

THIS DRAFT INCLUDES ALL AMENDMENTS PASSED BY THE FACULTY SENATE
THROUGH ITS MARCH 31, 1992, MEETING.

APPENDIX D
17th Draft
(4-2-92)

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.

Administrators, 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 spokespersons for 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

1 high quality that this University seeks. Academic tenure refers to the
3 protection of a faculty member against involuntary suspension or discharge
4 from employment or reduction in rank except upon specified grounds and in
5 accordance with the procedures provided in Section VI.; or against
6 termination of employment except as provided for in Section VII.

7 B. Conferral Agency

8
9 Permanent tenure may be conferred only by action of the President and the
10 Board of Governors of the University of North Carolina, and is always held
11 with reference to employment by East Carolina University rather than to
12 employment by The University of North Carolina.

13
14 C. Faculty Appointments

15
16 1. General Provisions

17 a. Categories of Appointments

18 There are three kinds of faculty appointments:

19
20 (1) Appointments with Permanent Tenure. These are continuous
21 until resignation, retirement, discharge with cause
22 (Section VI), Termination (Section VII), or death. The
23 conferral of permanent tenure is allowed only as the
24 result of the processes enunciated in this document.

25
26 (2) Probationary Appointments. These are appointments which
27 allow for the evaluation of professional competencies
28 that may lead to conferral of permanent tenure. The
29 conferral of permanent tenure is allowed only as the
30 result of the processes enunciated in this document.

31
32 (3) Fixed-Term Appointments. These are appointments for a
33 fixed term, and are automatically terminated at
34 expiration.

35
36 Persons appointed by all three categories of appointments to the
37 faculty have the protection of tenure during the period of
38 appointment.

39
40 b. Criteria for Appointment

41
42 The appointment of a candidate shall be based on an assessment of
43 the candidate's demonstrated professional competence, potential
44 for future contributions, and the institution's needs and
45 resources.

46
47 c. Terms and Conditions

1 The Chancellor or the Chancellor's designee¹ shall set out in
2 writing, with a copy to the faculty member, the terms and the
3 conditions of each initial appointment and each reappointment.
4 The terms shall include reference to appropriate sections of the
5 Faculty Manual and shall state any conditions placed on the
6 appointment or reappointment. Except as specifically provided in
7 Appendix D, no special terms or conditions may be included that
8 vary the general terms and conditions stated herein. The
9 responsibility for initiating the inclusion of special terms and
10 conditions in documents of appointment is with the unit
11 administrator².
12

13 d. Faculty Manual
14

15 The Chancellor, in consultation with the office of the Faculty
16 Senate, is responsible for the publication of the Faculty Manual.
17 The Senate office shall be responsible for the maintenance of the
18 Faculty Manual. The Faculty Manual shall contain the tenure and
19 personnel policies and regulations of East Carolina University,
20 including the complete text of Chapter Six of The Code of The
21 University of North Carolina. The Faculty Manual shall be
22 provided to new faculty and changes as they occur shall be
23 distributed periodically to each faculty member.
24

25 e. Continued Availability of Special Funding
26

27 The appointment, reappointment, or promotion of a faculty member
28 to a position funded in whole or in substantial part from sources
29 other than continuing state budget funds or permanent trust funds
30 shall specify in writing that continuance of the faculty member's
31 services, whether for a specified term or for permanent tenure,
32 shall be contingent upon continuing availability of such funds.
33 This contingency shall not be included in a faculty member's
34 contract in either of the following situations:
35

- 36 (1) In a promotion to a higher rank if, before the effective
37 date of that promotion, the faculty member had permanent

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

40 ²With respect to personnel matters relating to Appendix D of the East Carolina University Faculty
41 Manual, academic units are defined as departments described in the codes of operation of professional
42 schools, the departments in the College of Arts and Sciences, professional schools without departments,
43 Academic Library 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
46 structures, 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.

1 tenure and no such condition was attached to the tenure.

- 3 (2) If the faculty member held permanent tenure in the
4 institution on July 1, 1975, and the contract was not
5 then contingent upon the continuing availability of
6 sources other than continuing state budget or permanent
7 trust funds.

8
9 f. Leaves of Absence

10
11 Special leaves for relief from all employment obligations for a
12 specified period may be included in an appointment or
13 reappointment to a faculty rank, or may be added by a written
14 memorandum of amendment by the unit administrator during the term
15 of an appointment. For compassionate reasons of health, or
16 requirements of childbirth or child care, or other compelling
17 reasons, such terms may, with the concurrence of the faculty
18 member, include extensions of the period of the probationary term
19 of appointment. The probationary period may be extended by
20 increments of one or more academic years. Such special leaves
21 must be expressly stated in initial appointment documents or, if
22 added by memorandum of amendment, must be approved in writing by
23 the Chancellor or the Chancellor's designee.

24
25 These provisions do not apply to informal temporary adjustments of
26 the regularly assigned duties of faculty members by their unit
27 administrators.

28
29 2. Initial Appointment with Permanent Tenure

30
31 A faculty member whose initial appointment is to a professorial rank
32 with permanent tenure shall be regarded as having permanent tenure
33 until retirement, resignation, or removal according to the provisions
34 of Sections VI. and VII. of this document. Final authority for
35 approving any action that confers permanent tenure is in the President
36 and the Board of Governors of the University of North Carolina.

37
38 3. Probationary Appointments

39
40 Probationary appointments are made at the ranks of Instructor,
41 Assistant Professor, Associate Professor, and Professor. Persons who
42 are appointed as Instructors are not eligible for permanent tenure at
43 that rank, but become eligible upon promotion to a higher rank.
44 Persons appointed as Assistant Professors, Associate Professors, and
45 Professors are eligible for permanent tenure.

46
47 A faculty member appointed to an administrative position is eligible
48 for permanent tenure only as a faculty member in one of the
professorial ranks. There is no permanent tenure in an administrative

1 position.

2 The Chancellor may recommend that a faculty member be granted permanent
3 tenure at any time.

4
5
6 a. Probationary Period

7
8 Total service in all ranks without conferral of permanent tenure
9 is not to exceed seven years. A candidate with one or more years
10 of full-time teaching, research, and service at an accredited
11 college or university may be granted a reduction of up to three
12 years in the probationary period as credit for prior academic
13 experience. All time served in a probationary appointment at East
14 Carolina University must be continuous, excluding any leaves of
15 absence as noted in III.C.1.f.
16

17 The probationary term for a faculty member appointed at the rank
18 of Instructor is six years. A candidate appointed at the rank of
19 Instructor shall be granted no reduction in the probationary
20 period at the time of appointment. The rank of Instructor is
21 appropriate to those who are appointed to the faculty in the
22 expectation that in the normal course they will progress to the
23 professorial ranks in this or another institution but lack, when
24 appointed, one or more qualifications expected by their unit for
25 appointment to the professorial ranks.

26
27 The probationary term for an Assistant Professor is six years, for
28 an Associate Professor four years, and for a Professor two years.
29 A candidate appointed at the rank of Assistant Professor may be
30 granted a reduction of up to three years in the probationary
31 period for prior academic experience. A candidate appointed at
32 the rank of Associate Professor may be granted a reduction of up
33 to two years in the probationary period for prior academic
34 experience. A decision to grant one or more years off the
35 probationary period for prior academic experience shall require
36 the approval of the candidate, a simple majority of the unit
37 personnel committee, the unit administrator, and the appropriate
38 vice chancellor.
39

40 The length of the initial probationary period contract and all
41 subsequent probationary period reappointment contracts is two
42 years.
43

44 During the tenure decision year, a probationary faculty member who
45 is not awarded permanent tenure and who is not already under
46 contract for the next academic year shall be granted a one year
47 terminal contract.
48

b. Reappointment Decisions

1 Reappointment decisions for a candidate appointed at the rank of
2 Instructor shall be made in the Fall term of the second academic
3 year and the Spring term of the third academic year of the
4 probationary period. If the candidate still holds the rank of
5 Instructor during the Spring term of his or her third academic
6 year, the candidate shall not be reappointed to fifth and sixth
7 years on tenure track unless the candidate also is promoted to the
8 rank of Assistant Professor effective no later than the beginning
9 of the candidate's fourth year of the probationary period. The
10 fourth academic year of the probationary appointment shall be the
11 terminal year for a candidate who is not promoted to the rank of
12 Assistant Professor by the beginning of the fourth year. The
13 tenure decision shall be made during the Fall term of the sixth
14 academic year for a candidate who is promoted to Assistant
15 Professor and granted the fifth and sixth years of the
16 probationary period.
17

18 The probationary period for a candidate appointed at the rank of
19 Assistant Professor with no reduction for prior academic
20 experience shall be six years. Reappointment decisions will be
21 made in the Fall term of the second academic year, and the Spring
22 term of the third academic year of the probationary period. The
23 tenure decision will be initiated in the Fall term of the sixth
24 academic year of the probationary period.
25

26 The probationary period for a candidate appointed at the rank of
27 Assistant Professor with a one year reduction for prior academic
28 experience shall be five years. Reappointment decisions will be
29 made in the Fall term of the second academic year, and the Spring
30 term of the third academic year. The tenure decision will be
31 initiated in the Fall term of the fifth academic year of the
32 probationary period.
33

34 The probationary period for a candidate appointed at the rank of
35 Assistant Professor with a two year reduction for prior academic
36 experience shall be four years. A reappointment decision will be
37 made in the Fall term of the second academic year. The tenure
38 decision will be initiated in the Fall term of the fourth academic
39 year.
40

41 The probationary period for a candidate appointed at the rank of
42 Assistant Professor with a three year reduction for prior academic
43 experience shall be three years. A reappointment decision will be
44 made in the Fall term of the second academic year. The tenure
45 decision will be initiated in the Fall term of the third academic
46 year.
47

48 The probationary period for a candidate appointed at the rank of
Associate Professor with no reduction for prior academic

1 experience shall be four years. A reappointment decision will be
2 made in the Fall term of the second academic year. The tenure
3 decision will be initiated in the Fall term of the fourth academic
4 year.

5
6 The probationary period for a candidate appointed at the rank of
7 Associate Professor with a one year reduction for prior academic
8 experience shall be three years. A reappointment decision will be
9 made in the Fall term of the second academic year. The tenure
10 decision will be initiated in the Fall term of the third academic
11 year.

12
13 The probationary period for a candidate appointed at the rank of
14 Associate Professor with a two year reduction for prior academic
15 experience shall be two years. The tenure decision will be
16 initiated in the Fall term of the second academic year.

17
18 The probationary period for a candidate appointed at the rank of
19 Professor shall be two years. The tenure decision will be
20 initiated in the Fall term of the second academic year.

21
22 c. Progress Toward Tenure Letters

23
24 Each Spring Term during the probationary period the unit
25 administrator, in consultation with the unit personnel committee,
26 will write a progress toward tenure letter to each faculty member
27 having a probationary appointment. Copies of this letter will be
28 placed in the faculty member's personnel file, and a copy will be
29 sent to the unit personnel committee, and to the next higher
30 administrative level. The unit administrator will discuss the
31 progress toward tenure letter with the faculty member. In the
32 event that the faculty member disagrees with the contents of the
33 progress toward tenure letter, it is the responsibility of the
34 faculty member to make this disagreement known in writing. Copies
35 of this letter will be placed in the faculty member's personnel
36 file, and a copy will be sent to the unit personnel committee, and
37 to the next higher administrative level.

38
39 d. Terms of Notice

40
41 A decision not to reappoint a faculty member shall be made by the
42 appropriate university authority early enough to permit timely
43 notice to be given. For faculty at the rank of Instructor,
44 Assistant Professor, Associate Professor, or Professor, the
45 minimum requirement for timely notice shall be as follows:

- 46
47 (1) During the second year of continuous service at East
48 Carolina University, in a tenure-track appointment, the
faculty member shall be given not less than 180 calendar

1 days' notice before the employment contract expires.

- 2
3 (2) After two or more years of continuous service at East
4 Carolina University , in a tenure-track appointment, the
5 faculty member shall be given not less than twelve
6 months' notice before the employment contract expires.
7

8 Notice of reappointment or nonreappointment shall be written.
9 If the decision is not to reappoint, then failure to give
10 timely notice of nonreappointment will oblige the University
11 thereafter to offer a terminal appointment of one academic
12 year to the faculty member involved. Notification of
13 appointment or reappointment is not notice of conferral of
14 permanent tenure except as provided for in this section.
15

16 e. Criteria for Reappointment

17
18 The decision to reappoint a faculty member must include
19 consideration of the faculty member's demonstrated professional
20 competence, potential for future contributions, and institutional
21 needs and resources. The decision not to reappoint shall not be
22 based upon (1) the faculty member's exercise of rights guaranteed
23 by either the First Amendment to the United States Constitution or
24 Article I of the North Carolina Constitution; (2) discrimination
25 based upon the faculty member's race, sex, religion, or national
26 origin; or (3) personal malice.
27

28 f. Criteria for Conferral of Permanent Tenure

29
30 Conferral of permanent tenure shall be based on the faculty
31 member's demonstrated professional competence, potential for
32 future contributions, and the institution's needs and resources.
33 Permanent tenure is independent of promotion, but sound academic
34 practice supports the concept that people eligible for tenure
35 should normally have credentials that merit promotion.
36

37 When a faculty member believes all necessary criteria are met, the
38 faculty member may request that consideration be given to
39 conferral of permanent tenure before the end of the probationary
40 period. A faculty member considering such exceptional action is
41 encouraged to seek consultation with the permanently tenured
42 faculty members and the unit administrator.
43

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

1 g. Promotion

2 Promotion as, described in Appendix C, is applicable only to
3 Instructors, Assistant Professors, and Associate Professors.
4 Promotion shall be based primarily on the faculty member's
5 demonstrated professional competence and achievement and on
6 potential for future contributions. Promotion is independent of
7 permanent tenure.
8

9
10 When a faculty member believes all necessary criteria are met, the
11 faculty member may request that consideration be given to
12 promotion. A faculty member considering such action is encouraged
13 to seek consultation with the unit personnel committee and the
14 unit administrator.
15

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

22 4. Fixed-Term appointment

23
24 a. In Relation to Tenure

25 Fixed-term positions are not probationary term positions.
26

27
28 b. Contract and Notice

29
30 A contract for a fixed-term appointment shall set forth in writing
31 the beginning and ending dates of the term. This specification of
32 the length of the appointment shall be deemed to constitute full
33 and timely notice of nonreappointment when the term expires. The
34 provisions of 604 A and 602(4) of The Code of The University of
35 North Carolina do not apply in these instances. No obligation
36 exists on the part of East Carolina University to give any notice
37 before a current fixed-term appointment expires as to whether an
38 appointment will be offered for a succeeding term. The faculty
39 member may, however, not earlier than 180 calendar days nor later
40 than ninety calendar days before the current term expires, request
41 in writing a decision whether the unit administrator will
42 recommend another appointment. Within thirty calendar days after
43 receiving such a request, and after consultation with the unit
44 personnel committee, the unit administrator shall communicate in
45 writing to the faculty member a decision whether such a
46 recommendation will be made, and, if so, its terms.
47

48 c. Fixed-Term Employment Policy

1 Employment of a faculty member in a fixed-term appointment in a
3 state-funded position in order to avoid tenure-track appointments
4 or the awarding of permanent tenure is a misuse of this category
5 of employment, and is prohibited.

6 During the November meeting of the Faculty Senate, the
7 Chancellor's Report is to include data reflecting the employment
8 category of all faculty. For each department, the report will
9 compare the current academic year to comparable data for the
10 previous ten academic years. Comparisons will be included that
11 are based on simple count, percentages, and percent changes for
12 the total and each category of employment. Reported changes will
13 be addressed on the basis of their effect on educational quality
14 and their consistency with the above paragraph.

15
16 IV. Procedures for Initiation, Review, and Approval of Appointments, Reappointments,
17 Promotions, and the Conferral of Permanent Tenure
18

19
20 A. Role of the Permanently Tenured and Tenure-Track Faculty
21

22 Initiation and review of recommendations for appointments, reappointments,
23 promotion, and the granting of permanent tenure at the unit level are
24 primarily the responsibility of the faculty. The permanently tenured and
25 tenure-track voting faculty, when appropriate, shall assemble as a
26 deliberative body.³

27
28 The composition of the deliberative bodies will vary according to the
29 personnel matter(s) under consideration:
30

31 1. On matters pertaining to initial appointments with permanent
32 tenure, reappointments of tenure-track faculty members and the
33 granting of permanent tenure, the deliberative body consists of the
34 permanently tenured voting faculty of the unit, as defined in
35 Appendix L, including those who are on leave yet physically present
36 at the time of the vote, but excluding the unit administrator. When
37 a unit has fewer than three permanently tenured faculty members not
38 holding administrative status, the next higher administrator above
39 the unit level shall appoint permanently tenured faculty to increase
40 the membership of the deliberative body to three. These
41 appointments shall be from a list of candidates elected by the
42 permanently tenured and tenure-track faculty of the unit.

43
44 2. On matters pertaining to fixed-term appointments and initial
45 probationary appointments, the deliberative body is the personnel

46
³Meetings of the appropriate deliberative bodies shall be conducted according to the most recent edition of
Robert's Rules of Order, Newly Revised.

1 committee consisting of some or all of the permanently tenured and
2 tenure-track, voting faculty of the unit, as defined in Appendix L,
3 including those who are on leave yet physically present at the time
4 of the vote, but excluding the unit administrator.

5
6 The personnel committee shall be composed of not less than two
7 -thirds permanently tenured faculty, and when fewer than that number
8 are in the unit, additional permanently tenured faculty shall be
9 made available according to the procedures in Section IV.A.1. above.

- 10
11 3. On matters pertaining to recommendations for promotion in rank, the
12 deliberative body shall include only those permanent tenured and
13 tenure-track faculty members who hold rank at least equal to the
14 rank for which the candidate is being considered but excluding the
15 unit administrator. When a unit has fewer than three permanently
16 tenured or tenure-track faculty members of sufficient rank and not
17 holding administrative status, the next higher administrator above
18 the unit shall appoint additional permanently tenured and tenure
19 -track faculty to increase the membership of the deliberative body
20 to three, with no less than two-thirds permanently tenured faculty.
21 These appointments shall be from a list of candidates elected by the
22 permanent tenured and tenure-track faculty having rank at least
23 equal to the candidate(s) being considered for promotion.
24

25 B. Role of Personnel Committee

26
27 The unit personnel committee exists to represent the faculty in processing
28 personnel decisions, as designated in the University Code and unit codes,
29 and to provide support and advice to members of the unit. The unit
30 personnel committee shall be elected by and shall consist of permanently
31 tenured and tenure-track, voting faculty.
32

33 The unit personnel committee is responsible for making recommendations to
34 the unit administrator on fixed-term appointments and initial probationary
35 appointments. The personnel committee is jointly responsible with the unit
36 administrator for preparation of the progress toward tenure letter. In the
37 event the personnel committee and unit administrator cannot agree on the
38 contents of the letter, the next higher unit administrator shall adjudicate
39 the disagreement.
40

41 C. Role of the Chair of the Personnel Committee

42
43 The chair shall be elected annually by and from the committee's membership.
44 The chair shall preside over all deliberative bodies making personnel
45 recommendations for the faculty, and may participate in the decisions of any
46 deliberative body of which the chair is a member. The chair shall be
47 responsible for calling the meetings of such deliberative bodies, obtaining
48 and distributing materials to be used during deliberation of such bodies,
insuring that a valid vote has been taken, communicating the results of such

1 votes to the appropriate tenured faculty and to the unit administrator, and
2 performing other duties as designated by the unit code or by delegation of
3 the faculty.

4 5 D. Role of Unit Administrator

6
7 The unit administrator serves to provide leadership, support, and guidance
8 to the total functioning of the unit. In the personnel decisions discussed
9 in this section which are forwarded to the next higher administrator, the
10 recommendation of the unit administrator shall be forwarded along with the
11 recommendation of the faculty as represented by the appropriate deliberative
12 body.

13
14 The unit administrator is responsible for maintaining the personnel files,
15 providing timely notification to the chair of the personnel committee on all
16 personnel actions required or expected, and distributing all personnel
17 documents and materials to the appropriate location. The unit administrator
18 is jointly responsible with the personnel committee for preparation of the
19 progress toward tenure letter.

20
21 In personnel matters the unit administrator functions as an administrator
22 rather than a faculty member. Consequently the unit administrator does not
23 have a faculty vote in personnel matters.

24 25 E. External Peer Review for Promotion and the Conferral of Permanent Tenure

26
27 External peer review is one of the methods to be used in determining the
28 quality of the research and creative activity material submitted by the
29 candidate for promotion or tenure. This evaluation will be used by the
30 appropriate deliberative body in conjunction with its own evaluation of the
31 material submitted by the candidate. Material to be evaluated employing the
32 external peer review process is limited to the results of creative activity
33 and scholarly activity.

34
35 In the Spring term prior to the academic year in which a promotion or tenure
36 decision is scheduled, the **unit personnel committee** shall produce a list of
37 possible external reviewers. The candidate for promotion and/or tenure shall
38 provide a similar list, noting for each name the relationship between the
39 reviewer and the candidate. The candidate shall also provide similar
40 relationship information for each name on the unit personnel committee's
41 list.

42
43 The qualifications and criteria for the selection of the reviewers are to be
44 determined by the faculty of each unit, with the specific criteria and
45 qualifications for selection to be made a part of the unit's code of
46 operations. These qualifications and criteria must include consideration of
47 the reputation of the reviewer within the candidate's field of study,
48 research, or creative activity.

1 In the Spring term prior to a personnel action requiring external review,
2 the unit personnel committee shall select a sufficient number of names from
3 the personnel committee's list and the candidate's list to insure a minimum
4 of three external reviewers, two from the unit personnel committee's list
5 and one from the candidate's list. The unit administrator will notify the
6 reviewers that they have been nominated to conduct the review and will
7 ascertain their willingness to serve as a reviewer. All selected material
8 with a cover letter prescribed by the university shall be sent to the
9 reviewers. An honorarium shall not customarily be offered.

10
11 Correspondence with reviewers shall follow a form prescribed by the
12 university. All correspondence with the reviewer shall be neutral, serving
13 to neither support nor oppose the candidate. Copies of all correspondence
14 with the reviewer, with all reviewer identification removed, shall be made a
15 part of the Personnel Action Dossier (PAD).(See Section V.F.3. below)

16
17 All evidence of creative activity and scholarly activity selected from the
18 candidate's PAD sent to the reviewer shall be appropriate to the personnel
19 action. The selection of material from the PAD shall begin with the
20 recommendation of the unit administrator and the appropriate personnel
21 committee. The candidate may include additional published or accepted
22 material if he or she disagrees with the initial selection. Inclusion of
23 such additional items in the materials sent to reviewers shall be noted in
24 the PAD.

25
26 Upon receipt of the reviews, the unit administrator will make copies of the
27 letters. The original letters will be placed in the candidate's personnel
28 file. Copies of the letters, with all reviewer identification removed, will
29 be placed in the candidate's PAD. The chair of the unit personnel committee
30 shall then notify the members of the appropriate deliberative body and the
31 candidate that the reviews are available.

32
33 When fewer than three external reviewers respond, this information, by memo
34 from the unit administrator, shall be made a part of the candidate's
35 personnel file and PAD. Consideration of the personnel action shall then
36 proceed following the required procedures.

37 38 F. Documentation for Personnel Actions

39 40 1. Employment Application

41
42 Information on job applicants is to be kept in a file available to the
43 appropriate deliberative body, as described in Section IV.A.1. -
44 IV.A.3. Upon appointment the employment file shall be made a part of
45 the personnel file.

46 47 2. Personnel File

48
The personnel file is intended to be the source of information on

1 teaching, research and creative activities, service, and other
2 appropriate duties. It serves as documentation not only for the
3 personnel decisions discussed in this section but also for other
4 University requirements. All materials used for evaluating faculty
5 members for personnel recommendations must be contained in or
6 referenced by the personnel file. Each faculty member shall have the
7 right to include whatever materials he or she deems appropriate in the
8 personnel file.
9

10 3. Personnel Action Dossier (PAD) for Reappointment, Promotion ,and
11 Permanent Tenure
12

13 The Personnel Action Dossier (PAD) is a file containing materials for
14 evaluating a faculty member's teaching, research and creative
15 activities, and service. The PAD is compiled by candidates for
16 reappointment, promotion, or permanent tenure in consultation with the
17 unit administrator and the chair of the unit personnel committee. The
18 PAD file will be used by the appropriate deliberative body in making
19 personnel recommendations. It shall only include materials contained
20 in or referenced in the master personnel files.
21

22 The unit's code shall include specific requirements for the following
23 components of the PAD. The PAD shall include, where appropriate:
24

- 25 a. All written communications with the candidate on progress
26 toward tenure including the annual evaluation
- 27
- 28 b. A complete resume
- 29
- 30 c. Copies of the external peer reviews and a listing of the
31 documents reviewed
- 32
- 33 d. Teaching portfolio
- 34

35 The teaching portfolio shall include the results of the student
36 opinion of instruction including unit and university norms and
37 other evidence of teaching effectiveness such as classroom
38 observation, analysis of instructional materials, measures of
39 student achievement, etc., over the period of time appropriate to
40 the decision. When a unit has a formalized means of evaluating
41 instruction these materials will be included at least in summary
42 form.
43

44 e. Research and creative activity portfolio

45 The research and creative activity portfolio shall include
46 appropriate evidence of creative activity and copies of all
47 publications, either in print or accepted for publication, over
48 the period of time appropriate to the decision. If accepted but

1 not in print, appropriate documentation of acceptance must be
2 included.

4 f. Service portfolio

5
6 The service portfolio shall consist of a summary of all service
7 given by the faculty member over the period of time appropriate to
8 the decision.

9
10 g. Other material

11
12 Other materials may be added to the PAD by the faculty member
13 providing the unit administrator, in consultation with the
14 personnel committee, has an opportunity to include a response to
15 such materials. In the event a response is deemed appropriate and
16 the unit administrator and personnel committee cannot agree, both
17 may include a response.

18
19 G. Initiation of Recommendation

20
21 The unit administrator shall give timely notice to the chair of the
22 personnel committee when personnel procedures are to be initiated.

23
24 Faculty recommendations for appointment, reappointment, promotion, and
25 conferral of permanent tenure shall come from the appropriate deliberative
26 body. The results of their deliberations shall be communicated by the chair
27 of the personnel committee to the unit administrator who will forward the
28 recommendation and the unit administrator's concurrence or non-concurrence
29 to the next higher administrator.

30
31 Immediately after each review for the purpose of making recommendations for
32 reappointment, promotion, or the conferral of permanent tenure, the
33 recommendation shall be communicated to the candidate and all members of the
34 appropriate deliberative body.

35
36 H. Form and Approval of Personnel Recommendations

37
38 Motions by the appropriate body deliberative body to recommend the
39 appointment, reappointment, promotion in rank, or granting of permanent
40 tenure shall be positively stated. All such motions shall fail unless
41 supported by a majority of the deliberative body eligible to vote, as
42 defined in Appendix L. Motions not to recommend the appointment,
43 reappointment, promotion in rank, or granting of permanent tenure shall
44 neither be made nor considered. Voting may be conducted by a mail ballot.

45
46 I. Procedure for Concurring Recommendations

47
48 If the recommendation of the appropriate faculty body and unit administrator
agree, the next higher unit administrator shall either concur or not concur,

1 then notify the unit administrator and the chair of the unit personnel
2 committee of the recommendation and forward all recommendations to the
3 immediate supervisor. This procedure shall be repeated at each
4 administrative level until it reaches the Chancellor.
5

6 Immediately after the completion of each level of administrative review, the
7 administrator's recommendation shall be communicated to all the appropriate
8 lower administrators, the candidate, and the appropriate deliberative body
9 of the unit.
10

11 If the Chancellor decides not to recommend a reappointment, promotion, or
12 permanent tenure, the Chancellor shall give the faculty member being
13 considered a simple, written statement of the decision. This decision is
14 final except as it may later be reviewed in accordance with the provisions
15 of Section V (**nonreappointment and denial of tenure**) or the grievance
16 procedure of Section VIII (**denial of promotion**). If the Chancellor concurs
17 in a recommendation that will confer permanent tenure, the Chancellor shall
18 consult with the Board of Trustees and, unless dissuaded, forward the
19 recommendation to the President and the Board of Governors for final
20 approval. The Chancellor shall submit all other recommendations for faculty
21 appointments, reappointments, and promotions to the Board of Trustees for
22 final approval unless that Board delegates to the Chancellor the authority
23 to give final approval.
24

25 J. Procedure for Non-concurring Recommendation

27 If the recommendations from the unit administrator and faculty disagree, the
28 unit administrator's immediate supervisor shall seek resolution of the
29 disagreement at the unit level. If the unit administrator and the
30 **appropriate deliberative body persist in their disagreement**, their
31 conflicting recommendations shall be forwarded through each administrative
32 level, together with the recommendation of the administrator at each level,
33 until they reach the Chancellor. The personnel action shall then be handled
34 in accordance with the procedures provided in Section IV.I. above.
35

36 K. Procedures for Nonconcurrence with a Tenure or Promotion Recommendation 37 by Vote of the Faculty 38

39 In the event that the Chancellor's decision is contrary to the vote of the
40 appropriate deliberative body, the Chancellor shall meet with the
41 deliberative body to discuss the decision.
42

43 L. Notice of Resignation 44

45 A faculty member shall give prompt written notice of resignation with its
46 effective date to the unit administrator, preferably not later than May 15
47 or thirty days after receiving notification of the terms of the faculty
48 member's continued employment for the following year, whichever occurs
later.

1 V. PROCEDURE FOR APPEAL OF NOTICE OF NON-REAPPOINTMENT OR NON-CONFERRAL OF
2 PERMANENT TENURE

3
4 A. Deadlines for Appeals

5
6 Failure to submit the appeals documents specified in this section within the
7 time periods allotted constitutes a waiver of further rights to appeal the
8 decision. In the event of an emergency, however, the faculty member may
9 request an extension, provided that the request is made in writing and
10 presented to the individual or committee who is next to consider the appeal.
11 Approval of the request for an extension of time because of an emergency
12 shall be made by the individual or committee who is next to consider the
13 appeal.

14
15
16 B. Request for Hearing by the Faculty Hearing Committee

17
18 Within twenty-five working days of receiving written notice from the
19 Chancellor of non-reappointment or non-conferral of permanent tenure, a
20 faculty member may request a hearing before the Faculty Hearing Committee.

21
22 1. The Committee

23
24 The Hearing Committee is a standing committee of the Faculty Senate.
25 The Hearing Committee shall be composed of five members and five
26 alternates each of whom is a permanently tenured voting faculty member
27 holding no administrative title. Nominations of candidates shall be by
28 the Committee on Committees and election is by a majority vote of the
29 Faculty Senate during its first regular meeting of each academic year.

30
31
32 At the initial election, the Faculty Senate shall elect two members and
33 two alternates to one-year terms, two members and two alternates to
34 two-year terms, and one member and one alternate to three-year terms.
35 When these and successive terms expire, members and alternates shall be
36 elected to three-year terms.

37
38 Upon organization, the members of the Hearing Committee shall elect a
39 chairperson and a secretary. A quorum for the committee during any
40 hearing shall be the five members or their alternates. Should any
41 committee officer be absent at the beginning of a hearing, the
42 committee shall elect an alternate officer for the purposes of the
43 hearing.

44
45 When the committee is convened to consider any matter associated with a
46 faculty member's request for a hearing, those committee members who
47 hold an appointment in the faculty member's academic unit, those who
48 might reasonably expect to be called to provide information for or
against the faculty member's request, those who might reasonably expect

1 to be asked to serve as an advisor, explained in Section V.D.1., to any
2 party of the Request for Hearing, or those who may have a conflict of
3 interest are disqualified from participation in the activities of the
4 committee related to this specific request for a hearing.
5

6 When, between elections, membership of the committee falls below the
7 specified five members and five alternates, the Chair of the Faculty,
8 in consultation with the Committee on Committees, shall appoint members
9 to the committee. Those appointed must meet the qualifications
10 required for election. Vacancies on the committee will be filled by
11 first moving alternates to members and by making appointments as
12 alternates.
13

14 The committee may at any time consult with the University Attorney in
15 matters of procedure.
16

17 2. Initiation of the Hearing Process 18

19 The basis for a Request for Hearing must be found in one or more of the
20 following reasons: (a) the decision was based on any ground stated
21 to be impermissible in Section 604B of The Code of The University of
22 North Carolina; (b) the decision was the result of a material
23 procedural irregularity;⁴ or (c) the decision was based on a violation
24 of academic freedom.
25

26 The faculty member's Request for Hearing must specifically identify and
27 enumerate all reasons for the request. The request must include: (a) a
28 description that is as complete as possible of the actions or the
29 failures to act which support each specified contention; (b) the
30 identification of those individuals or groups who are responsible for
31 or are party to the actions or inactions described in (a) above; (c) an
32 enumeration and description of the information or documents which are
33 to be used to support the contention (copies of the described documents
34 are to be made a part of the Request for Hearing); (d) the
35 identification of persons who may be willing to provide information in
36 support of the contention; and (e) a brief description of the
37 information those persons identified in (d) may provide. The Request
38 for Hearing shall be written to, addressed to, and delivered to the
39 chairperson of the Hearing Committee by the affected faculty member.
40

41 C. Validation of the Request for Hearing. 42

43 Validation of the affected faculty member's Request for Hearing is the
44 first step in the hearing process. The Hearing Committee shall convene

45 ⁴ Material procedural irregularity is a departure from prescribed procedures governing reappointment or the
46 conferral of permanent tenure that casts reasonable doubt upon the decision not to reappoint or not to recommend the
47 granting of permanent tenure.

1 within fifteen days after receipt of the faculty member's Request for
2 Hearing. The committee shall notify the faculty member of the meeting date
3 by registered mail, return receipt requested. The committee shall meet in
4 executive session and the meeting will be conducted according to the latest
5 edition of Robert's Rules of Order, Newly Revised. The committee's
6 evaluation of the faculty member's Request for Hearing shall be limited
7 solely to the documents and information submitted as part of the faculty
8 member's Request for Hearing.
9

10 The faculty member may submit additional documentation and information
11 supporting the Request for Hearing up to seventy-two hours prior to the
12 committee meeting. All documentation and information submitted after the
13 original Request for Hearing must (a) support contentions set forth in the
14 original Request for Hearing and (b) be delivered to the chairperson in the
15 same manner as the original Request for Hearing. Such information or
16 documentation shall be made a part of the original Request for Hearing.
17

18 Documentation and information that do not meet criteria set forth previous
19 paragraph will not be accepted and will be returned to the faculty member.
20

21 The Hearing Committee's review of the affected faculty member's Request for
22 Hearing shall be limited solely to determining whether the facts alleged by
23 the faculty member, if established, support the contentions that the
24 decision not to reappoint or confer permanent tenure was based upon any of
25 the grounds stated as impermissible in Section 604 B of The Code of The
26 University of North Carolina, was the result of a material procedural
27 irregularity, or was a result of the denial of academic freedom of the
28 affected faculty member. Based on their review and evaluation of the
29 submitted material, the committee shall decide whether the Request for
30 Hearing is to be validated.
31

32 If the Request for Hearing is not validated, the faculty member shall be
33 notified by registered mail, return receipt requested, within ten days of
34 the committee meeting. Such a determination confirms the decision not to
35 reappoint or not to confer permanent tenure. The faculty member may accept
36 the decision of the Hearing Committee or appeal to the Chancellor within ten
37 days of receipt of the Hearing Committee's decision. The Chancellor, within
38 fourteen days of the faculty member's appeal shall decide to confirm the
39 committee's decision or shall support the faculty member's request for a
40 Hearing.
41

42 The faculty member may accept the decision of the Hearing Committee or ,
43 when appealed to the Chancellor, the Chancellor's decision not to validate
44 the Request for Hearing or may appeal in the manner provided by Section 501
45 (C)4 of The Code of the University of North Carolina.
46

47 If the Committee validates the Request for Hearing or the decision not to
48 validate is not supported by the Chancellor on the faculty member's appeal,
the committee shall so notify the faculty member by registered mail, return

2 receipt requested, and begin the processes necessary to set the time and
3 date for the Hearing.

4 The committee may determine, as part of its review and evaluation, that the
5 Request for Hearing lacks clarity and request the faculty member to provide
6 additional information and documentation. The committee, in a simple
7 unelaborated statement, shall notify the faculty member by registered mail,
8 return receipt requested, of the specific areas which require clarification
9 and the number of working days allowed for receipt of information or
10 documentation from the faculty member. It is the faculty member's
11 responsibility to submit in the original Request for Hearing sufficient
12 information to allow the committee to determine the validity of the Request
13 for Hearing. An extension of the time period for delivery of the
14 clarification information is possible but will be granted only for truly
15 exceptional causes.

16
17 Delivery of information or documentation shall follow procedures established
18 for the original Request for Hearing. The committee will accept
19 information submitted in response to its request only according to criteria
20 established for submission of information accompanying the original Request
21 for Hearing, which is described above.

22
23 D. Procedures for the Hearing.

24
25 1. Time and Date of Hearing

26
27 The time and date of the Hearing will be governed by the committee. The
28 committee shall provide a complete copy of the Request for Hearing to
29 all individuals named in the Request for Hearing. Persons identified
30 as parties to the contention in the Request for Hearing shall be
31 allowed twenty days to identify, in writing to the committee,
32 individuals who may provide information in response to the affected
33 faculty member's contentions in the Request for Hearing and a brief
34 description of the information each individual may provide. Delivery of
35 this information shall be in the same manner as specified for the
36 Request for Hearing, Section V.B.2.

37
38 The affected faculty member may also identify persons who will provide
39 information in support of the contention. Identification of these
40 persons to the committee shall follow the procedures described in the
41 preceding paragraph.

42
43 The faculty member and other parties directly named in the Request for
44 Hearing may bring a person (advisor) of their choosing to the Hearing.
45 During the Hearing the role of the advisor is limited to consulting
46 with and advising the person for whom they serve as advisor. The
47 advisor shall not conduct any part of the Hearing. The advisors shall
48 be identified in writing to the committee following the same procedures
49 as for individuals who may provide information to support or in

1 response to the affected faculty member's contention.

4 After the advisors, those individuals who may provide information in
5 response to the affected faculty member's contention, and any
6 additional persons identified by the affected faculty member who will
7 provide information in support of the contention have been identified,
8 the committee will set the time, date, and place for the Hearing. The
9 date for the hearing must be within forty days of the notification to
10 the affected faculty member that the Request for Hearing was validated.
11 The committee shall then notify the affected faculty member, those
12 individuals who will provide information in support of the affected
13 faculty member's contention, those individuals who will provide
14 information in response to the affected faculty member's contention,
15 the Chancellor, the Chair of the Faculty, the chairperson of the
16 appropriate deliberative body, the unit administrator and all advisors
17 of the time, date, and place of the Hearing.

18 2. Conduct of The Hearing

19
20 The Chair of the Hearing Committee is responsible for conducting the
21 hearing and for maintaining order during the hearing. Except as
22 provided for in the following, the hearing shall be conducted according
23 to the latest edition of Robert's Rules of Order, Newly revised.
24 Attendance at the hearing is limited to the Committee's members and
25 alternates, the faculty member requesting the hearing (the
26 complainant), one person who may advise the complainant but who may not
27 take an active part in the proceedings, those members of an appropriate
28 deliberative body (see IV. p. D-9) or university administrators (other
29 parties) alleged in the request for the hearing to have violated the
30 University's policies or procedures governing reappointment and tenure
31 decisions, an East Carolina University attorney who shall advise these
32 other parties but who may not take an active part in the proceedings,
33 the Chancellor (or the Chancellor's representative) and an East
34 Carolina University attorney representing the Chancellor who may advise
35 the Committee at the Committee's request. Other persons (witnesses)
36 providing information to the Committee shall not be present throughout
37 the hearing, but shall be available at a convenient location and shall
38 be called to appear before the Committee as appropriate. An audio
39 recording of the proceedings shall be made and, upon request, a copy
40 provided to the faculty member at no cost.

41
42 The hearing shall begin with an opening statement by the Chair of the
43 Committee. In making this statement, the Chair first shall identify
44 the complainant, state the allegations made by the complainant in
45 requesting the hearing, and shall identify all parties whose conduct is
46 cited in these allegations as violating the University's policies and
47 procedures on reappointment or permanent tenure. The Chair then shall
48 explain the purpose of the hearing and the procedures to be followed
during the hearing. The Chair explicitly will note that the Committee

1 shall consider only information bearing on the allegations presented in
2 the complainant's request for the hearing. Following the opening
3 remarks by the Committee Chair, the complainant and other parties shall
4 have the opportunity to present opening statements. Following these
5 statements, the Committee shall call named witnesses, if any. The
6 Committee, the complainant and other parties, in that order, may
7 question each witness. When all witnesses have been heard, the
8 Committee, complainant and other parties may address in remarks and
9 questions to one another the information thus far presented to the
10 Committee. When the Committee judges that continuing this discussion
11 will not assist the Committee in its deliberations, the complainant and
12 other parties each may make a closing statement.
13

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

25 E. Procedure After the Hearing

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

38 If the Committee finds that a material procedural irregularity has occurred
39 and if the Chancellor concurs with the finding, then the matter shall be
40 remanded to the appropriate unit for another review. If the faculty member
41 is again denied reappointment, the decision may be appealed in accordance
42 with this section.
43

44 Within five working days after receiving the recommendation of the Hearing
45 Committee, the Chancellor shall notify the faculty member, the unit
46 administrator, the Chair of the Faculty, and the chairperson of the Hearing
47 Committee what modification, if any, will be made in the original decision
48 not to reappoint or not to confer permanent tenure.

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

4 F. Administrative Obligations Within East Carolina University

5
6 Should action by the administration result in a postponement of the appeal
7 process beyond the period of employment of the faculty member, the faculty
8 member's present salary will be continued until the conclusion of the appeal
9 process within the University, not to include appeals to the Board of
10 Trustees or the Board of Governors of the University of North Carolina. The
11 granting of additional time shall not result in de facto permanent tenure.
12 The salary will be in addition to compensation provided for by the current
13 contract. If the personnel action being appealed is a nonreappointment and
14 if the appeal process is delayed through mutual agreement of the faculty
15 member and the university, the unit shall continue all scheduled reviews of
16 the faculty member pending the results of the appeal.
17

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

19
20 A. Penalties

21
22 A faculty member who is the beneficiary of institutional guarantees of
23 tenure shall enjoy protection against unjust and arbitrary application of
24 disciplinary penalties. During the period of such guarantees, the faculty
25 member may be discharged or suspended from employment or diminished in rank
26 only for reasons of incompetence, neglect of duty, or misconduct of such a
27 nature as to indicate that the individual is unfit to continue as a member
28 of the faculty. These penalties may be imposed only in accordance with the
29 procedures prescribed in this section. For purposes of these regulations, a
30 faculty member serving a stated term shall be regarded as having tenure
31 until the end of the term. These procedures shall not apply to non-
32 reappointment (Section V) or termination of employment (Section VII).
33

34 B. Notice

35
36 Prior to notification of discharge or the imposition of serious sanctions,
37 discussions between the faculty member and appropriate administrative
38 officers looking toward a resolution will take place. If such discussions
39 do not reach a resolution, the Chancellor or the Chancellor's designee shall
40 send to the faculty member by registered mail, return receipt requested, a
41 written statement of the intention to discharge the faculty member. The
42 statement shall include notice of the faculty member's right, upon request,
43 to both written specification of the reasons for the intended discharge and
44 a hearing by the Due Process Committee (Section VI.E.).
45

46 C. Discharge Without Recourse

47
48 If, within ten working days after the faculty member receives the notice
49 referred to in Section VI.B. above, the faculty member makes no written

1 request for either a specification of reasons or a hearing, the faculty
2 member may be discharged without recourse to any institutional grievance or
3 appellate procedure.

4
5 D. Specification of Reasons and Hearing Request
6

7 If, within ten working days after the faculty member receives notice
8 referred to in Section VI.B. above, the faculty member makes a written
9 request to the Chancellor, by registered mail, return receipt requested, for
10 a specification of reasons, the Chancellor or the Chancellor's designee
11 shall supply such specification in writing by registered mail, return
12 receipt requested, within ten working days after receiving the request.
13

14 A faculty member's request for a hearing is to be directed to the Chancellor
15 in writing by registered mail, return receipt requested. If the faculty
16 member makes no written request to the Chancellor for a hearing within ten
17 working days after receiving the specification, the faculty member may be
18 discharged without recourse to any institutional grievance or appellate
19 procedures. If a faculty member makes a timely request for a hearing, the
20 Chancellor or the Chancellor's designee shall insure that the Due Process
21 Committee convenes within twenty working days, except as provided in Section
22 VI.E.
23

24 E. Due Process Committee
25

26 The Due Process Committee shall be composed of five members and five
27 alternates, each of whom is a full-time, permanently tenured voting faculty
28 member without administrative appointment, is nominated by the Committee on
29 Committees, and is elected by a majority vote of the Faculty Senate at its
30 first regular meeting of each academic year. Upon organization, the elected
31 members of the Committee shall elect a chairperson and a secretary from
32 among their members. At the initial election, the Faculty Senate shall
33 elect two members and two alternates to one-year terms, two members and two
34 alternates to two-year terms, and one member and one alternate to three-year
35 terms. When these and successive terms expire, members and alternates shall
36 be elected to three-year terms. A quorum for the hearing shall be five
37 members or their alternates. Should any of the elected officers be absent
38 at the beginning of the hearing, the Due Process Committee shall elect for
39 purposes of the hearing their substitutes. Committee members who hold an
40 appointment in the faculty member's academic unit, who will testify as
41 witnesses, or who have any other conflict of interest are disqualified from
42 participating in this hearing.
43

44 Upon notification by the Chancellor or the Chancellor's designee that a
45 faculty member has requested a hearing, the chairperson of the Committee
46 shall determine the availability of the elected members. The chairperson of
47 the Committee shall determine the availability of the alternates and shall
48 select from those available one or more alternates, as appropriate. The
ranking of the available alternates for selection shall be determined by

1 their years of service to the University. That alternate who is most
2 highly ranked shall attend all sessions of the hearing. The Chair of the
3 Faculty in consultation with the Committee on Committees shall, when
4 necessary, appoint sufficient additional members who meet the qualifications
5 for election to the committee. Vacancies on the committee will be filled by
6 first moving alternates to members and by making appointments as alternates.
7 The faculty member may make up to two peremptory challenges and is permitted
8 additional challenges for cause.

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

16 17 F. Conduct of Hearing

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

26
27 The Chancellor, or the Chancellor's delegate, may participate in the hearing
28 to present evidence, cross-examine witnesses, and make argument.

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

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

41 42 G. Appeal

43
44 If the Chancellor concurs in a recommendation of the Committee that is
45 favorable to the faculty member, the decision shall be final.

46
47 If the Chancellor rejects a finding, conclusion, or recommendation of the
48 Due Process Committee, the Chancellor shall state the reasons for doing so
49 in a written decision. If the Chancellor either declines to accept a

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

27 28 H. Suspension

29
30 When a faculty member has been notified of the institution's intention to
31 discharge the faculty member, the Chancellor may suspend the faculty member
32 at any time and continue the suspension until a final decision concerning
33 discharge has been reached by the procedures prescribed herein. Suspension
34 shall be exceptional and shall be with full pay and benefits.

35 36 VII. TERMINATION OF FACULTY EMPLOYMENT

37 38 A. Reasons Justifying Termination and Consultation Required

39 40 1. Reasons for Terminating Employment

41
42 The employment of a faculty member with permanent tenure or of a
43 faculty member holding a fixed-term or probationary appointment may be
44 terminated by East Carolina University because of (1) demonstrable,
45 bona fide institutional financial exigency; (2) major curtailment or
46 elimination of a teaching, research or public service program.
47 Financial exigency is defined as a significant decline in the financial
48 resources of the institution that is brought about by decline in
institutional enrollment or by other action or events that compel a

1 reduction in the institution's current operations budget. The
2 determination of whether a condition of financial exigency exists or
3 whether there shall be a major curtailment or elimination of a
4 teaching, research, or public service program shall be made by the
5 Chancellor, after consulting with the academic administrative officers
6 and faculties as required by Section VII.A.2. below. This
7 determination is subject to concurrence by the President and then
8 approval of the Board of Governors. If the financial exigency or
9 curtailment or elimination of a program is such that the institution's
10 contractual obligation to a faculty member cannot be met, the
11 employment of the faculty member may be terminated in accordance with
12 Section 605 of The Code of The University of North Carolina and the
13 institutional procedures set out in subsection B below.

14
15 2. Consultation with Faculty and Administrative Officers
16

17 When it appears that the institution will experience an institutional
18 financial exigency or when it is considering a major curtailment in or
19 elimination of a teaching, research, or public service program, the
20 Chancellor or the Chancellor's delegate shall forthwith prepare a
21 report which identifies specifically the state of financial exigency or
22 the program change. The report must outline the options readily
23 apparent to the Chancellor at the time, including any options which
24 would or might involve terminations of faculty employment. The
25 Chancellor's report shall be directed to the Educational Policies and
26 Planning Committee for their written advice and recommendations. In
27 considering this report the Educational Policies and Planning Committee
28 shall have access to information on which the Chancellor's report was
29 based, and the Committee may interview appropriate persons. The
30 Educational Policies and Planning Committee shall prepare a report in
31 response to the Chancellor, to be submitted at a time determined by the
32 Chancellor.
33

34 Should the Chancellor decide, following receipt of the Educational
35 Policies and Planning Committee's report, to consider reducing a unit's
36 staff for reasons of financial exigency or major curtailment or
37 elimination of a program, the Chancellor shall promptly establish and
38 convene an ad hoc Faculty Advisory Committee to advise the Chancellor
39 regarding the contemplated reduction. Whenever such a Committee is
40 created, it shall consist of two members and two alternates elected by
41 the unit; the unit's administrator as an ex officio member; and four
42 members and four alternates from disciplines complementary to the unit,
43 nominated by the University Curriculum Committee and elected by the
44 Faculty Senate. Except for the ex officio member, membership on an ad
45 hoc committee shall be limited to full-time permanently tenured faculty
46 without administrative title. Upon organization, the Committee shall
47 elect a chairperson and a secretary. The ad hoc Faculty Advisory
48 Committee, following procedures according to the most recent edition of
Robert's Rules of Order, Newly revised, shall submit a report of their

1 advice and recommendations. In preparing this report, the committee
2 shall have access to information considered in any prior reports and
3 the committee may interview appropriate persons.

4
5 B. Termination Procedure

6
7 1. Consideration in Determining Whose Employment is to be Terminated

8
9 In determining which faculty member's employment is to be terminated,
10 the primary consideration of the Chancellor and the ad hoc advisory
11 committee shall be the maintenance of a sound and balanced educational
12 program that is consistent with the functions and responsibilities of
13 the institution. Where no conflict with this primary consideration
14 exists, priority for retention shall be given the permanently tenured
15 faculty who are senior in years of service to the University.

16
17 2. Timely Notice of Termination

18
19 a. When a faculty member's employment is to be terminated because
20 of major curtailment or elimination of a teaching, research, or
21 public service program and such curtailment or elimination of
22 program is not founded upon financial exigency, the faculty
23 member shall be given timely notice as follows: One who has
24 permanent tenure shall be given not less than twelve months
25 notice; and one who does not have permanent tenure shall be
26 given notice in accordance with the requirements specified in
27 Section III.C.3.d.

28
29 b. When a faculty member's employment is to be terminated because
30 of financial exigency, the institution will make every
31 reasonable effort, consistent with the need to maintain sound
32 educational programs and within the limits of available
33 resources, to give the same notice as set forth in the
34 preceding paragraph.

35
36 3. Type of Notice to be Given

37
38 a. Should the Chancellor decide to terminate employment following
39 receipt of the report of the Ad hoc Faculty Advisory Committee,
40 the Chancellor or the Chancellor's delegate shall send the
41 faculty member whose employment is to be terminated a written
42 statement of this fact by registered mail, return receipt
43 requested. This notice shall include a statement of the
44 conditions requiring termination of the faculty member's
45 employment; a general description of the procedures followed
46 in making the decision; a disclosure of pertinent financial or
47 other data upon which the decision was based; a statement of
48 the faculty member's right, upon request, to a reconsideration
of the decision by a faculty committee if the faculty member

alleges that the decision to terminate employment was arbitrary or capricious; and a copy of this procedure on termination of employment.

- b. For a period of two years after the effective date of termination of a faculty member's contract for any of the reasons specified in Section VII.A.1., the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be sent by registered mail to the address last furnished the Chancellor's office, return receipt requested, and the faculty member will be given thirty calendar days after transmission of the notice in which to accept or reject the offer.

The offer to resume a terminated position shall provide for tenure status, rank, and salary at least equal to those held by the faculty member at the time of termination.

- c. The institution, when requested in writing by a faculty member whose employment has been terminated, shall give reasonable assistance in finding other employment. Such assistance shall include secretarial assistance, access to the telephone (including long distance), University/unit stationary and postage, travel funds to professional meetings, and other assistance as deemed reasonable and appropriate in the profession.

4. Termination if Reconsideration is Not Requested

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

5. Request for Reconsideration Hearing

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

Submission of such a request constitutes on the part of the faculty

1 member: (1) a claim that the contention can be supported by
2 representation of factual evidence, and (2) an agreement that the
3 institution may offer in rebuttal of the faculty member's contention
4 any relevant data within its possession.
5

6 6. Structure and Jurisdiction of the Reconsideration Committee
7

8 If the faculty member makes a timely written request for a
9 reconsideration of the decision, the Chancellor or the Chancellor's
10 delegate shall insure that the hearing is begun within twenty working
11 days before a standing committee of the Faculty Senate, the Committee
12 on Reconsideration of Faculty-Program Termination Decisions,
13 hereinafter called the Reconsideration Committee. The Reconsideration
14 Committee's review of the faculty member's appeal shall be limited
15 solely to determining whether the decision to terminate employment was
16 arbitrary or capricious.
17

18 The Reconsideration Committee shall be composed of five members and
19 five alternates, each of whom is a permanently tenured voting faculty
20 member holding no administrative title, is nominated by the Committee
21 on Committees, and is elected by a majority vote of the Faculty Senate
22 at its first regular meeting of each academic year. At the initial
23 election, the Faculty Senate shall elect two members and two alternates
24 to one-year terms, two members and two alternates to two-year terms,
25 and one member and one alternate to three-year terms. When these and
26 successive terms expire, members and alternates shall serve three-year
27 terms. Upon organization, the elected members of the Reconsideration
28 Committee shall elect a chairperson and a secretary from among their
29 members.
30

31 A quorum for purposes of conducting a hearing by the Reconsideration
32 Committee shall be five members or their alternates. No member or
33 alternate shall sit to hear a faculty member's case if the committee
34 member or alternate holds appointment in the faculty member's unit,
35 participated directly in the decision to terminate the faculty member's
36 employment, or has any other substantial conflict of interest. The
37 Chair of the Faculty, in consultation with the Committee on Committees,
38 shall, when necessary, appoint sufficient additional members who meet
39 the qualifications for election to the committee. Vacancies on the
40 committee will be filled by first moving alternates to members and by
41 making appointments as alternates.
42

43 7. Conduct of the Hearing
44

45 Following procedures according to the most recent edition of Robert's
46 Rules of Order, Newly revised, the hearing shall be conducted in
47 private by the Reconsideration Committee. Should any of the elected
48 officers be absent at the beginning of the hearing, the Reconsideration
Committee shall elect for purposes of the hearing their substitutes.

1 The faculty member and the Chancellor have the right to counsel, to
2 present testimony or witnesses and other evidence, to confront and
3 cross-examine adverse witnesses, and to examine all documents and other
4 adverse evidence. The faculty member and the Committee shall be given
5 access, upon request, to documents that were used in making the
6 decision to terminate the faculty member's employment after the
7 decision was made that the position must be terminated. A transcript
8 of the proceedings shall be given to the faculty member at the
9 institution's expense. The Committee may consider only such evidence
10 as presented at the hearing and need consider only the evidence offered
11 that it considers fair and reliable. All witnesses may be questioned
12 by the members of the Committee.
13

14 8. The Hearing Procedure 15

16 The hearing shall begin with the faculty member's presentation of
17 contentions, limited to those grounds specified in the request for the
18 hearing and supported by such testimonial and documentary proof as the
19 faculty member desires to offer. The Chancellor or the Chancellor's
20 delegate may then present in rebuttal in general support of the
21 decision to terminate the faculty member's employment such testimony
22 and/or documentary proof as the Chancellor or the Chancellor's delegate
23 desires to offer, including testimony of the Chancellor or the
24 delegate. The burden of proof shall be upon the faculty member. At the
25 end of this presentation, the Reconsideration Committee shall consider
26 the matter in executive session and shall make its written
27 recommendations to the Chancellor within ten working days after the
28 hearing concludes.
29

30 9. Procedure After the Hearing 31

32 If the Reconsideration Committee determines that the contention of the
33 faculty member has not been established, it shall, by a simple
34 unelaborated statement, so notify the faculty member, the Chair of the
35 Faculty and the Chancellor. The faculty member may appeal the decision
36 to terminate employment in the manner provided by Section 501 C(4) of
37 The Code of The University of North Carolina.
38

39 If the Reconsideration Committee determines that the faculty member's
40 contention has been satisfactorily established, it shall so notify the
41 faculty member, the Chair of the Faculty, and the Chancellor by a
42 written notice that shall also include a recommendation for corrective
43 action by the Chancellor.
44

45 Within ten working days after receiving the recommendation, the
46 Chancellor shall send written notice to the faculty member by
47 registered mail, return receipt requested, with copies to the Chair of
48 the Faculty, and the Chairperson of the Reconsideration Committee
giving his decision and stating what modification, if any, the

Chancellor will make with respect to the original decision to terminate the faculty member's employment.

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

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

10. Administrative Obligations Within East Carolina University

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

VIII. THE FACULTY GRIEVANCE COMMITTEE

A. Structure and Jurisdiction

When a faculty member's grievance is to be considered, the Faculty Grievance Committee will be formed from the Faculty Affairs Committee and will consist of: (a) the delegate of the Chair of the Faculty; and (b) the four elected members of the Faculty Affairs Committee who are most senior in years of service at East Carolina University, who hold no administrative title, who are available to serve, and who are permanently tenured. Whenever an insufficient number of permanently tenured faculty is available for service on the Faculty Grievance Committee, the Chair of the Faculty, or the Chair of the Faculty's delegate, in consultation with the Committee on Committees, shall appoint sufficient numbers of permanently tenured faculty to serve on the Faculty Grievance Committee to hear the grievance under consideration. The Faculty Grievance Committee shall, for each grievance brought before it, elect from among its membership a chair and a secretary.

B. Authorization and Powers

Following procedures according to the most recent edition of Robert's Rules of Order, Newly Revised the Faculty Grievance Committee shall be authorized to hear, mediate and recommend to the appropriate authority the adjustment of grievances of members of the faculty. Its powers shall be solely to hear representations by the persons directly involved in a grievance, to mediate

voluntary adjustment by the parties, and to recommend adjustment to the appropriate authority when necessary.

C. Grievances

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

D. Petition for Redress

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

E. Report of Recommendations

The Faculty Grievance Committee shall submit a written report of its recommendation to the administrative official most directly empowered to adjust it, with a copy to the faculty member bringing the grievance by registered mail, return receipt requested and the empowered official's immediate supervisor. If the empowered administrator does not act upon the grievance within twenty working days and in a way considered appropriate by the Faculty Grievance Committee, the Committee may notify the Chancellor of the recommendation it has made to the empowered administrator with a copy to the faculty member and the Chair of the Faculty. Within twenty working days, the Chancellor shall notify in writing the faculty member, the Faculty Grievance Committee, the empowered administrator, and the Chair of the Faculty of the administrative action on the Committee's recommendation(s). If the administrative action differs from the Committee's recommendation, the Chancellor shall notify in writing the faculty member, other appropriate administrative officials, and the Chair of the Faculty of the reasons for the decision. Subject to statutory requirements, communication concerning the Committee's recommendation(s) shall be in writing, shall be treated with the utmost discretion, and shall be held in confidence by the parties

1 involved.

3 F. Further Appeal

4
5 If the Chancellor declines to accept a committee recommendation that is
6 favorable to the faculty member, the faculty member may appeal the
7 Chancellor's decision in the manner prescribed by Section 501 C(4) of The
8 Code of the University of North Carolina.
9

10 IX. EFFECTIVE DATE

11
12 A. These policies and regulations supersede all other institutional
13 documents governing the matters covered herein.
14

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

- 18
19 1. Section III.C.3.a., dealing with the length of probationary
20 terms, shall not apply to those appointed before the effective
21 date of these policies and regulations.
22
23
24