it applied to any professor. Mr. Schmidt said the intent of the committee was that it be applied to full professors. He added that this was an oversight and should be full professor. Mr. Garrison questioned the need for this. Mr. Benjamin responded that it was demanded by Chapel Hill. Mr. Brinn wanted to know if it were not customary that upon promotion to associate professor tenure was granted. Mr. Benjamin said that as it is written an initial appointment to associate professor would be probationary. Mr. Campion observed that, at the Chancellor's discretion, tenure could be conferred on an associate professor after a term of one year. The question was called and the motion passed.

In Section III C 4 b i, paragraph (1), Mr. South mentioned that the word "exceptional" was a catch phrase and reasons why a person may be retained beyond 65 years should be spelled out. Mr. Schmidt commented that it was necessary to weigh and balance the way we wanted it spelled out because we could limit ourselves. Ms. Koldjeski, as a point of information, asked whether it applied to administrators as well as

faculty members. Mr. Benjamin responded that administrative appointments are in the domain of the Chancellor. Mr. Ferrell commented that the law is specific about retirement after the age of 72 and there are no exceptions here. A person may retire as a faculty member and keep working as a dean.

Ms. Kares commented that the Library and Continuing Education should be included in Section III D 4, paragraph (1). She moved that the second sentence read: "The recommendations of those units under the supervision of the Provost's Office shall be forwarded to the Provost." Mr. Benjamin said that this was an editorial change and that the same change would apply to Health Affairs.

Mr. Coulter questioned the interpretation of "quorum" in Section III E 4, paragraph (1). He asked if this included alternates as well as regular members for the quorum. Mr. Ferrell responded that alternates could participate in order to make a quorum. The chairman of the committee would have to determine which alternates would be counted. Mr. Coulter said that the quorum would be three of the regular members. Mr. Ferrell commented that a quorum would require six out of ten. He noted that the alternates have to be at all the meetings in case they are needed. Mr. Kane commented that this is not how the quorum is established for the Senate. Mr. Yarbrough amended that a "quorum is a simple majority of committee members" a five man committee. The total should be left off. Ms. J. Shea seconded the motion. Mr. Coulter responded that he was against this motion. He held that with an alternate system, a quorum should be five members. Mr. Yarbrough withdrew his amendment. Mr. Kane amended "the hearing shall be held with a minimum of five members or their alternates present." Mr. Brinn seconded. Ms. Koldjeski said that the term "quorum" should be used. Mr. Benjamin replied that this could be an editorial change. The question was called and the amendment passed as follows: "A quorum for the hearing shall be five members or their alternates."

In Section III E 5, paragraph (1), Mr. Garrison commented that the burden of proof was on the faculty member and that he may not have access to the evidence. Mr. Ferrell noted that there are two problems here. If a faculty member had access to search, he could go in the administration files. He would have to specify what evidence he was looking for and this precludes knowledge. Mr. Garrison replied that was the reason for the search. Mr. Ferrell said that the faculty member should have evidence at this point; otherwise, the whole thing would be like a fishing expedition. He noted that ECU cannot write this in the document.

Mr. E. Ryan asked why the phrase "professional achievement" used in the earlier draft had been deleted in Section V B 1, paragraph (1). Mr. Benjamin replied that the committee had been told to use the language of the UNC Code here. Mr. E. Ryan asked if this would include chairpersons. Mr. Ferrell answered that it does not matter because the department will not dominate the committee.

Referring to Section V B 2, paragraph (3), Mr. Garrison asked if the period could be increased to four years. Mr. Benjamin answered that the committee had been told to make it two years. Mr. Campion added that further along in the paragraph there was the time element of thirty days and that this had been mandated. Mr. Woodside said that there were no conditions stated for rehiring. He amended that a faculty member should be rehired with tenure. Mr. Benjamin noted that paragraph (4) covers this. Mr. Woodside withdrew his amendment. He then moved that the words "tenure status" be added before "rank and salary" in paragraph (4). Mr. Yarbrough seconded. Mr. Schmidt observed that paragraph (4) will be deleted eventually. The question was called and the amendment passed.

Mr. South said that the use of registered mail as provided for in Section V B 3, paragraph (1), represented an impersonal situation. Because of possible mix-ups, this needs to be clarified. Mr. Schmidt replied that we had no choice here because this is a quote from the UNC Code. Ms. Koldjeski added that it is not an unusual practice for a secretary to sign for registered mail. The mail might not get to

the intended person as rapidly. Mr. Benjamin said that it is illegal for a person to sign for someone else for registered mail. Mr. Yarbrough noted an editorial change on page 41. "Another faculty member" should be "another faculty member's."

Mr. Coulter noted the quorum problem again in Section V B 6, paragraph (2). He amended the sentence to read "a quorum for purposes of conducting a hearing by the Reconsideration Committee shall be five members or their alternates." Mr. Brinn seconded. The question was called and the amendment passed.

In Section V B 8, paragraph (1), Mr. E. Ryan amended to drop the second sentence and add "the committee shall then determine whether the faculty member has established a prima facie case." Next would follow the lines used on page 26 which state "if it determines that the contention has not been so established, it shall so notify the parties to the hearing and thereupon terminate the proceedings." Mr. Garrison seconded the amendment. Mr. E. Ryan said that the burden would be on the tenured faculty member. Mr. Yarbrough noted that the committee has to be convinced of a strong case before the hearing. There automatically would be a hearing. Mr. E. Ryan questioned the use of the words "substantial certainty." Mr. Yarbrough answered that this is a phrasing problem. Mr. E. Ryan moved to amend "substantial certainty" to "reasonable one." Mr. Ferrell commented that "substantial certainty" mandated the committee to have the hearing and to make a ruling. No procedural evaluation offers an opportunity for argument and debate. Mr. Yarbrough stated that paragraph (2) clarified this. Ms. I. Ryan asked why have this sentence at all. Mr. E. Ryan withdrew his amendment and made a motion to delete the sentence which begins with "the burden shall be on." Mr. Woodside seconded the motion. Mr. Yarbrough asked, as a point of information, if Chapel Hill had asked us to include this sentence. Mr. Schmidt replied that the sentence was in the model but was not part of the UNC Code which had to be included in our document. Mr. Johnson suggested to move the sentence to the end of the paragraph. The question was called and the motion to delete the sentence passed.

In Section V B 8, paragraph (2), Mr. Johnson suggested that the prior deleted sentence be put at the end of paragraph (2). Mr. Schmidt replied that this sentence will probably be put back in by Chapel Hill. It occurs at the end of the appeals procedure. He noted that the administration feels that if you are terminated then it is for a good reason. Mr. Johnson amended to include the sentence at the end of paragraph (2). Mr. Ferrell seconded. Ms. Koldjeski commented that this sentence should be kept in the first paragraph. Mr. Garrison spoke against the amendment. He said that the burden should be with whomever originated the complaint. This has been questioned before. Mr. South responded that he did not like the wording and that "burden" was the wrong word to use here. We should reword the statement. Mr. Ferrell noted that it was better to have it after the whole thing has been gone through. He said that the General Administration drafted six documents for use at the various institutions based on whether they were large schools, small schools, etc. It is better to put the phrase at the end of the hearing process. Mr. Johnson editorially changed the beginning of the sentence to "the faculty member shall satisfy the committee" in order to avoid the use of the word "burden." Mr. E. Ryan opposed the amendment. The question was called and the amendment failed.

In discussion on Section VI A, paragraph (1), Mr. E. Ryan asked if the members of the Faculty Affairs Committee would be elected by the faculty. Mr. Schmidt replied yes and this was required on page 34.

The Chairman announced that the entire document was now open for amendments. Mr. Garrison asked if the outline would be included as part of the document. He also asked about the enabling clause. Mr. Schmidt replied that the outline was not intended as part of the report. Mr. Garrison moved to include the outline with the asterisks and footnotes. Mr. Ferrell seconded. Ms. Wilder asked the drafting committee how it felt about including the outline. Mr. Campion responded that it was only prepared for Senate use. Mr. Garrison commented that the outline

identified cross references to the UNC Code. The question was called and the motion to include the outline as part of the document passed. Mr. Benjamin noted that the effective date would be upon approval by the Board of Governors. Mr. Coulter questioned the election of and terms of the Faculty Affairs Committee. Mr. Champion answered that the present Faculty Affairs Committee will continue and next year will be replaced by the one in this document. Ms. Kares questioned the wording of Section VI A, paragraph (1), in which it seemed to imply that there would be six members from each professorial rank. Mr. Schmidt replied that this is a quote from the Code, Section 607. Ms. Kares asked if we had to do this even though it was foolish. Mr. Benjamin replied that the requirement was that each professorial rank be represented. Ms. Kares amended the sentence to read: "The Faculty Affairs Committee shall consist of six faculty members and two alternate members, with representation from each professorial rank, elected by the faculty, plus" Mr. Ferrell seconded. The question was called and the amendment passed. Mr. Coulter amended it to "elected by the Faculty Senate." Mr. Ferrell seconded. The question was called. Mr. Johnson asked if nominations would be from the standing Committee on Committees or the Senate floor. Mr. Benjamin replied they would come from the standing Committee on Committees. The amendment passed. Mr. Woodside asked for clarification on standing committees and the Due Process Committee. Mr. Ferrell responded that all committees are standing with one ad hoc committee in the case of financial exigency. The Due Process Committee is a standing committee. Mr. Garrison questioned the status of the enabling clause. Mr. Schmidt answered that it was left out in error and is the same as the one in the former draft under effective date. Mr. Garrison asked if it will be in effect for all faculty members currently in the tenure track. Mr. Ferrell suggested that the Senate add a codicil stating that by accepting this tenure draft the faculty will not be giving up rights it already has. Mr. Garrison moved to accept the suggestion. Mr. Johnson seconded. Mr. E. Ryan introduced a resolution which restated Mr. Ferrell's thoughts. Mr. Benjamin read the resolution. (See attachment). Mr. Garrison said he did not understand the question clearly. Mr. Ferrell explained that the resolution approves the ECU tenure regulations and that approval of the resolution would also be approving Appendix D. Ms. Koldjeski asked if the voting would be on the resolution and Appendix D. Mr. Benjamin stated yes, this is the way the resolution reads. Ms. Koldjeski made a subsidiary motion to divide the question. Mr. Woodside seconded. Mr. Champion remarked that the Board of Governors would probably delete the codicil. Mr. Ferrell said this is our attitude toward the tenure statement and not the tenure statement. The question was called and the motion to divide the question was 13 for and 9 against. The question was called to approve the resolution. Mr. Johnson asked if it would be listed as a resolution. Mr. Benjamin replied that it would be included as part of the document. Mr. Garrison favored the resolution but believed that contracts in the future would be inferior to contracts in the past. The question was called to include the resolution. The motion passed. The question was called to approve the entire document. The motion passed.

The meeting adjourned at 4:45 p.m.

Respectfully submitted,

Conner Atkeson,
Secretary

Sharon Johnston,
Faculty Senate Office Secretary

RESOLUTION TO ACCOMPANY THE REDRAFT OF
EAST CAROLINA UNIVERSITY'S TENURE
POLICIES AND REGULATIONS AS
THEY APPEAR IN THE
FACULTY MANUAL

Whereas approval by the East Carolina University Faculty Senate of the redraft of East Carolina University tenure policies and regulations included in the Faculty Manual could be construed to imply a sanctioning of the negation of possible contractual obligations of East Carolina University toward some members of its faculty; now therefore be it resolved:

That by approving the redraft of East Carolina University's tenure policies and regulations as they appear in the Faculty Manual, and containing novel sections dealing with termination of faculty appointments for reasons of financial exigency or major curtailment or elimination of a program, the East Carolina University Faculty Senate in no way means to imply sanction of the negation of any contractual obligations East Carolina University may have towards faculty members in prior receipt of permanent tenure, or towards faculty members who commenced their progress towards permanent tenure under a previous dispensation.