

PLEASE POST FOR ALL FACULTY TO READ

**EAST CAROLINA UNIVERSITY
FACULTY SENATE FULL AGENDA**

SPECIAL SESSION

The East Carolina University Faculty Senate will meet in special session on Tuesday, January 28, 1992, at 2:10 p.m. in the Mendenhall Student Center, Great Room.

AGENDA

- I. Call to Order
- II. Roll Call
- III. Special Order of the Day
 - Faculty Governance Committee, Gene Hughes
 - 1. Proposed Revisions to Appendix D (attachment 1)
 - 2. Proposed Revisions to Appendix L (attachment 2)

A copy of the proposed revisions to Appendix D and Appendix L will be distributed to all Administrators, Deans, Chairs, Directors, Senators, Chairs of all Academic Committees, and available on "FSONLINE".

All members of the Faculty Governance Committee will be given floor privileges to speak on issues during this meeting.

The Senators are asked to review the attached appendices prior to this meeting. The document will be considered by sections. Senators wishing to make amendments are requested to have those in writing and ready to offer at this meeting. Parliamentary procedures will be followed more strictly in order to facilitate consideration of the document.

Please make every effort to attend this important special session.

APPENDIX D

I. FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY

East Carolina University is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of knowledge and understanding. This institution therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal and external restraints that would restrict their academic endeavors.

East Carolina University shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.

Faculty and students of this institution shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

II. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY

It is the policy of East Carolina University to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staff of this institution. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with this institution and their positions. They should not represent themselves, without authorization, as East Carolina University.

East Carolina University shall not penalize or discipline members of the faculty because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

III. ACADEMIC TENURE

A. Purpose of Tenure

Academic tenure refers to the conditions and guarantees that apply to a faculty member's professional employment. In according tenure, the purpose is to protect the academic freedom of faculty members while providing them a reasonable degree of economic security. It is recognized that a tenure policy is a vital aid in attracting and retaining faculty members of the high quality that this University seeks. Academic tenure refers to the protection of a faculty member against involuntary suspension or discharge from employment or reduction in rank except upon specified grounds and in accordance with the procedures provided in Section VI.; or against termination of employment except as provided for in Section VII.

B. Conferral Agency

Permanent tenure may be conferred only by action of the President and the Board of Governors of the University of North Carolina, and is always held

1 with reference to employment by East Carolina University rather than to
2 employment by The University of North Carolina.
3

4 C. Faculty Appointments
5

6 1. General Provisions
7

8 a. Categories of Appointments
9

10 There are three kinds of faculty appointments:
11

12 (1) Appointments with Permanent Tenure. These are continuous
13 until resignation, retirement, discharge with cause (Section
14 V.), Termination (Section VI.), or death. The conferral of
15 permanent tenure is allowed only as the result of the
16 processes enunciated in this document.

17 (2) Probationary Appointments. These are appointments which
18 allow for the evaluation of professional competencies that
19 may lead to conferral of permanent tenure. The conferral of
20 permanent tenure is allowed only as the result of the
21 processes enunciated in this document.

22 (3) Fixed-Term Appointments. These are appointments for a
23 fixed term, and are automatically terminated at expiration.
24

25 Persons appointed by all three categories of appointments to the
26 faculty have the protection of tenure during the period of
27 appointment.
28

29 b. Criteria for Appointment
30

31 The appointment of a candidate shall be based on an assessment of
32 the candidate's demonstrated professional competence, potential
33 for future contributions, and the institution's needs and
34 resources.
35

36 c. Terms and Conditions
37

38 The Chancellor or the Chancellor's designee¹ shall set out in
39 writing, with a copy to the faculty member, the terms and the
40 conditions of each initial appointment and each reappointment.
41 The terms shall include reference to appropriate sections of the
42 Faculty Manual and shall state any conditions placed on the
43 appointment or reappointment. Except as specifically provided in
44 Appendix 'D', no special terms or conditions may be included that
45 vary the general terms and conditions stated herein. The
46 responsibility for initiating the inclusion of special terms and
47 conditions in documents of appointment is with the unit

48 ¹References to the Chancellor's designee shall include and be limited to the Vice Chancellor
49 for Academic Affairs, the Vice Chancellor for Student Life, or the Vice Chancellor for Health
50 Sciences.

1 administrator².
2

3 d. Faculty Manual
4

5 The Chancellor, in consultation with the office of the Faculty
6 Senate, is responsible for the publication of the Faculty Manual.
7 The Senate office shall be responsible for the maintenance of the
8 Faculty Manual. The Faculty Manual shall contain the tenure and
9 personnel policies and regulations of East Carolina University,
10 including the complete text of Chapter Six of The Code of The
11 University of North Carolina. The Faculty Manual shall be
12 provided to new faculty and changes as they occur shall be
13 distributed periodically to each faculty member.
14

15 e. Continued Availability of Special Funding
16

17 The appointment, reappointment, or promotion of a faculty member
18 to a position funded in whole or in substantial part from sources
19 other than continuing state budget funds or permanent trust funds
20 shall specify in writing that continuance of the faculty member's
21 services, whether for a specified term or for permanent tenure,
22 shall be contingent upon continuing availability of such funds.
23 This contingency shall not be included in a faculty member's
24 contract in either of the following situations:
25

26 (1) In a promotion to a higher rank if, before the effective
27 date of that promotion, the faculty member had permanent
28 tenure and no such condition was attached to the tenure.

29 (2) If the faculty member held permanent tenure in the
30 institution on July 1, 1975, and the contract was not then
31 contingent upon the continuing availability of sources other
32 than continuing state budget or permanent trust funds.
33

34 f. Leaves of Absence
35

36 Special leaves for relief from all employment obligations for a
37 specified period may be included in an appointment or
38 reappointment to a faculty rank, or may be added by a written
39 memorandum of amendment during the term of an appointment. For

40 ²With respect to personnel matters relating to Appendix 'D' of the East Carolina University Faculty Manual,
41 academic units are defined as departments described in the codes of operation of professional schools, the
42 departments in the College of Arts and Sciences, professional schools without departments, Academic Library
43 Services, and any other units in which faculty appointments are made.
44

45 In the College of Arts and Sciences and in professional schools whose unit codes describe departmental structures,
46 departmental chairpersons are the unit administrators.
47

48 In schools that do not have departments described in their unit codes, the dean of the school is the unit
49 administrator.
50

1 compassionate reasons of health, or requirements of childbirth or
2 child care, or other compelling reasons, such terms may, with the
3 concurrence of the faculty member, include extensions of the
4 period of the probationary term of appointment. The probationary
5 period may be extended by increments of one or more academic
6 years. Such special leaves must be expressly stated in initial
7 appointment documents or, if added by memorandum of amendment,
8 must be approved in writing by the Chancellor or the Chancellor's
9 designee, and the faculty member, with a copy retained by each.

10
11 These provisions do not apply to informal temporary adjustments of
12 the regularly assigned duties of faculty members by their unit
13 administrators.

14 15 2. Initial Appointment with Permanent Tenure

16
17 A faculty member whose initial appointment is to a professorial rank
18 with permanent tenure shall be regarded as having permanent tenure
19 until retirement, resignation, or removal according to the provisions
20 of Sections V. and VI. of this document. Final authority for approving
21 any action that confers permanent tenure is in the President and the
22 Board of Governors of the University of North Carolina.

23 24 3. Probationary Appointments

25
26 Probationary appointments are made at the ranks of Instructor,
27 Assistant Professor, Associate Professor, and Professor. Persons who
28 are appointed as Instructors are not eligible for permanent tenure at
29 that rank, but become eligible upon promotion to a higher rank.
30 Persons appointed as Assistant Professors, Associate Professors, and
31 Professors are eligible for permanent tenure.

32
33 A faculty member appointed to an administrative position is eligible
34 for permanent tenure only as a faculty member in one of the
35 professorial ranks. There is no permanent tenure in an administrative
36 position.

37
38 The Chancellor may recommend that a faculty member be granted permanent
39 tenure at any time.

40 41 a. Probation Periods

42
43 Total service in all ranks without conferral of permanent tenure
44 is not to exceed seven years. A candidate with one or more years
45 of full-time teaching, research, and service at an accredited
46 college or university may be granted up to three years reduction
47 in the probationary period as credit for prior academic
48 experience. All time served in a probationary appointment at East
49 Carolina University must be continuous, excluding any leaves of
50 absence as noted in III.C.1.f.

51
52 The probationary term for a faculty member appointed at the rank

1 of Instructor is six years. A candidate appointed at the rank of
2 Instructor shall be granted no reduction in the probationary
3 period at the time of appointment. The rank of Instructor is
4 appropriate to those who are appointed to the faculty in the
5 expectation that in the normal course they will progress to the
6 professorial ranks in this or another institution but lack, when
7 appointed, one or more qualifications expected by their unit for
8 appointment to the professorial ranks.
9

10 The probationary term for an Assistant Professor is six years, for
11 an Associate Professor four years, and for a Professor two years.
12 A candidate appointed at the rank of Assistant Professor may be
13 granted up to three years reduction in the probationary period for
14 prior academic experience. A candidate appointed at the rank of
15 Associate Professor may be granted up to two years reduction in
16 the probationary period for prior academic experience. A decision
17 to grant one or more years off the probationary period for prior
18 academic experience shall require the approval of the candidate, a
19 simple majority of the unit personnel committee, the unit
20 administrator, and the appropriate vice chancellor.
21

22
23 The length of the initial probationary period contract and all
24 subsequent probationary period reappointment contracts is two
25 years.
26

27 During the tenure decision year, a probationary faculty member who
28 is not awarded permanent tenure and who is not already under
29 contract for the next academic year shall be granted a one year
30 terminal contract.
31

32 b. Reappointment Decisions

33
34 Reappointment decisions for a candidate appointed at the rank of
35 Instructor shall be made in the Fall term of the second academic
36 year and the Spring term of the third academic year of the
37 probationary period. If the candidate still holds the rank of
38 Instructor during the Spring term of his or her third academic
39 year, the candidate shall not be reappointed to fifth and sixth
40 years on tenure track unless the candidate also is promoted to the
41 rank of Assistant Professor effective no later than the beginning
42 of the candidate's fourth year of the probationary period. The
43 fourth academic year of the probationary appointment shall be the
44 terminal year for a candidate who is not promoted to the rank of
45 Assistant Professor by the beginning of the fourth year. The
46 tenure decision shall be made during the Fall term of the sixth
47 academic year for a candidate who is promoted to Assistant
48 Professor and granted the fifth and sixth years of the
49 probationary period.
50

51 The probationary period for a candidate appointed at the rank of
52 Assistant Professor with no reduction for prior academic

1 experience shall be six years. Reappointment decisions will be
2 made in the Fall term of the second academic year, and the Spring
3 term of the third academic year of the probationary period. The
4 tenure decision will be initiated in the Fall term of the sixth
5 academic year of the probationary period.
6

7 The probationary period for a candidate appointed at the rank of
8 Assistant Professor with a one year reduction for prior academic
9 experience shall be five years. Reappointment decisions will be
10 made in the Fall term of the second academic year, and the Spring
11 term of the third academic year. The tenure decision will be
12 initiated in the Fall term of the fifth academic year of the
13 probationary period.
14

15 The probationary period for a candidate appointed at the rank of
16 Assistant Professor with a two year reduction for prior academic
17 experience shall be four years. A reappointment decision will be
18 made in the Fall term of the second academic year. The tenure
19 decision will be initiated in the Fall term of the fourth academic
20 year.
21

22 The probationary period for a candidate appointed at the rank of
23 Assistant Professor with a three year reduction for prior academic
24 experience shall be three years. A reappointment decision will be
25 made in the Fall term of the second academic year. The tenure
26 decision will be initiated in the Fall term of the third academic
27 year.
28

29 The probationary period for a candidate appointed at the rank of
30 Associate Professor with no reduction for prior academic
31 experience shall be four years. A reappointment decision will be
32 made in the Fall term of the second academic year. The tenure
33 decision will be initiated in the Fall term of the fourth academic
34 year.
35

36 The probationary period for a candidate appointed at the rank of
37 Associate Professor with a one year reduction for prior academic
38 experience shall be three years. A reappointment decision will be
39 made in the Fall term of the second academic year. The tenure
40 decision will be initiated in the Fall term of the third academic
41 year.
42

43 The probationary period for a candidate appointed at the rank of
44 Associate Professor with a two year reduction for prior academic
45 experience shall be two years. The tenure decision will be
46 initiated in the Fall term of the second academic year.
47

48 The probationary period for a candidate appointed at the rank of
49 Professor shall be two years. The tenure decision will be
50 initiated in the Fall term of the second academic year.
51

52 c. Progress Toward Tenure Letters

1 Each Spring Term during the probationary period the unit
2 administrator, in consultation with the unit personnel committee,
3 will write a progress toward tenure letter for each faculty member
4 having a probationary appointment. Copies of this letter will be
5 placed in the faculty member's personnel file, and a copy will be
6 sent to the unit personnel committee, and to the next higher
7 administrative level. The unit administrator will discuss the
8 progress toward tenure letter with the faculty member. In the
9 event that the faculty member disagrees with the contents of the
10 progress toward tenure letter, it is the responsibility of the
11 faculty member to make this disagreement known in writing. Copies
12 of letters of disagreement will be placed in the faculty member's
13 personnel file. Copies of this letter will be placed in the
14 faculty member's personnel file, and a copy will be sent to the
15 unit personnel committee, and to the next higher administrative
16 level.

17
18 d. Terms of Notice
19

20 A decision not to reappoint a faculty member shall be made by the
21 appropriate university authority early enough to permit timely
22 notice to be given. For faculty at the rank of Instructor,
23 Assistant Professor, Associate Professor, or Professor, the
24 minimum requirement for timely notice shall be as follows:
25

26 (1) During the second year of continuous service at East
27 Carolina University, in a tenure track appointment, the
28 faculty member shall be given not less than 180 calendar
29 days' notice before the employment contract expires.
30

31 (2) After two or more years of continuous service at East
32 Carolina University, in a tenure track appointment, the
33 faculty member shall be given not less than twelve months'
34 notice before the employment contract expires.
35

36 Notice of reappointment or nonreappointment shall be written.
37 If the decision is not to reappoint, then failure to give
38 timely notice of nonreappointment will oblige the University
39 thereafter to offer a terminal appointment of one academic
40 year to the faculty member involved. Notification of
41 appointment or reappointment is not notice of conferral of
42 permanent tenure except as provided for in this section.
43

44 e. Criteria for Reappointment
45

46 The decision to reappoint a faculty member must include
47 consideration of the faculty member's demonstrated professional
48 competence, potential for future contributions, and institutional
49 needs and resources. The decision not to reappoint shall not be
50 based upon (1) the faculty member's exercise of rights guaranteed
51 by either the First Amendment to the United States Constitution or
52 Article I of the North Carolina Constitution; (2) discrimination

1 based upon the faculty member's race, sex, religion, or national
2 origin; or (3) personal malice.

3
4 f. Criteria for Conferral of Permanent Tenure

5
6 Conferral of permanent tenure shall be based on the faculty
7 member's demonstrated professional competence, potential for
8 future contributions, and the institution's needs and resources.
9 Permanent tenure is independent of promotion.

10
11 When a faculty member believes all necessary criteria are met, the
12 faculty member may request that consideration be given to
13 conferral of permanent tenure before the end of the probationary
14 period. A faculty member considering such exceptional action is
15 encouraged to seek consultation with the unit personnel committee
16 and the unit administrator.

17 When a faculty member applies for and then withdraws a request for
18 early consideration for permanent tenure , a copy of all documents
19 submitted to support the request and a record of all decisions by
20 the appropriate tenured faculty and any administrator(s) shall be
21 directly forwarded to the appropriate vice chancellor.

22
23 g. Promotion

24
25 Promotion as, described in Appendix C, is applicable only to I
26 Instructors, Assistant Professors, and Associate Professors.
27 Promotion shall be based primarily on the faculty member's
28 demonstrated professional competence and achievement and on
29 potential for future contributions; promotion is independent of
30 permanent tenure.

31
32 When a faculty member believes all necessary criteria are met, the
33 faculty member may request that consideration be given to
34 promotion. A faculty member considering such action is encouraged
35 to seek consultation with the unit personnel committee and the
36 unit administrator.

37
38 When a faculty member applies for and then withdraws a request for
39 early consideration for promotion, a copy of all documents
40 submitted to support the request and a record of all decisions by
41 the appropriate tenured faculty and any administrator(s) shall be
42 directly forwarded to the appropriate vice chancellor.

43
44 4. Fixed-Term appointment

45
46 a. In Relation to Tenure

47
48 Fixed term positions are not probationary term positions.

49
50 b. Contract and Notice

51
52 A contract for a fixed-term appointment shall set forth in writing

1 the beginning and ending dates of the term. This specification of
2 the length of the appointment shall be deemed to constitute full
3 and timely notice of nonreappointment when the term expires. The
4 provisions of 604 A and 602(4) of The Code of The University of
5 North Carolina do not apply in these instances. No obligation
6 exists on the part of East Carolina University to give any notice
7 before a current fixed-term appointment expires as to whether an
8 appointment will be offered for a succeeding term. The faculty
9 member may, however, not earlier than 180 calendar days nor later
10 than 90 calendar days before the current term expires, request in
11 writing a decision whether the unit administrator will recommend
12 another appointment. Within 30 calendar days after receiving such
13 a request, and after consultation with the unit personnel
14 committee, the unit administrator shall communicate in writing to
15 the faculty member a decision whether such a recommendation will
16 be made, and, if so, its terms.

17
18 c. Fixed-Term Employment Policy

19
20 Employment of a faculty member in a fixed-term appointment in a
21 state-funded position in order to avoid tenure-track appointments
22 or the awarding of permanent tenure is a misuse of this category
23 of employment, and is prohibited.
24

25 IV. Procedures for Initiation, Review, and Approval of Appointments, Reappointments,
26 Promotions, and the Conferral of Permanent Tenure
27

28
29 A. Role of the Permanently Tenured Faculty
30

31 Faculty status and related matters are primarily a faculty responsibility;
32 this area includes appointments, reappointments, promotions, and the
33 granting of permanent tenure. The permanently tenured, voting faculty of
34 each unit shall, when appropriate, assemble as deliberative bodies³. The
35 composition of the deliberative bodies will vary according to the personnel
36 matter(s) under consideration:
37

- 38 1. On matters pertaining to initial appointments with permanent
39 tenure, reappointments of tenure-track faculty members and the granting
40 of permanent tenure, the deliberative body consists of the permanently
41 tenured voting faculty of the unit, as defined in Appendix L,
42 including those who are on leave yet physically present at the time of
43 the vote, but excluding the unit administrator. When a unit has fewer
44 than three permanently tenured faculty members not holding
45 administrative status, the next higher administrator above the unit
46 level shall after consultation with the permanently tenured faculty
47 appoint appropriate additional permanently tenured faculty to increase

48 ³Meetings of the appropriate deliberative bodies shall be conducted according to the most recent edition of Robert's
49 Rules of Order: Newly Revised.
50

1 the membership of the deliberative body to three.
2

3 2. On matters pertaining to fixed term appointments and initial
4 probationary appointments, the deliberative body is the personnel
5 committee consisting of some or all of the permanently tenured, voting
6 faculty of the unit, as defined in Appendix L, including those who are
7 on leave yet physically present at the time of the vote, but excluding
8 the unit administrator.
9

10 3. On matters pertaining to recommendations for promotion in rank, the
11 deliberative body shall include only those permanent tenured faculty
12 members who hold rank at least equal to the rank for which the
13 candidate is being considered, but excluding the unit administrator.
14

15 B. Role of Personnel Committee 16

17 The unit personnel committee exists to represent the permanently tenured
18 faculty in processing personnel decisions as designated in the University
19 Code and unit codes, and to provide support and advice to non-tenured
20 members of the unit. The unit personnel committee shall be elected by and
21 shall consist of permanently tenured faculty members only.
22

23 When a unit has fewer than three permanently tenured faculty members not
24 holding administrative status, the next higher administrator above the unit
25 level shall after consultation with the permanently tenured faculty of the
26 unit appoint appropriate additional permanently tenured faculty to increase
27 the membership of the personnel committee to three.
28

29 The unit personnel committee is responsible for making recommendations to
30 the unit administrator on fixed term appointments and initial probationary
31 appointments. The personnel committee is jointly responsible with the unit
32 administrator for preparation of the progress toward tenure letter. In the
33 event the personnel committee and unit administrator cannot agree on the
34 contents of the letter, the next higher unit administrator shall adjudicate
35 the disagreement.
36

37 C. Role of the Chair of the unit personnel committee 38

39 The chair shall be elected annually from the committee's membership. The
40 chair shall preside over all deliberative bodies making personnel
41 recommendations for the faculty, and may participate in the decisions of any
42 deliberative body of which the chair is a member. The chair shall be
43 responsible for calling the meetings of such deliberative bodies, obtaining
44 and distributing materials to be used during deliberation of such bodies,
45 insuring that a valid vote has been taken, communicating the results of such
46 votes to the appropriate tenured faculty and to the unit administrator, and
47 performing other duties as designated by the unit code or by delegation of
48 the faculty.
49

50 D. Role of Unit Administrator 51

52 The unit administrator serves to provide leadership, support, and guidance

1 to the total functioning of the unit. In the personnel decisions discussed
2 in this section which are forwarded to the next higher administrator, the
3 recommendation of the unit administrator shall be forwarded along with the
4 recommendation of the permanently tenured faculty as represented by the
5 personnel committee or appropriate deliberative body.
6

7 The unit administrator is responsible for maintaining the personnel files,
8 providing timely notification to the chair of the personnel committee on all
9 personnel actions required or expected, and distributing all personnel
10 documents and materials to the appropriate location. The unit administrator
11 is jointly responsible with the personnel committee for preparation of the
12 progress toward tenure letter.
13

14 In personnel matters the unit administrator functions as an administrator
15 rather than a faculty member. Consequently the unit administrator does not
16 have a faculty vote in personnel matters.
17

18 E. External Peer Review for Promotion and the Conferral of Permanent Tenure 19

20 External peer review is one of the methods to be used in determining the
21 quality of the material submitted by the candidate for promotion or tenure.
22 This evaluation will be used by the appropriate deliberative body in
23 conjunction with its own evaluation of the material submitted by the
24 candidate. Material to be evaluated employing the external peer review
25 process is limited to the results of creative activity and scholarly
26 activity which has been published or accepted for publication.
27

28 In the Spring term prior to the academic year in which a promotion or tenure
29 decision is scheduled, the unit personnel committee shall produce a list of
30 possible external reviewers. The candidate for promotion and/or tenure shall
31 provide a similar list, noting for each name the relationship between the
32 reviewer and the candidate. The candidate shall also provide similar
33 relationship information for each name on the unit personnel committee's
34 list.
35

36 The qualifications and criteria for the selection of the reviewers are to be
37 determined by the faculty of each unit, with the specific criteria and
38 qualifications for selection to be made a part of the unit's code of
39 operations. These qualifications and criteria must include consideration of
40 the reputation of the reviewer within the candidate's field of study,
41 research, or creative activity.
42

43 In the Spring term prior to a personnel action requiring external review,
44 the unit's personnel committee shall select a sufficient number of names
45 from the personnel committee's list and the candidate's list to insure a
46 minimum of three external reviewers, two from the unit personnel committee's
47 list and one from the candidate's list. The unit administrator will notify
48 the reviewers that they have been nominated to conduct the review and will
49 ascertain their willingness to serve as a reviewer. All selected material
50 with a cover letter prescribed by the university shall be sent to the
51 reviewers. An honorarium shall not be offered.
52

1 Correspondence with reviewers shall follow a form prescribed by the
2 university. All correspondence with the reviewer shall be neutral, serving
3 to neither support nor oppose the candidate. Copies of all correspondence
4 with the reviewer, with all reviewer identification removed, shall be made a
5 part of the Personnel Action Dossier (PAD).(See V.F.3.)
6

7 All evidence of creative activity and scholarly activity selected from the
8 candidate's PAD sent to the reviewer shall be appropriate to the personnel
9 action. The selection of material from the PAD shall begin with the
10 recommendation of the unit administrator and the appropriate personnel
11 committee. The candidate may include additional published or accepted
12 material if he or she disagrees with the initial selection. Inclusion of
13 such additional items in the materials sent to reviewers shall be noted in
14 the PAD.
15

16 Upon receipt of the reviews, the unit administrator will make copies of the
17 letters. The original letters will be placed in the candidate's personnel
18 file. Copies of the letters, with all reviewer identification removed, will
19 be placed in the candidate's PAD. The chair of the unit personnel committee
20 shall then notify the members of the appropriate deliberative body and the
21 candidate that the reviews are available.
22

23 When fewer than three external reviewers respond, this information, by memo
24 from the unit administrator, shall be made a part of the candidate's
25 personnel file and PAD. Consideration of the personnel action shall then
26 proceed following the required procedures.
27

28 F. Documentation for Personnel Actions 29

30 1. Employment Application 31

32 Information on job applicants is to be kept in a file available to the
33 appropriate tenured faculty, as described in Section IV.A.1. - IV.A.3.
34 Upon appointment the employment file shall be made a part of the
35 personnel file.
36

37 2. Personnel File 38

39 The personnel file is intended to be the source of information on
40 teaching, research and creative activities, service, and other
41 appropriate duties. It serves as documentation not only for the
42 personnel decisions discussed in this section but also for other
43 University requirements. All materials used for evaluating faculty
44 members for personnel recommendations must be contained in or
45 referenced by the personnel file. Each faculty member shall have the
46 right to include whatever materials he or she deems appropriate in the
47 personnel file.
48

49 3. Personnel Action Dossier (PAD) for Reappointment, Promotion ,and 50 Permanent Tenure 51

52 The Personnel Action Dossier (PAD) is a file containing materials for

1 evaluating a faculty member's teaching, research and creative
2 activities, and service. The PAD is compiled by candidates for
3 reappointment, promotion, or permanent tenure in consultation with the
4 unit administrator and the chair of the unit personnel committee. The
5 PAD file will be used by the appropriate deliberative body in making
6 personnel recommendations. It shall only include materials contained
7 in or referenced in the master personnel files.
8

9 The unit's code shall include specific requirements for the following
10 components of the PAD. The PAD shall include, where appropriate:
11

12 a. All written communications with the candidate on progress
13 toward tenure including the annual evaluation
14

15 b. A complete resume
16

17 c. Copies of the external peer review
18

19 d. Teaching portfolio
20

21 The teaching portfolio shall include the results of the student
22 opinion of instruction including unit and university norms and
23 other evidence of teaching effectiveness such as classroom
24 observation, analysis of instructional materials, measures of
25 student achievement, etc. When a unit has a formalized means of
26 evaluating instruction these materials will be included at least
27 in summary form.
28

29 e. Research and creative activity portfolio
30

31 The research and creative activity portfolio shall include a copy
32 of all publications either in print or accepted for publication.
33 If accepted but not in print, appropriate documentation of
34 acceptance must be included.
35

36 f. Service portfolio
37

38 The service portfolio shall consist of a summary of all service
39 given by the faculty member over the period of time appropriate to
40 the decision.
41

42 g. Other material
43

44 Other materials may be added to the PAD by the faculty member
45 providing the unit administrator, in consultation with the
46 personnel committee, has an opportunity to include a response to
47 such materials. In the event a response is deemed appropriate and
48 the unit administrator and personnel committee cannot agree, both
49 may include a response.
50

51
52 G. Initiation of Recommendation

1 The unit administrator shall give timely notice to the chair of the
2 personnel committee when personnel procedures are to be initiated.

3
4 Faculty recommendations for appointment, reappointment, promotion, and
5 conferral of permanent tenure shall come from the appropriate deliberative
6 body. The results of their deliberations shall be communicated by the chair
7 of the personnel committee to the unit administrator who will forward the
8 recommendation and the unit administrator's concurrence or non-concurrence
9 to the next higher administrator.

10
11 Immediately after each review for the purpose of making recommendations for
12 reappointment, promotion, or the conferral of permanent tenure, the
13 recommendation shall be communicated to the candidate and all permanently
14 tenured members of the unit's faculty.

15 16 H. Form and Approval of Personnel Recommendations

17
18 Motions by the appropriate body of permanently tenured faculty members
19 within a unit to recommend the appointment, reappointment, promotion in
20 rank, or granting of permanent tenure shall be positively stated. All such
21 motions shall fail unless supported by a majority of the permanently tenured
22 faculty members eligible to vote, as defined in Appendix L. Motions not to
23 recommend the appointment, reappointment, promotion in rank, or granting of
24 permanent tenure shall neither be made nor considered. Voting may be
25 conducted by a mail ballot.

26 27 I. Procedures for Denial of a Unanimous Tenure or Promotion Recommendation 28 by Vote of the Faculty

29
30 In the event the appropriate tenured faculty recommendation concerning
31 permanent tenure or promotion is unanimous and the Chancellor's decision is
32 contrary to that of the appropriate tenured faculty, the Chancellor shall
33 meet with the faculty to discuss the decision.

34 35 J. Procedure for Concurring Recommendations

36
37 If the recommendation of the appropriate faculty body and unit administrator
38 agree, the next higher unit administrator shall either concur or not concur,
39 then notify the unit administrator and the chair of the unit personnel
40 committee of the recommendation and forward all recommendations to the
41 immediate supervisor. This procedure shall be repeated at each
42 administrative level until it reaches the Chancellor.

43
44 Immediately after the completion of each level of administrative review, the
45 administrator's recommendation shall be communicated to all the appropriate
46 lower administrators, the candidate, and the appropriate deliberative body
47 of the unit.

48
49 If the Chancellor decides not to recommend a reappointment, promotion, or
50 permanent tenure, the Chancellor shall give the faculty member being
51 considered a simple, written statement of the decision. This decision is
52 final except as it may later be reviewed in accordance with the provisions

1 of Section V or the grievance procedure of Section VIII. If the Chancellor
2 concurs in a recommendation that will confer permanent tenure, the
3 Chancellor shall consult with the Board of Trustees and, unless dissuaded,
4 forward the recommendation to the President and the Board of Governors for
5 final approval. The Chancellor shall submit all other recommendations for
6 faculty appointments, reappointments, and promotions to the Board of
7 Trustees for final approval unless that Board delegates to the Chancellor
8 the authority to give final approval.
9

10 K. Procedure for Non-concurring Recommendation

11
12 If the recommendations from the unit administrator and faculty disagree, the
13 unit administrator's immediate supervisor shall seek resolution of the
14 disagreement at the unit level. If the unit administrator and the faculty
15 personnel committee do not agree, their conflicting recommendations shall be
16 forwarded through each administrative level, together with the
17 recommendation of the administrator at each level, until they reach the
18 Chancellor. The personnel action shall then be handled in accordance with
19 the procedures provided in Section IV.J. above.
20

21 L. Notice of Resignation

22
23 A faculty member shall give prompt written notice of resignation with its
24 effective date to the unit administrator, preferably not later than May 15
25 or thirty days after receiving notification of the terms of the faculty
26 member's continued employment for the following year, whichever occurs
27 later.
28

29 V. PROCEDURE FOR APPEAL OF NOTICE OF NON-REAPPOINTMENT OR NON-CONFERRAL OF 30 PERMANENT TENURE

31 A. Deadlines for Appeals

32
33 Failure to submit the appeals documents specified in this section within the
34 time periods allotted constitutes a waiver of further rights to appeal the
35 decision. In the event of an emergency, however, the faculty member may
36 request an extension, provided that the request is made in writing and
37 presented to the individual or committee who is next to consider the appeal.
38 Approval of the request for an extension of time because of an emergency
39 shall be made by the individual or committee who is next to consider the
40 appeal.
41
42
43

44 B. Request for Hearing by the Faculty Hearing Committee

45
46 Within twenty-five working days of receiving written notice from the
47 Chancellor of non-reappointment or non-conferral of permanent tenure, a
48 faculty member may request a hearing before the Faculty Hearing Committee.
49

50 1. The Committee

51
52 The Hearing Committee is a standing committee of the Faculty Senate.

1 The Hearing Committee shall be composed of five members and five
2 alternates each of whom is a permanently tenured voting faculty member
3 holding no administrative title. Nominations of candidates shall be by
4 the Committee on Committees and election is by a majority vote of the
5 Faculty Senate during its first regular meeting.
6

7 At the initial election, the Faculty Senate shall elect two members and
8 two alternates to one-year terms, two members and two alternates to
9 two-year terms, and one member and one alternate to three-year terms.
10 When these and successive terms expire, members and alternates shall be
11 elected to three-year terms.
12

13 Upon organization, the members of the Hearing Committee shall elect a
14 chairperson and a secretary. A quorum for the committee during any
15 hearing shall be the five members or their alternates. Should any
16 committee officer be absent at the beginning of a hearing, the
17 committee shall elect an alternate officer for the purposes of the
18 hearing.
19

20 When the committee is convened to consider any matter associated with a
21 faculty member's request for a hearing, those committee members who
22 hold an appointment in the faculty member's academic unit, those who
23 might reasonably expect to be called to provide information for or
24 against the faculty member's request, those who might reasonably expect
25 to be asked to serve as an advisor, explained in Section V.D.1., to any
26 party of the Request for Hearing, or those who may have a conflict of
27 interest are disqualified from participation in the activities of the
28 committee related to this specific request for a hearing.
29

30 When, between elections, membership of the committee falls below the
31 specified five members and five alternates, the Chair of the Faculty,
32 in consultation with the Committee on Committees, shall appoint members
33 to the committee. Those appointed must meet the qualifications
34 required for election. Vacancies on the committee will be filled by
35 first moving alternates to members and by making appointments as
36 alternates.
37

38 The committee may at any time consult with the University Attorney in
39 matters of procedure.
40

41 2. Initiation of the Hearing Process

42

43 The basis for a Request for Hearing must be found in one or more of the
44 following reasons: (a) the decision was based on any ground stated
45 to be impermissible in Section 604B of The Code of The University of
46 North Carolina; (b) the decision was the result of a material
47 procedural irregularity;⁴ or (c) the decision was based on a violation

48 ⁴ Material procedural irregularity is a departure from prescribed procedures governing reappointment
49 or the conferral of permanent tenure that casts reasonable doubt upon the original decision not to reappoint
50 or to deny permanent tenure.
51

1 of academic freedom.
2

3 The faculty member's Request for Hearing must specifically identify and
4 enumerate all reasons for the request. The request must include: (a) a
5 description that is as complete as possible of the actions or the
6 failures to act which support each specified contention; (b) the
7 identification of those individuals or groups who are responsible for
8 or are party to the actions or inactions described in (a) above; (c) an
9 enumeration and description of the information or documents which are
10 to be used to support the contention (copies of the described documents
11 are to be made a part of the Request for Hearing); (d) the
12 identification of persons who may be willing to provide information in
13 support of the contention; and (e) a brief description of the
14 information those persons identified in (d) may provide. The Request
15 for Hearing shall be written to, addressed to, and delivered to the
16 chairperson of the Hearing Committee by the affected faculty member.
17

18 C. Validation of the Request for Hearing.
19

20 Validation of the affected faculty member's Request for Hearing is the
21 first step in the hearing process. The Hearing Committee shall convene
22 within fifteen days after receipt of the faculty member's Request for
23 Hearing. The committee shall notify the faculty member of the meeting date
24 by registered mail, return receipt requested. The committee shall meet in
25 executive session and the meeting will be conducted according to the latest
26 edition of Robert's Rules of Order: Newly Revised. The committee's
27 evaluation of the faculty member's Request for Hearing shall be limited
28 solely to the documents and information submitted as part of the faculty
29 member's Request for Hearing.
30

31 The faculty member can submit additional documentation and information
32 supporting the Request for Hearing up to seventy-two hours prior to the
33 committee meeting. All documentation and information submitted after the
34 original Request for Hearing must (a) support contentions set forth in the
35 original Request for Hearing and (b) be delivered to the chairperson in the
36 same manner as the original Request for Hearing. Such information or
37 documentation shall be made a part of the original Request for Hearing.
38

39 Documentation and information that do not meet criteria set forth previous
40 paragraph will not be accepted and will be returned to the faculty member.
41

42 The Hearing Committee's review of the affected faculty member's Request for
43 Hearing shall be limited solely to determining whether the facts alleged by
44 the faculty member if established support the contentions that the decision
45 not to reappoint or confer permanent tenure was based upon any of the
46 grounds stated as impermissible in Section 604 B of The Code of The
47 University of North Carolina, was the result of a material procedural
48 irregularity, or was a result of the denial of academic freedom of the
49 affected faculty member. Based on their review and evaluation of the
50 submitted material, the committee shall decide whether the Request for
51 Hearing is to be validated.
52

1 If the Request for Hearing is not validated, the faculty member shall be
2 notified by registered mail, return receipt requested, within ten days of
3 the committee meeting. Such a determination confirms the decision not to
4 reappoint or not to confer permanent tenure. The faculty member may accept
5 the decision of the Hearing Committee or appeal to the Chancellor within ten
6 days of receipt of the Hearing Committee's decision. The Chancellor, within
7 fourteen days of the faculty member's appeal shall decide to confirm the
8 committee's decision or shall support the faculty member's request for a
9 Hearing.

10
11 The faculty member may accept the decision of the Hearing Committee or ,
12 when appealed to the Chancellor, the Chancellor's decision not to validate
13 the Request for Hearing or may appeal in the manner provided by Section 501
14 (C)4 of The Code of the University of North Carolina.

15
16 If the Committee validates the Request for Hearing or the decision not to
17 validate is not supported by the Chancellor on the faculty member's appeal,
18 the committee shall so notify the faculty member by registered mail, return
19 receipt requested, and begin the processes necessary to set the time and
20 date for the Hearing. The committee may determine, as part of its review
21 and evaluation, that the Request for Hearing lacks clarity and request the
22 faculty member to provide additional information and documentation. The
23 committee, in a simple unelaborated statement, shall notify the faculty
24 member by registered mail, return receipt requested, of the specific areas
25 which require clarification and the number of working days allowed for
26 receipt of information or documentation from the faculty member. It is the
27 faculty member's responsibility to submit in the original Request for
28 Hearing sufficient information to allow the committee to determine the
29 validity of the Request for Hearing. An extension of the time period for
30 delivery of the clarification information is possible but will be granted
31 only for truly exceptional causes.

32
33 Delivery of information or documentation shall follow procedures established
34 for the original Request for Hearing. The committee will accept
35 information submitted in response to its request only according to criteria
36 established for submission of information accompanying the original Request
37 for Hearing, which is described above.

38 39 D. Procedures for the Hearing.

40 41 1. Time and Date of Hearing

42
43 The time and date of the Hearing will be governed by the committee. The
44 committee shall provide a complete copy of the Request for Hearing to
45 all individuals named in the Request for Hearing. Persons identified
46 as parties to the contention in the Request for Hearing shall be
47 allowed twenty days to identify, in writing to the committee,
48 individuals who may provide information in response to the affected
49 faculty member's contentions in the Request for Hearing and a brief
50 description of the information each individual may provide. Delivery of
51 this information shall be in the same manner as specified for the
52 Request for Hearing, Section V.B.2.

1 The affected faculty member may also identify persons who will provide
2 information in support of the contention. Identification of these
3 persons to the committee shall follow the procedures described in the
4 preceding paragraph.
5

6 The faculty member and other parties directly named in the Request for
7 Hearing may bring a person (advisor) of their choosing to the Hearing.
8 During the Hearing the role of the advisor is limited to consulting
9 with and advising the person for whom they serve as advisor. The
10 advisor shall not conduct any part of the Hearing. The advisors shall
11 be identified in writing to the committee following the same procedures
12 as for individuals who may provide information to support or in
13 response to the affected faculty member's contention.
14

15 After the advisors, those individuals who may provide information in
16 response to the affected faculty member's contention, and any
17 additional persons identified by the affected faculty member who will
18 provide information in support of the contention have been identified,
19 the committee will set the time, date, and place for the Hearing. The
20 date for the hearing must be within forty days of the notification to
21 the affected faculty member that the Request for Hearing was validated.
22 The committee shall then notify the affected faculty member, those
23 individuals who will provide information in support of the affected
24 faculty member's contention, those individuals who will provide
25 information in response to the affected faculty member's contention,
26 the Chancellor, the Chair of the Faculty, the chairperson of the
27 appropriate deliberative body, the unit administrator and all advisors
28 of the time, date, and place of the Hearing.
29

30 2. Conduct of The Hearing 31

32 The Chair of the Hearing Committee is responsible for conducting the
33 hearing and for maintaining order during the hearing. Except as
34 provided for in the following, the hearing shall be conducted according
35 to the latest edition of Robert's Rules of Order: Newly Revised.
36 Attendance at the hearing is limited to the Committee's members and
37 alternates, the faculty member requesting the hearing (the
38 complainant), one person who may advise the complainant but who may not
39 take an active part in the proceedings, those members of an appropriate
40 deliberative body (see IV. p. D-9) or university administrators (other
41 parties) alleged in the request for the hearing to have violated the
42 University's policies or procedures governing reappointment and tenure
43 decisions, an East Carolina University attorney who shall advise these
44 other parties but who may not take an active part in the proceedings,
45 the Chancellor (or the Chancellor's representative) and an East
46 Carolina University attorney representing the Chancellor who may advise
47 the Committee at the Committee's request. Other persons (witnesses)
48 providing information to the Committee shall not be present throughout
49 the hearing, but shall be available at a convenient location and shall
50 be called to appear before the Committee as appropriate. An audio
51 recording of the proceedings shall be made and, upon request, a copy
52 provided to the faculty member at no cost.

1 The hearing shall begin with an opening statement by the Chair of the
2 Committee. In making this statement, the Chair first shall identify
3 the complainant, state the allegations made by the complainant in
4 requesting the hearing, and shall identify all parties whose conduct is
5 cited in these allegations as violating the University's policies and
6 procedures on reappointment or permanent tenure . The Chair then shall
7 explain the purpose of the hearing and the procedures to be followed
8 during the hearing. The Chair explicitly will note that the Committee
9 shall consider only information bearing on the allegations presented in
10 the complainant's request for the hearing. Following the opening
11 remarks by the Committee Chair, the complainant and other parties shall
12 have the opportunity to present opening statements. Following these
13 statements, the Committee shall call named witnesses, if any. The
14 Committee, the complainant and other parties, in that order, may
15 question each witness. When all witnesses have been heard, the
16 Committee, complainant and other parties may address in remarks and
17 questions to one another the information thus far presented to the
18 Committee. When the Committee judges that continuing this discussion
19 will not assist the Committee in its deliberations, the complainant and
20 other parties each may make a closing statement.

21
22 The complainant and other parties shall be excused after all closing
23 statements are made. At this time either the Committee shall begin its
24 deliberations or the Committee shall adjourn for no more than two
25 working days, at which time it shall reconvene to determine whether it
26 sustains or does not sustain the allegations stated in the request for
27 the hearing. In reaching its decisions the Committee shall consider
28 only the testimony and other materials entered or presented as evidence
29 during the hearing. The complainant shall have the burden of proof by
30 the greater weight of the evidence to establish that the decision was
31 based on one of the impermissible reasons listed in V.B.2.

32 33 E. Procedure After the Hearing

34
35 If the Hearing Committee determines that the faculty member's contention has
36 not been established, it shall, by simple, unelaborated statement, so notify
37 the faculty member, the chair of the appropriate deliberative body, the unit
38 administrator, the Chair of the Faculty, and the Chancellor. Such a
39 determination confirms the decision not to reappoint or not to confer
40 permanent tenure. If the Hearing Committee determines that the faculty
41 member's contention has been satisfactorily established, it shall notify the
42 faculty member, the unit administrator, the Chair of the Faculty, and the
43 Chancellor by written notice that shall also include a recommendation for
44 corrective action by the Chancellor.

45
46 If the Committee finds that a material procedural irregularity has occurred
47 and if the Chancellor concurs with the finding, then the matter shall be
48 remanded to the appropriate unit for another review. If the faculty member
49 is again denied reappointment, the decision may be appealed in accordance
50 with this section.

51
52 Within five working days after receiving the recommendation of the Hearing

1 Committee, the Chancellor shall notify the faculty member, the unit
2 administrator, the Chair of the Faculty, and the chairperson of the Hearing
3 Committee what modification, if any, will be made in the original decision
4 not to reappoint or not to confer permanent tenure.
5

6 The faculty member may appeal an adverse decision in the manner provided by
7 Section 501 C(4) of The Code of The University of North Carolina.
8

9 F. Administrative Obligations Within East Carolina University
10

11 Should action by the administration result in a postponement of the appeal
12 process beyond the period of employment of the faculty member, the faculty
13 member's present salary will be continued until the conclusion of the appeal
14 process within the University, not to include appeals to the Board of
15 Trustees or the Board of Governors of the University of North Carolina. The
16 granting of additional time shall not result in de facto permanent tenure.
17 The salary will be in addition to compensation provided for by the current
18 contract. If the personnel action being appealed is a nonreappointment and
19 if the appeal process is delayed through mutual agreement of the faculty
20 member and the university, the unit shall continue all scheduled reviews of
21 the faculty member pending the results of the appeal.
22

23 VI. DUE PROCESS BEFORE DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS
24

25 A. Penalties
26

27 A faculty member who is the beneficiary of institutional guarantees of
28 tenure shall enjoy protection against unjust and arbitrary application of
29 disciplinary penalties. During the period of such guarantees, the faculty
30 member may be discharged or suspended from employment or diminished in rank
31 only for reasons of incompetence, neglect of duty, or misconduct of such a
32 nature as to indicate that the individual is unfit to continue as a member
33 of the faculty. These penalties may be imposed only in accordance with the
34 procedures prescribed in this section. For purposes of these regulations, a
35 faculty member serving a stated term shall be regarded as having tenure
36 until the end of the term. These procedures shall not apply to non-
37 reappointment (Section IV) or termination of employment (Section VI).
38

39 B. Notice
40

41 The Chancellor or the Chancellor's designee shall send the faculty member by
42 registered mail, return receipt requested, a written statement of the
43 intention to discharge the faculty member. The statement shall include
44 notice of the faculty member's right, upon request, to both written
45 specification of the reasons for the intended discharge and a hearing by the
46 Due Process Committee (Section VI.E.).
47

48 C. Discharge Without Recourse
49

50 If, within ten working days after the faculty member receives the notice
51 referred to in Section VI.B. above, the faculty member makes no written
52 request for either a specification of reasons or a hearing, the faculty

1 member may be discharged without recourse to any institutional grievance or
2 appellate procedure.

3
4 D. Specification of Reasons and Hearing Request

5
6 If, within ten working days after the faculty member receives notice
7 referred to in Section VI.B. above, the faculty member makes a written
8 request to the Chancellor, by registered mail, return receipt requested, for
9 a specification of reasons, the Chancellor or the Chancellor's designee
10 shall supply such specification in writing by registered mail, return
11 receipt requested, within ten working days after receiving the request.

12
13 A faculty member's request for a hearing is to be directed to the Chancellor
14 in writing by registered mail, return receipt requested. If the faculty
15 member makes no written request to the Chancellor for a hearing within ten
16 working days after receiving the specification, the faculty member may be
17 discharged without recourse to any institutional grievance or appellate
18 procedures. If a faculty member makes a timely request for a hearing, the
19 Chancellor or the Chancellor's designee shall insure that the Due Process
20 Committee convenes within twenty working days, except as provided in Section
21 VI.E.

22
23 E. Due Process Committee

24
25 The Due Process Committee shall be composed of five members and five
26 alternates, each of whom is a full-time, permanently tenured voting faculty
27 member without administrative appointment, is nominated by the Committee on
28 Committees, and is elected by a majority vote of the Faculty Senate at its
29 second regular meeting of each academic year. Upon organization, the
30 elected members of the Committee shall elect a chairperson and a secretary
31 from among their members. At the initial election, the Faculty Senate shall
32 elect two members and two alternates to one-year terms, two members and two
33 alternates to two-year terms, and one member and one alternate to three-year
34 terms. When these and successive terms expire, members and alternates shall
35 be elected to three-year terms. A quorum for the hearing shall be five
36 members or their alternates. Should any of the elected officers be absent
37 at the beginning of the hearing, the Due Process Committee shall elect for
38 purposes of the hearing their substitutes. Committee members who hold an
39 appointment in the faculty member's academic unit, who will testify as
40 witnesses, or who have any other conflict of interest are disqualified from
41 participating in this hearing.

42
43 Upon notification by the Chancellor or the Chancellor's designee that a
44 faculty member has requested a hearing, the chairperson of the Committee
45 shall determine the availability of the elected members. The chairperson of
46 the Committee shall determine the availability of the alternates and shall
47 select from those available one or more alternates, as appropriate. The
48 ranking of the available alternates for selection shall be determined by
49 their years of service to the University. That alternate who is most
50 highly ranked shall attend all sessions of the hearing. The Chair of the
51 Faculty in consultation with the Committee on Committees shall, when
52 necessary, appoint sufficient additional members who meet the qualifications

1 for election to the committee. Vacancies on the committee will be filled by
2 first moving alternates to members and by making appointments as alternates.
3 The faculty member may make up to two peremptory challenges and is permitted
4 additional challenges for cause.
5

6 The hearing shall be on the written specification of reasons for the
7 intended discharge. The Due Process Committee shall accord the faculty
8 member twenty working days from the time it receives the faculty member's
9 written request for a hearing to prepare the faculty member's defense. The
10 Due Process Committee may, upon the faculty member's written request and for
11 good cause, extend this time by written notice to the faculty member.
12

13 F. Conduct of Hearing 14

15 The hearing shall be closed to the public unless the faculty member and the
16 Due Process Committee agree that it may be open. The faculty member shall
17 have the right to counsel, to present the testimony of witnesses and other
18 evidence, to confront and cross-examine adverse witnesses, and to examine
19 all documents and other adverse evidence. A written transcript of all
20 proceedings shall be kept; upon request, a copy thereof shall be furnished
21 to the faculty member at the institution's expense.
22

23 The Chancellor, or the Chancellor's delegate, may participate in the hearing
24 to present evidence, cross-examine witnesses, and make argument.
25

26 In reaching decisions on which its written recommendations to the Chancellor
27 shall be based, the Committee shall consider only the evidence presented at
28 the hearing and such written and oral arguments as the Committee, in its
29 discretion, may allow. The Committee shall make its written recommendations
30 to the Chancellor within ten working days after its hearing concludes.
31

32 In reaching a decision, the Chancellor shall consider only the written
33 transcript of the hearing and the report of the Due Process Committee. The
34 Chancellor's decision shall be conveyed within ten working days in writing
35 to the Due Process Committee and the affected faculty member by registered
36 mail, return receipt requested .
37

38 G. Appeal 39

40 If the Chancellor concurs in a recommendation of the Committee that is
41 favorable to the faculty member, the decision shall be final.
42

43 If the Chancellor rejects a finding, conclusion, or recommendation of the
44 Due Process Committee, the Chancellor shall state the reasons for doing so
45 in a written decision. If the Chancellor either declines to accept a
46 Committee recommendation that is favorable to the faculty member or concurs
47 in the Committee recommendation that is unfavorable to the faculty member,
48 the faculty member may appeal the Chancellor's decision to the Board of
49 Trustees. This appeal shall be transmitted through the Chancellor and shall
50 be addressed to the Chairperson of the Board. Notice of appeal shall be
51 received by the Chancellor within ten working days after the faculty member
52 receives the Chancellor's decision. The appeal to the Board of Trustees

1 shall be decided by the full Board of Trustees; however, the Board may
2 delegate the duty of conducting a hearing to a standing or ad hoc committee
3 of at least three members. The Board of Trustees, or its committee shall
4 consider the appeal on the written transcript of hearings held by the Due
5 Process Committee, but it may, in its discretion, hear such other evidence
6 as it deems necessary, with the opportunity for rebuttal. The Board of
7 Trustees' decision shall be made within forty-five working days after the
8 Chancellor has received the faculty member's request for an appeal to the
9 Trustees. This decision shall be final except that the faculty member may,
10 within ten working days of receiving the Trustees' decision, file a written
11 petition for review with the Board of Governors if the faculty member
12 alleges that at least one of the specified provisions in The Code of The
13 University of North Carolina has been violated. Any such petition to the
14 Board of Governors shall be transmitted through the President, and the Board
15 shall, within forty-five working days, grant or deny the petition or take
16 such other action as it deems advisable. If it grants the petition for
17 review, the Board's decision shall be made within forty-five working days
18 after it notifies the faculty member by registered mail, return receipt
19 requested, that it will review the petition.
20

21 H. Suspension

22
23 When a faculty member has been notified of the institution's intention to
24 discharge the faculty member, the Chancellor may suspend the faculty member
25 at any time and continue the suspension until a final decision concerning
26 discharge has been reached by the procedures prescribed herein. Suspension
27 shall be exceptional and shall be with full pay and benefits.
28

29 VII. TERMINATION OF FACULTY EMPLOYMENT

30 A. Reasons Justifying Termination and Consultation Required

31 1. Reasons for Terminating Employment

32
33 The employment of a faculty member with permanent tenure or of a
34 faculty member holding a fixed-term or probationary appointment may be
35 terminated by East Carolina University because of (1) demonstrable,
36 bona fide institutional financial exigency; (2) major curtailment or
37 elimination of a teaching, research or public service program.
38 Financial exigency is defined as a significant decline in the financial
39 resources of the institution that is brought about by decline in
40 institutional enrollment or by other action or events that compel a
41 reduction in the institution's current operations budget. The
42 determination of whether a condition of financial exigency exists or
43 whether there shall be a major curtailment or elimination of a
44 teaching, research, or public service program shall be made by the
45 Chancellor, after consulting with the academic administrative officers
46 and faculties as required by Section VII.A.2. below. This
47 determination is subject to concurrence by the President and then
48 approval of the Board of Governors. If the financial exigency or
49 curtailment or elimination of a program is such that the institution's
50 contractual obligation to a faculty member cannot be met, the
51
52

1 employment of the faculty member may be terminated in accordance with
2 Section 605 of The Code of The University of North Carolina and the
3 institutional procedures set out in subsection B below.
4

5 2. Consultation with Faculty and Administrative Officers
6

7 When it appears that the institution will experience an institutional
8 financial exigency or when it is considering a major curtailment in or
9 elimination of a teaching, research, or public service program, the
10 Chancellor or the Chancellor's delegate shall forthwith prepare a
11 report which identifies specifically the state of financial exigency or
12 the program change. The report must outline the options readily
13 apparent to the Chancellor at the time, including any options which
14 would or might involve terminations of faculty employment. The
15 Chancellor's report shall be directed to the Educational Policies and
16 Planning Committee for their written advice and recommendations. In
17 considering this report the Educational Policies and Planning Committee
18 shall have access to information on which the Chancellor's report was
19 based, and the Committee may interview appropriate persons. The
20 Educational Policies and Planning Committee shall prepare a report in
21 response to the Chancellor, to be submitted at a time determined by the
22 Chancellor.
23

24 Should the Chancellor decide, following receipt of the Educational
25 Policies and Planning Committee's report, to consider reducing a unit's
26 staff for reasons of financial exigency or major curtailment or
27 elimination of a program, the Chancellor shall promptly establish and
28 convene an ad hoc Faculty Advisory Committee to advise the Chancellor
29 regarding the contemplated reduction. Whenever such a Committee is
30 created, it shall consist of two members and two alternates elected by
31 the unit; the unit's administrator as an ex officio member; and four
32 members and four alternates from disciplines complementary to the unit,
33 nominated by the University Curriculum Committee and elected by the
34 Faculty Senate. Except for the ex officio member, membership on an ad
35 hoc committee shall be limited to full-time permanently tenured faculty
36 without administrative title. Upon organization, the Committee shall
37 elect a chairperson and a secretary. The ad hoc Faculty Advisory
38 Committee, following procedures according to the most recent edition of
39 Robert's Rules of Order: Newly Revised, shall submit a report of their
40 advice and recommendations. In preparing this report, the committee
41 shall have access to information considered in any prior reports and
42 the committee may interview appropriate persons.
43

44 B. Termination Procedure
45

46 1. Consideration in Determining Whose Employment is to be Terminated
47

48 In determining which faculty member's employment is to be terminated,
49 the primary consideration of the Chancellor and the ad hoc advisory
50 committee shall be the maintenance of a sound and balanced educational
51 program that is consistent with the functions and responsibilities of
52 the institution. Where no conflict with this primary consideration

1 exists, priority for retention shall be given the permanently tenured
2 faculty who are senior in years of service to the University.
3

4 2. Timely Notice of Termination
5

6 a. When a faculty member's employment is to be terminated because
7 of major curtailment or elimination of a teaching, research, or
8 public service program and such curtailment or elimination of
9 program is not founded upon financial exigency, the faculty member
10 shall be given timely notice as follows: One who has permanent
11 tenure shall be given not less than twelve months notice; and one
12 who does not have permanent tenure shall be given notice in
13 accordance with the requirements specified in Section III.C.3.d.
14

15 b. When a faculty member's employment is to be terminated because
16 of financial exigency, the institution will make every reasonable
17 effort, consistent with the need to maintain sound educational
18 programs and within the limits of available resources, to give the
19 same notice as set forth in the preceding paragraph.
20

21 3. Type of Notice to be Given
22

23 a. Should the Chancellor decide to terminate employment following
24 receipt of the report of the Ad hoc Faculty Advisory Committee,
25 the Chancellor or the Chancellor's delegate shall send the faculty
26 member whose employment is to be terminated a written statement of
27 this fact by registered mail, return receipt requested. This
28 notice shall include a statement of the conditions requiring
29 termination of the faculty member's employment; a general
30 description of the procedures followed in making the decision; a
31 disclosure of pertinent financial or other data upon which the
32 decision was based; a statement of the faculty member's right,
33 upon request, to a reconsideration of the decision by a faculty
34 committee if the faculty member alleges that the decision to
35 terminate employment was arbitrary or capricious; and a copy of
36 this procedure on termination of employment.
37

38 b. For a period of two years after the effective date of
39 termination of a faculty member's contract for any of the reasons
40 specified in Section VII.A.1., the institution shall not replace
41 the faculty member without first offering the position to the
42 person whose employment was terminated. The offer shall be sent
43 by registered mail to the address last furnished the Chancellor's
44 office, return receipt requested, and the faculty member will be
45 given thirty calendar days after transmission of the notice in
46 which to accept or reject the offer.
47 The offer to resume a terminated position shall provide for tenure
48 status, rank, and salary at least equal to those held by the
49 faculty member at the time of termination.
50

51 c. The institution, when requested in writing by a faculty member
52 whose employment has been terminated, shall give reasonable

1 assistance in finding other employment. Such assistance shall
2 include secretarial assistance, access to the telephone
3 (including long distance), University/unit stationary and postage,
4 travel funds to professional meetings, and other assistance as
5 deemed reasonable and appropriate in the profession.
6

7 4. Termination if Reconsideration is Not Requested
8

9 If, within ten working days after receipt of notice required by Section
10 VII.B.3. above, the faculty member makes no written request for a
11 reconsideration hearing, employment will be terminated at the date
12 specified in the notice given pursuant to Section VII.B.3., and without
13 recourse to any institutional grievance or appellate procedure.
14

15 5. Request for Reconsideration Hearing
16

17 Within ten working days after receiving the notice required by Section
18 VII.B.3., the faculty member may request by registered mail, return
19 receipt requested, a reconsideration of the decision to terminate
20 employment, if the faculty member alleges that the decision was
21 arbitrary or capricious. The request shall be submitted to the
22 Chancellor and shall specify the grounds upon which it is contended
23 that the decision to terminate employment was arbitrary or capricious
24 and shall include a short, plain statement of facts that the faculty
25 member believes support the contention.
26

27 Submission of such a request constitutes on the part of the faculty
28 member: (1) a claim that the contention can be supported by
29 representation of factual evidence, and (2) an agreement that the
30 institution may offer in rebuttal of the faculty member's contention
31 any relevant data within its possession.
32

33 6. Structure and Jurisdiction of the Reconsideration Committee
34

35 If the faculty member makes a timely written request for a
36 reconsideration of the decision, the Chancellor or the Chancellor's
37 delegate shall insure that the hearing is begun within twenty working
38 days before a standing committee of the Faculty Senate, the Committee
39 on Reconsideration of Faculty-Program Termination Decisions,
40 hereinafter called the Reconsideration Committee. The Reconsideration
41 Committee's review of the faculty member's appeal shall be limited
42 solely to determining whether the decision to terminate employment was
43 arbitrary or capricious.
44

45 The Reconsideration Committee shall be composed of five members and
46 five alternates, each of whom is a permanently tenured voting faculty
47 member holding no administrative title, is nominated by the Committee
48 on Committees, and is elected by a majority vote of the Faculty Senate
49 at its first regular meeting of each academic year. At the initial
50 election, the Faculty Senate shall elect two members and two alternates
51 to one-year terms, two members and two alternates to two-year terms,
52 and one member and one alternate to three-year terms. When these and

1 successive terms expire, members and alternates shall serve three-year
2 terms. Upon organization, the elected members of the Reconsideration
3 Committee shall elect a chairperson and a secretary from among their
4 members.
5

6 A quorum for purposes of conducting a hearing by the Reconsideration
7 Committee shall be five members or their alternates. No member or
8 alternate shall sit to hear a faculty member's case if the committee
9 member or alternate holds appointment in the faculty member's unit,
10 participated directly in the decision to terminate the faculty member's
11 employment, or has any other substantial conflict of interest. The
12 Chair of the Faculty, in consultation with the Committee on Committees,
13 shall, when necessary, appoint sufficient additional members who meet
14 the qualifications for election to the committee. Vacancies on the
15 committee will be filled by first moving alternates to members and by
16 making appointments as alternates.
17

18 7. Conduct of the Hearing 19

20 Following procedures according to the most recent edition of Robert's
21 Rules of Order: Newly Revised, the hearing shall be conducted in
22 private by the Reconsideration Committee. Should any of the elected
23 officers be absent at the beginning of the hearing, the Reconsideration
24 Committee shall elect for purposes of the hearing their substitutes.
25 The faculty member and the Chancellor have the right to counsel, to
26 present testimony or witnesses and other evidence, to confront and
27 cross-examine adverse witnesses, and to examine all documents and other
28 adverse evidence. The faculty member and the Committee shall be given
29 access, upon request, to documents that were used in making the
30 decision to terminate the faculty member's employment after the
31 decision was made that the position must be terminated. A transcript
32 of the proceedings shall be given to the faculty member at the
33 institution's expense. The Committee may consider only such evidence
34 as presented at the hearing and need consider only the evidence offered
35 that it considers fair and reliable. All witnesses may be questioned
36 by the members of the Committee.
37

38 8. The Hearing Procedure 39

40 The hearing shall begin with the faculty member's presentation of
41 contentions, limited to those grounds specified in the request for the
42 hearing and supported by such testimonial and documentary proof as the
43 faculty member desires to offer. The Chancellor or the Chancellor's
44 delegate may then present in rebuttal in general support of the
45 decision to terminate the faculty member's employment such testimony
46 and/or documentary proof as the Chancellor or the Chancellor's delegate
47 desires to offer, including testimony of the Chancellor or the
48 delegate. The burden of proof shall be upon the faculty member. At the
49 end of this presentation, the Reconsideration Committee shall consider
50 the matter in executive session and shall make its written
51 recommendations to the Chancellor within ten working days after the
52 hearing concludes.

1 9. Procedure After the Hearing
2

3 If the Reconsideration Committee determines that the contention of the
4 faculty member has not been established, it shall, by a simple
5 unelaborated statement, so notify the faculty member, the Chair of the
6 Faculty and the Chancellor. The faculty member may appeal the decision
7 to terminate employment in the manner provided by Section 501 C(4) of
8 The Code of The University of North Carolina.
9

10 If the Reconsideration Committee determines that the faculty member's
11 contention has been satisfactorily established, it shall so notify the
12 faculty member, the Chair of the Faculty, and the Chancellor by a
13 written notice that shall also include a recommendation for corrective
14 action by the Chancellor.
15

16 Within ten working days after receiving the recommendation, the
17 Chancellor shall send written notice to the faculty member by
18 registered mail, return receipt requested, with copies to the Chair of
19 the Faculty, and the Chairperson of the Reconsideration Committee
20 giving his decision and stating what modification, if any, the
21 Chancellor will make with respect to the original decision to terminate
22 the faculty member's employment.
23

24 If the Chancellor fails to reverse the original decision, the
25 Chancellor shall send written notice of such to the faculty member by
26 registered mail, return receipt requested, with copies to the Chair of
27 the Faculty, and the Chairperson of the Reconsideration Committee. The
28 faculty member may appeal the termination in a manner provided by
29 Section 501 C(4) of The Code of The University of North Carolina.
30

31 If the Chancellor concurs in the recommendation of the Committee that
32 is favorable to the faculty member, the decision is final and written
33 notification thereof shall be sent to the faculty member, the Chair of
34 the Faculty, and the Chairperson of the Reconsideration Committee.
35

36 10. Administrative Obligations Within East Carolina University
37

38 Should action by the administration result in a postponement of the
39 appeal process beyond the period of employment of the faculty member,
40 the faculty member's salary will be continued until the conclusion of
41 the appeal process within East Carolina University. The salary and
42 benefits shall be in addition to compensation as is due under the
43 faculty member's current contract.
44

45 VIII. THE FACULTY GRIEVANCE COMMITTEE
46

47 A. Structure and Jurisdiction
48

49 When a faculty member's grievance is to be considered, the Faculty Grievance
50 Committee will be formed from the Faculty Affairs Committee and will consist
51 of: (a) the delegate of the Chair of the Faculty; and (b) the four elected
52 members of the Faculty Affairs Committee who are most senior in years of

1 service at East Carolina University, who hold no administrative title, who
2 are available to serve, and who are permanently tenured. Whenever an
3 insufficient number of permanently tenured faculty is available for service
4 on the Faculty Grievance Committee, the Chair of the Faculty, or the Chair
5 of the Faculty's delegate, in consultation with the Committee on Committees,
6 shall appoint sufficient numbers of permanently tenured faculty to serve on
7 the Faculty Grievance Committee to hear the grievance under consideration.
8 The Faculty Grievance Committee shall, for each grievance brought before it,
9 elect from among its membership a chair and a secretary.

10
11 B. Authorization and Powers
12

13 Following procedures according to the most recent edition of Robert's Rules
14 of Order: Newly Revised the Faculty Grievance Committee shall be authorized
15 to hear, mediate and recommend to the appropriate authority the adjustment
16 of grievances of members of the faculty. Its powers shall be solely to hear
17 representations by the persons directly involved in a grievance, to mediate
18 voluntary adjustment by the parties, and to recommend adjustment to the
19 appropriate authority when necessary.
20

21 C. Grievances
22

23 Grievances within the Committee's province shall include matters directly
24 related to a faculty member's employment status and institutional
25 relationships within East Carolina University. No grievance, however, that
26 grows out of or involves matters related to a formal proceeding for the
27 suspension, discharge, or termination of a faculty member's employment, or
28 that is within the jurisdiction of another standing faculty committee, may
29 be considered by the Committee.
30

31 D. Petition for Redress
32

33 Any faculty member may petition in writing the Faculty Grievance Committee
34 for redress of a perceived grievance. The Request for Hearing shall be
35 written to, addressed to, and delivered to the chairperson of the Faculty
36 Grievance Committee by the affected faculty member. The petition shall set
37 forth in detail the nature of the grievance and against whom it is directed.
38 It shall contain any information that the petitioner considers pertinent to
39 the petitioner's case. The Faculty Grievance Committee shall decide whether
40 the facts merit a detailed investigation so that submission of a petition
41 shall not result automatically in an investigation or detailed consideration
42 of the petition. If it is determined that a detailed investigation is not
43 needed the Faculty Grievance Committee shall notify the faculty member
44 bringing the grievance of the decision by registered mail, return receipt
45 requested.
46

47 E. Report of Recommendations
48

49 The Faculty Grievance Committee shall submit a written report of its
50 recommendation to the administrative official most directly empowered to
51 adjust it, with a copy to the faculty member bringing the grievance by
52 registered mail, return receipt requested and the empowered official's

1 immediate supervisor. If the empowered administrator does not act upon the
2 grievance within twenty working days and in a way considered appropriate by
3 the Faculty Grievance Committee, the Committee may notify the Chancellor of
4 the recommendation it has made to the empowered administrator with a copy
5 to the faculty member and the Chair of the Faculty. Within twenty working
6 days, the Chancellor shall notify in writing the faculty member, the Faculty
7 Grievance Committee, the empowered administrator, and the Chair of the
8 Faculty of the administrative action on the Committee's recommendation(s).
9 If the administrative action differs from the Committee's recommendation,
10 the Chancellor shall notify in writing the faculty member, other appropriate
11 administrative officials, and the Chair of the Faculty of the reasons for
12 the decision. Subject to statutory requirements, communication concerning
13 the Committee's recommendation(s) shall be in writing, shall be treated with
14 the utmost discretion, and shall be held in confidence by the parties
15 involved.
16

17 F. Further Appeal
18

19 If the Chancellor declines to accept a committee recommendation that is
20 favorable to the faculty member, the faculty member may appeal the
21 Chancellor's decision in the manner prescribed by Section 501 C(4) of The
22 Code of the University of North Carolina.
23

24 IX. EFFECTIVE DATE
25

26 A. These policies and regulations supersede all other institutional
27 documents governing the matters covered herein.
28

29 B. Except as otherwise provided below, all provisions of these policies
30 and regulations shall become operative (with respect to all existing and all
31 future faculty appointments) on _____.
32

33 1. Section III.C.3.a., dealing with the length of probationary
34 terms, shall not apply to those appointed before the effective date of
35 these policies and regulations.
36
37
38
39
40
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42
43
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45

PROPOSED REVISIONS TO APPENDIX L

This recommended revision will involve only those Department Chairs and other administrators who directly evaluate faculty for the purpose of promotion, tenure, appointment, reappointment, and/or the annual merit review. It is possible that in some units the Department Chairs and administrators are not considered Unit Administrators, thus, these individuals are not subject to the quadrennial evaluation called for in Appendix L, Section D. Unit Administrator Evaluation, page L-3.

The Faculty Governance Committee, therefore, recommends that the following footnote be added on page L-4:

"²Unit Administrator, for the purpose of this section, shall also include any administrator who directly evaluates faculty for the purpose of promotion, tenure, appointment, reappointment, and/or the annual merit evaluation."

A "2" will be required following "Unit Administrator" on page L-3, Section D. as follows:

"D. Unit Administrator² Evaluation"

The footnote designated by an "*" ("Voting faculty member") will then become Footnote 1 with a "1" following "faculty members" on page L-2, Section C.1.

EAST CAROLINA UNIVERSITY
FACULTY SENATE EXECUTIVE AGENDA

SPECIAL SESSION

The East Carolina University Faculty Senate will meet in special session on Tuesday, January 28, 1992, at 2:10 p.m. in the Mendenhall Student Center, Great Room.

AGENDA

- I. Call to Order
- II. Roll Call
- III. Special Order of the Day
 - Faculty Governance Committee, Gene Hughes
 - 1. Proposed Revisions to Appendix D (attachment 1)
 - 2. Proposed Revisions to Appendix L (attachment 2)

A copy of the proposed revisions to Appendix D and Appendix L will be distributed to all Administrators, Deans, Chairs, Directors, Senators, Chairs of all Academic Committees, and available on "FSONLINE".

All members of the Faculty Governance Committee will be given floor privileges to speak on issues during this meeting.

The Senators are asked to review the attached appendices prior to this meeting. The document will be considered by sections. Senators wishing to make amendments are requested to have those in writing and ready to offer at this meeting. Parliamentary procedures will be followed more strictly in order to facilitate consideration of the document.

Please make every effort to attend this important special session.