

**DRAFT**

Attachment 2.

APPENDIX D

TENURE, PROMOTION AND GRIEVANCE  
POLICIES AND PROCEDURES OF EAST CAROLINA UNIVERSITY

PROLOGUE: ACADEMIC FREEDOM

Academic freedom is the set of norms and values that protects a faculty member's freedom of intellectual expression and inquiry and is essential to the achievement of knowledge and understanding. East Carolina University supports academic freedom of inquiry, discourse, teaching, research, and publication for all faculty members (see Appendix E). East Carolina University shall not penalize or discipline faculty members because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

I. TENURE

Tenure is that set of procedural protections designed to insure academic freedom by guarding faculty members against negative consequences of expressing unpopular points of view. Tenure protects faculty members 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. During the term of such guarantees, the faculty member may be discharged or suspended from employment or diminished in rank only for reasons of incompetence, neglect of duty, or misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty.

A. Tenure While Under Contract to East Carolina University

A faculty member who does not have permanent tenure has the protection of tenure until the expiration of the faculty member's employment contract.

B. Permanent tenure

1. 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 with reference to employment by East Carolina University rather than to employment by The University of North Carolina. The conferral of permanent tenure is allowed only as the result of the processes enunciated in this document.

2. Conferral of permanent tenure shall be based on the faculty member's demonstrated professional competence, potential for future contributions, and the institution's needs and resources. Permanent tenure is independent of promotion but sound academic practice supports the concept that an assistant professor eligible for tenure should qualify for promotion to associate professor.

II. FACULTY APPOINTMENTS

A. General Provisions

1. Categories of Appointments

There are three kinds of faculty appointments:

(a) Fixed-Term Appointments. Fixed-term appointments are without permanent tenure and do not entitle the faculty member to consideration for conferral of permanent tenure. No obligation exists on the part of East Carolina University to give any notice before a current fixed-term appointment expires as to whether an appointment will be offered for a succeeding term (except as specified in Section II.B.1). Fixed-term appointees do not hold a



professorial rank, but are appointed with a title such as lecturer, visiting assistant professor, visiting associate professor, or clinical professor.

(b) Probationary Appointments and Reappointments. Probationary appointments and reappointments are without permanent tenure. The granting of a probationary appointment entitles the faculty member to consideration for reappointment. A faculty member who is granted reappointment throughout the entirety of the contractually specified probationary term is entitled to consideration for permanent tenure. Probationary appointments are made at the professorial ranks of instructor, assistant professor, associate professor, or professor.

(c) Appointments with Permanent Tenure. Appointments with permanent tenure are continuous until resignation, retirement, discharge with cause (Section VI), termination (Section VII), or death. Appointments with permanent tenure are made at the professorial ranks of assistant professor, associate professor, or professor.

## 2. Criteria for Initial Appointment and Reappointment

The initial appointment and any reappointment of a candidate for a faculty position shall be based on an assessment of the candidate's demonstrated professional competence, potential for future contributions, and the institution's needs and resources.

## 3. Terms and Conditions for Appointment and Reappointment

The chancellor or the chancellor's designee<sup>1</sup> shall set out in writing, with a copy to the faculty member, the terms and the conditions of each initial appointment and each reappointment. The terms shall incorporate by reference appropriate sections of the *Faculty Manual* and shall state any conditions placed on the appointment or reappointment.<sup>2</sup> The responsibility for initiating the inclusion of special terms and conditions in documents of appointment is with the unit administrator.<sup>3</sup> Notice of reappointment or nonreappointment shall be written. The decision not to reappoint shall not be based upon (1) the faculty member's exercise of rights guaranteed by either the First Amendment to the United States Constitution or Article I of the North Carolina Constitution; (2) discrimination based upon the faculty member's race, sex, religion, or national origin; or (3) personal malice.

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<sup>1</sup> References to the chancellor's designee shall include and be limited to the vice chancellor for academic affairs and the vice chancellor for health sciences.

<sup>2</sup>The chancellor, in consultation with the office of the Faculty Senate, is responsible for the publication of the *Faculty Manual*. The Senate office shall be responsible for the maintenance of the *Faculty Manual*. The *Faculty Manual* shall contain the tenure and personnel policies and regulations of East Carolina University, including the complete text of Chapter Six of *The Code of The University of North Carolina*. The *Faculty Manual* shall be provided to new faculty and changes as they occur shall be distributed to each faculty member.

<sup>3</sup> With respect to personnel matters relating to Appendix D of the East Carolina University *Faculty Manual*, academic units are defined as departments described in the codes of operation of professional schools, the departments in the College of Arts and Sciences, professional schools without departments, Academic Library Services, and any other units in which faculty appointments are made.

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

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



#### 4. Continued Availability of Special Funding

The appointment or reappointment of a faculty member to a position funded in whole or in substantial part from sources other than continuing state budget funds or permanent trust funds shall specify in writing that continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon continuing availability of such funds. This contingency shall not be included in a faculty member's contract if the faculty member held permanent tenure in the institution on July 1, 1975, and the contract was not then contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

#### 5. Notice of Resignation

A fixed-term or probationary term faculty member shall provide the unit administrator with ninety days advance notice in writing of resignation from employment. A permanently tenured faculty member shall provide the unit administrator with one hundred and twenty days advance notice in writing of resignation from employment.

### B. Fixed-Term appointments

Fixed-term appointments are not probationary term appointments. Fixed-term appointments do not require consideration for reappointment or consideration for permanent tenure.

#### 1. Contract and Notice

A contract for a fixed-term appointment shall set forth in writing the beginning and ending dates of the term. This specification of the length of the appointment constitutes full and timely notice of nonreappointment when the term expires. The provisions of 604 A and 602(4) of The Code of The University of North Carolina do not apply to fixed-term appointments. No obligation exists on the part of East Carolina University to give any notice before a current fixed-term appointment expires as to whether an appointment will be offered for a succeeding term. The faculty member may, however, not earlier than 180 calendar days nor later than ninety calendar days before the current term expires, request in writing a decision whether the unit administrator will recommend another appointment. Within thirty calendar days after receiving such a request, and after consultation with the Unit Personnel Committee, the unit administrator shall communicate in writing to the faculty member a decision whether such a recommendation will be made, and, if so, its terms.

#### 2. Fixed-Term Employment Policy

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

### C. Probationary Appointments

Probationary appointments are made at the professorial ranks of instructor, assistant professor, associate professor, and professor. Persons appointed as instructors shall not be considered for reappointment with permanent tenure until promoted to a higher rank. Persons appointed as assistant professors, associate professors, and professors are eligible for permanent tenure. Before the expiration of the maximum allowable probationary term, the faculty member must be awarded permanent tenure or the employment must be terminated. A faculty member appointed to an administrative position is eligible for permanent tenure only as a faculty member in one of the professorial ranks. There is no permanent tenure in an administrative position.



### 1. Probationary Terms

Although the chancellor may recommend that a faculty member be granted permanent tenure at any time, the normal probationary term for the professorial ranks, as established at the time of initial appointment, shall be as follows:

- (a) Instructor. The probationary term is six years, consisting of three successive two-year appointments, with the awarding of the third reappointment being contingent upon promotion to assistant professor no later than twelve months prior to the end of the fourth year of the probationary term. (The rank of instructor is reserved for persons who are lacking one of the qualifications for appointment as assistant professor at the time of appointment.)
- (b) Assistant Professor. The probationary term is six years, consisting of three successive two-year appointments.
- (c) Associate Professor. The probationary term is four years, consisting of two successive two-year appointments.
- (d) Professor. The probationary term is two years, consisting of one two-year appointment.

All time served in a probationary appointment at East Carolina University must be continuous, excluding any leaves of absence as noted in Section II.A.5. Faculty members who are denied tenure at the end of the second, fourth, or sixth year of the probationary term shall be reappointed for one additional terminal year.

### 2. Reduction of the Normal Probationary Term for Previous Academic Employment

Reduction of the normal probationary term may be granted for previous full-time faculty employment at the time of initial appointment as assistant professor, associate professor, or professor. The granting of such reduction shall require the agreement of the appointee, a simple majority of the Unit Personnel Committee, the unit administrator, the dean, and the vice chancellor. The maximum reduction at each professorial rank shall be as follows:

- (a) For a candidate appointed at the rank of instructor, no reduction is allowed.
- (b) For a candidate appointed at the rank of assistant professor, a maximum reduction of three years is allowed.
- (c) For a candidate appointed at the rank of associate professor, a maximum reduction of two years is allowed.
- (d) For a candidate appointed at the rank of professor, no reduction is allowed.

### 3. Extensions of the Probationary Term

Leaves from some or all employment obligations (see *Faculty Manual*, Part IV, Leaves of Absence) which are granted to probationary term faculty may include extension of the length of the probationary term. Extensions of the probationary term must be expressly stated in appointment or reappointment documents or added by a written memorandum of amendment by the unit administrator during the term of an appointment. The probationary term may be extended in increments of one or more academic years: one year for leaves of one or two semesters, two years for leaves of three or four semesters, and so on. All such extensions must be approved in writing



by the faculty member, the Unit Personnel Committee, the unit administrator, the dean, the vice chancellor, and by chancellor or the chancellor's designee.

Probationary term faculty members who assume full-time administrative positions for one or more semesters may be granted extensions of the length of the probationary term in the same way.

#### 4. Notice of Reappointment or Nonreappointment

During the second year of continuous service at East Carolina University, no less than 180 calendar days of notice shall be given before the employment contract expires. During the third and all succeeding years of continuous service, the faculty member shall be given not less than twelve months of notice before the employment contract expires. The notice requirements applicable to the conferral of permanent tenure in the specific academic ranks, as they may be adjusted for prior service, are as follows:

##### (a) Instructor:

A probationary employee appointed at the rank of instructor and promoted to the rank of assistant professor no later than twelve months prior to the end of the fourth year of the probationary term shall be notified by the end of the sixth year of probationary service. The fourth year of the probationary term shall be the terminal year for a probationary employee appointed at the rank of instructor who is not promoted to the rank of assistant professor no later than twelve months prior to the end of the fourth year of the probationary term.

##### (b) Assistant Professor:

A probationary employee appointed at the rank of assistant professor with no reduction in the probationary term for prior academic experience shall be notified by the end of the sixth year of probationary service.

A probationary employee appointed at the rank of assistant professor who is granted a one-year reduction in the probationary term shall be notified by the end of the fifth year of probationary service.

A probationary employee appointed at the rank of assistant professor who is granted a two-year reduction in the probationary term shall be notified by the end of the fourth year of probationary service.

A probationary employee appointed at the rank of assistant professor who is granted a three-year reduction in the probationary term shall be notified by the end of the third year of probationary service.

##### (c) Associate Professor:

A probationary employee appointed at the rank of associate professor with no reduction in the probationary term for prior academic experience shall be notified by the end of the fourth year of probationary service.

A probationary employee appointed at the rank of associate professor who is granted a one-year reduction in the probationary term shall be notified by the end of the third year of probationary service.



A probationary employee appointed at the rank of associate professor who is granted a two year reduction in the probationary term shall be notified by the end of the second year of probationary service.

(d) Professor:

A probationary employee appointed at the rank of professor shall be notified by the end of the second year of probationary service.

#### 5. Progress Toward Tenure Letters

Each Spring semester the unit administrator, in consultation with the Unit Personnel Committee, will write a progress toward tenure letter to each faculty member having a probationary appointment. In the event the Unit Personnel Committee and the unit administrator cannot agree on the contents of the letter, the next higher unit administrator shall adjudicate the disagreement. Copies of this letter will be placed in the faculty member's personnel file, and a copy will be sent to the Unit Personnel Committee and to the next higher administrative level. The unit administrator will discuss the progress toward tenure letter with the faculty member. In the event that the faculty member disagrees with the contents of the progress toward tenure letter, it is the responsibility of the faculty member to make this disagreement known in writing. Copies of this letter will be placed in the faculty member's personnel file, and a copy will be sent to the Unit Personnel Committee and to the next higher administrative level.

#### 6. Request for Permanent Tenure Prior to the End of the Probationary Term

During the Spring semester of the academic year, a faculty member who has not completed the probationary term (see Section II.C) and who requests in writing that consideration be given to conferral of permanent tenure will be considered for permanent tenure during the Fall semester of the next academic year.<sup>4</sup>

#### D. Initial Appointment with Permanent Tenure

A faculty member whose initial appointment is to a professorial rank with permanent tenure shall be regarded as having permanent tenure until retirement, resignation, or removal according to the provisions of Sections VI or VII of this document.

### III. PROMOTION

#### A. Criteria for Promotion

Persons holding the professorial rank of instructor, assistant professor or associate professor may be promoted to the next professorial rank. Promotion shall be based primarily on the faculty member's demonstrated professional competence and achievement (see Appendix C, Section IV). The conferral of promotion is governed by the policies and procedures set forth in Section IV. During the Spring semester of the academic year, a faculty member who requests in writing consideration for promotion to the next professorial rank shall be considered for promotion during the Fall semester of the next academic year.<sup>5</sup>

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<sup>4</sup> A faculty member considering such action is encouraged to seek consultation with the Unit Personnel Committee and the unit administrator. When a faculty member applies for and then withdraws a request for early consideration for permanent tenure, a copy of all documents submitted to support the request and a record of all decisions by the appropriate tenured faculty and any administrator(s) shall be directly forwarded to the appropriate vice chancellor. Since a faculty member will be considered for permanent tenure if he or she reaches the end of the probationary term, requests for permanent tenure made before the end of the probationary term are not subject to appeal.

<sup>5</sup> A faculty member considering such action is encouraged to seek consultation with the Unit Personnel Committee and the unit administrator. When a faculty member applies for and then withdraws a request for promotion, a copy of all documents submitted to support



#### B. In Relation to Conferral of Permanent Tenure

A probationary term faculty member holding the rank of assistant or associate professor may receive permanent tenure without being promoted to the next professorial rank.

A probationary term faculty member who has not completed the probationary term for the next professorial rank may be promoted without the conferral of permanent tenure.

A probationary term faculty member who has completed the probationary term for the next professorial rank may not be promoted without the conferral of permanent tenure.

#### IV. PROCEDURES FOR INITIATION, REVIEW, AND APPROVAL OF APPOINTMENTS, REAPPOINTMENTS, PROMOTIONS, AND THE CONFERRAL OF PERMANENT TENURE

##### A. Role of the Permanently Tenured and Probationary Term Faculty

Initiation and review of recommendations for appointments, reappointments, promotion, and the granting of permanent tenure at the unit level are primarily the responsibility of the faculty. Deliberative bodies for these recommendations shall be constituted as follows:<sup>6</sup>

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

2. On matters pertaining to fixed term appointments and initial probationary appointments, the deliberative body shall be the Unit Personnel Committee. The Unit Personnel Committee shall consist of some or all of the permanently tenured and probationary term voting faculty of the unit, as defined in Appendix L, including those who are on leave yet physically present at the time of the vote, but excluding the unit administrator.

At least two thirds of the Unit Personnel Committee shall be permanently tenured faculty. When there are not enough permanently tenured faculty members in the unit to satisfy this requirement, additional permanently tenured faculty shall be appointed according to the procedures in Section IV.A.1 above. All other members of the Unit Personnel Committee shall be elected by the permanently tenured and probationary term voting faculty of the unit.

3. On matters pertaining to recommendations for promotion in rank, the deliberative body shall be those permanently tenured and probationary term faculty members who hold rank at least equal to the rank for which the candidate is being considered, but excluding the unit administrator. When a unit has fewer than three permanently tenured or probationary term faculty members of sufficient rank and not holding administrative status, the next higher administrator above the unit shall appoint additional permanently tenured and probationary term faculty to increase the membership of the

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the request and a record of all decisions by the appropriate tenured faculty and any administrator(s) shall be directly forwarded to the appropriate vice chancellor.

<sup>6</sup> Except as provided herein, meetings of the deliberative bodies shall be conducted according to the most recent edition of *Robert's Rules of Order, Newly Revised*.



deliberative body to three, with at least two-thirds of the members being permanently tenured faculty. These appointments to the deliberative body shall be from a list of candidates elected by the permanent tenured and probationary term faculty having rank at least equal to the candidate(s) being considered for promotion.

#### B. Additional Roles of Unit Personnel Committee

In addition to making recommendations to the unit administrator on fixed term appointments and initial probationary term appointments (see Section IV.A.2), the Unit Personnel Committee has the following responsibilities:

1. Reviewing requests for reduction in the normal probationary term at the time of initial appointment (see II.C.2).
2. Reviewing requests for the extension of the normal probationary term (see Section II.C.3).
3. Consulting with the unit administrator in the preparation of the progress towards tenure letter (see Section II.C.5).
4. Producing a list of possible external reviewers and for selecting external peer reviewers from lists produced by the Committee and by the candidate (see Section IV.E).
5. Selecting, with the unit administrator, the research and creative activity materials to be sent to external peer reviewers (see Section IV.E).
6. Reviewing materials submitted by faculty members for inclusion in their Personnel Action Dossier; consulting with the unit administrator regarding responses to such materials (see Section IV.F.2.g).

#### C. Role of the chair of the Unit Personnel Committee

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

#### D. Role of Unit Administrator

The unit administrator serves to provide leadership, support, and guidance to the total functioning of the unit. In the personnel decisions discussed in this section, the recommendation of the unit administrator shall be forwarded to the next higher administrator along with the recommendation of the faculty as represented by the appropriate deliberative body (see Section IV.A).

The unit administrator is responsible for maintaining the personnel files, providing timely notification to the chair of the Unit Personnel Committee on all personnel actions required or expected, and distributing all personnel documents and materials to the appropriate location. The unit administrator is jointly responsible with the Unit Personnel Committee for preparation of the progress toward tenure letter.

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



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

External peer review of the quality of the research and creative activity material submitted by the candidate for promotion or conferral of permanent tenure will be used by the appropriate deliberative body in conjunction with its own evaluation of the material. Qualifications of the reviewers and criteria for their selection are to be determined by the faculty of each unit and included in the unit's code of operations.

In the Spring term prior to the academic year in which a promotion or tenure decision is scheduled, the Unit Personnel Committee shall produce a list of possible external reviewers. The candidate for promotion and/or permanent tenure shall provide a similar list, noting for each name the professional relationship between the reviewer and the candidate. The candidate shall also provide similar relationship information for each name on the Unit Personnel Committee's list.

The Unit Personnel Committee shall select a sufficient number of names from the Unit Personnel Committee's list and the candidate's list to insure a minimum of three external reviewers, two from the Unit Personnel Committee's list and one from the candidate's list.

The unit administrator will notify the reviewers that they have been nominated to conduct the review and will ascertain their willingness to serve as a reviewer. All selected material with a cover letter prescribed by the university shall be sent to the reviewers. All correspondence with the reviewers shall be neutral, serving to neither support nor oppose the candidate. Copies of all correspondence with the reviewers shall be made a part of the Personnel Action Dossier (PAD) (see Section IV.F.3).

The unit administrator and the Unit Personnel Committee shall select the material from the PAD to be sent to external reviewers. The candidate may include additional published or accepted material if he or she disagrees with the initial selection. Inclusion of such additional items in the materials sent to reviewers shall be noted by memorandum of the unit administrator in the PAD and the candidate's personnel file.

Upon receipt of a review, the unit administrator will place the original review in the candidate's personnel file and copies of the review in the candidate's PAD. The unit administrator shall then notify the members of the appropriate deliberative body and the candidate that the review is available.

When fewer than three external reviewers respond, this information, by memorandum from the unit administrator, shall be made a part of the candidate's personnel file and PAD.

#### F. Documentation for Personnel Actions

##### 1. Employment Applications

Information on job applicants is to be kept in a file available to the appropriate deliberative body (see Section IV.A).

##### 2. Personnel Action Dossier (PAD) for Reappointment, Promotion, and Permanent Tenure

The Personnel Action Dossier (PAD) is a file containing materials for evaluating a faculty member's teaching, research and creative activities, and service. The PAD is compiled by candidates for reappointment, promotion, or permanent tenure in consultation with the unit administrator and the chair of the Unit Personnel Committee. The PAD will be used by the appropriate deliberative body in making personnel recommendations. It shall only include materials contained in or referenced in the master personnel files (see Appendix C, Section VI).



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

- a. All written communications with the candidate on progress toward tenure including annual evaluations
- b. A complete resume
- c. Copies of the external peer reviews and a listing of the documents reviewed
- d. Teaching portfolio

The teaching portfolio shall include the results of the university administered student opinion of instruction survey, including unit and university norms, and other evidence of teaching effectiveness such as classroom observation, analysis of instructional materials, and measures of student achievement over the period of time appropriate to the decision. When a unit has its own formal process of evaluating instruction, results of this process will be included at least in summary form.

- e. Research and creative activity portfolio

The research and creative activity portfolio shall include appropriate evidence of creative activity and copies of all publications over the period of time appropriate to the decision, either in print or accepted for publication. If accepted but not in print, appropriate documentation of acceptance must be included.

- f. Service portfolio

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

- g. Other material

Other materials may be added to the PAD by the faculty member providing the unit administrator, in consultation with the Unit Personnel Committee, has an opportunity to include a response to such materials. In the event a response is deemed appropriate and the unit administrator and Unit Personnel Committee cannot agree, both may include a response.

#### G. Initiation of Recommendations

The unit administrator shall give timely notice to the chair of the Unit Personnel Committee when personnel procedures are to be initiated.

Faculty recommendations for appointment, reappointment, promotion, and conferral of permanent tenure shall come from the appropriate deliberative body (see Section IV.A). In the case of appointment recommendations, each member of the appropriate deliberative body will indicate by secret ballot his or her choice for the appointment. Any candidate who receives a majority vote of the entire membership of the appropriate deliberative body shall be recommended for appointment.

In the case of reappointment, promotion, and conferral of permanent tenure, each member of the appropriate deliberative body will indicate by secret ballot his or her vote for or against recommending that the candidate be reappointed, promoted, or granted permanent tenure. A majority vote of the entire membership of the deliberative body for the recommendation shall constitute a recommendation for



reappointment, promotion, or conferral of permanent tenure. Failure to obtain a majority vote of the entire membership of the appropriate deliberative body shall constitute a recommendation against reappointment, promotion, or the conferral of permanent tenure.

The recommendation of the deliberative body shall be communicated by the chair of the Unit Personnel Committee to the unit administrator who will forward the recommendation and the unit administrator's concurrence or non-concurrence to the next higher administrator.

#### H. Procedure for Concurring Recommendations

If the recommendation of the appropriate deliberative body and unit administrator agree, the next higher unit administrator shall either concur or not concur, then notify the unit administrator and the chair of the Unit Personnel Committee of the recommendation and forward all recommendations to the immediate supervisor. This procedure shall be repeated at each administrative level until it reaches the appropriate vice chancellor.

Immediately after the completion of each level of administrative review, the administrator's recommendation shall be communicated to all appropriate lower administrators, the candidate, and the deliberative body of the unit which made the initial recommendation.

If the vice chancellor decides not to recommend a reappointment, promotion, or conferral of permanent tenure, he or she shall give the faculty member being considered a simple, written statement of the decision. This decision is final except as it may later be reviewed in accordance with the provisions of Section V or the grievance procedure of Section VIII. If the vice chancellor concurs in a recommendation that will confer permanent tenure, he or she shall forward the recommendation to the chancellor. The chancellor shall consider recommendations from the vice chancellor to promote and to confer permanent tenure.

If the chancellor concurs in a recommendation that will confer permanent tenure, he or she shall consult with the Board of Trustees and, unless dissuaded, forward the recommendation to the President and the Board of Governors for final approval. The chancellor shall submit all recommendations for faculty promotions to the Board of Trustees for final approval unless that Board delegates to the chancellor the authority to give final approval.

If the chancellor decides not to recommend promotion or the conferral of permanent tenure, the chancellor shall give the faculty member being considered a simple, written statement of the decision. This decision is final except as it may be reviewed in accordance with the provisions of Section V or the grievance procedure of Section VIII.

#### I. Procedure for Non-concurring Recommendations

If the recommendations from the unit administrator and faculty disagree, the unit administrator's immediate supervisor shall seek resolution of the disagreement at the unit level. If the unit administrator and the faculty deliberative body do not agree, their conflicting recommendations shall be forwarded through each administrative level, together with the recommendation of the administrator at each level, until they reach the vice chancellor. The personnel action shall then be handled in accordance with the procedures provided in Section IV.H. above.

#### J. Procedures for Nonconcurrency of a Tenure or Promotion Recommendation by Vote of the Faculty

In the event that the vice chancellor's or chancellor's decision is contrary to the vote of the appropriate deliberative body, the vice chancellor or chancellor shall meet with the deliberative body to discuss the decision.



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

### A. Deadlines for Appeals

Failure to submit the appeals documents specified in this section within the time periods allotted constitutes a waiver of the right to appeal the decision. In the event of an emergency, however, the faculty member may request an extension, provided that the request is made in writing and presented to the individual or committee who is next to consider the appeal. Decisions on requests for extension of time because of an emergency shall be made by the individual or committee who is next to consider the appeal.

### B Request for Hearing with the Faculty Hearing Committee

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

#### 1. The Committee

The Hearing Committee is a standing committee of the Faculty Senate. The Hearing Committee shall be composed of five members and five alternates each of whom is a permanently tenured voting faculty member holding no administrative title. Candidates shall be nominated in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Members and alternates shall be elected to three-year terms.

Upon organization, the members of the Hearing Committee shall elect a chair and a secretary. A quorum for the committee during any hearing shall be the five members or their alternates. Should any committee officer be absent at the beginning of a hearing, the committee shall elect an alternate officer for the purposes of the hearing.

When the committee is convened to consider any matter associated with a faculty member's request for a hearing, those committee members who hold an appointment in the faculty member's academic unit, those who might reasonably expect to be called to provide information for or against the faculty member's request, those who might reasonably expect to be asked to serve as an advisor, explained in Section V.D.1., to any party of the request for a hearing, or those who may have a conflict of interest should disqualify themselves from participation in the activities of the committee related to this specific request for a hearing. The complainant and the respondents are permitted to challenge committee members for cause. The other members of the committee will decide on any potential disqualifications if a committee member is so challenged but wishes to remain.

When, between elections, membership of the committee falls below the specified five members and five alternates, the chair of the faculty, in consultation with the Committee on Committees, shall appoint members to the committee. Those appointed must meet the qualifications required for election. Vacancies on the committee will be filled by first moving alternates to members and by appointing new alternates.

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



## 2. Initiation of the Hearing Process

The basis for a request for a hearing must be found in one or more of the following reasons: (a) the decision was based on any ground stated to be impermissible in Section 604B of The Code of The University of North Carolina; (b) the decision was attended by a material procedural irregularity.<sup>7</sup>

"Material procedural irregularities" means departures from prescribed procedures governing reappointment and conferral of permanent tenure that cast reasonable doubt upon the validity of the original decision not to reappoint or not to confer permanent tenure. Whether material procedural irregularities occurred shall be determined by reference to those procedures which were in effect when the initial decision not to reappoint or not to confer permanent tenure was made and communicated. The Hearing Committee shall ask the chancellor to certify what procedures were then in effect if that question is a matter of dispute.

The faculty member's request for a hearing must specifically identify and enumerate all reasons for the request. The request must include: (a) a description that is as complete as possible of the actions or the failures to act which support each specified contention; (b) the identification of those individuals or groups who are alleged to be responsible for the action or actions described in (a) above (hereinafter, the respondents); (c) an enumeration and description of the information or documents which are to be used to support the contention (copies of the described documents are to be made a part of the request for a hearing); (d) the identification of persons who may be willing to provide information in support of the contention; and (e) a brief description of the information those persons identified in (d) may provide. The request for a hearing shall be written to, addressed to, and delivered to the chair of the Hearing Committee by the affected faculty member.

### C. Validation of the Request for Hearing.

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

The faculty member may submit additional documentation and information supporting the request for a hearing up to seventy-two hours prior to the committee meeting. All documentation and information submitted after the original request for a hearing must (a) support contentions set forth in the original request for a hearing and (b) be delivered to the chair in the same manner as the original request for a hearing. Such information or documentation shall be made a part of the original request for a hearing.

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

The Hearing Committee's review of the affected faculty member's request for a hearing shall be limited solely to determining whether the facts alleged by the faculty member, if established, would support the contention that the decision not to reappoint or not to confer permanent tenure was based upon any of the grounds stated as impermissible in Section 604 B of The Code of The University of North Carolina or was attended by a material procedural irregularity. Based on their review and evaluation of the submitted material, the committee shall decide whether the request for a hearing is to be validated.

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<sup>7</sup> Appeals based on material procedural irregularity shall refer only to personnel actions which are initiated after the approval of material procedural irregularity as a basis for a request for a hearing.



If the request for a hearing is not validated, the faculty member shall be notified by registered mail, return receipt requested, within ten days of the committee meeting. Such a determination confirms the decision not to reappoint or not to confer permanent tenure.

The faculty member may accept the decision of the Hearing Committee not to validate or appeal to the chancellor within ten days of receipt of the Hearing Committee's decision. The chancellor, within fourteen days of the faculty member's appeal shall decide to confirm the committee's decision or shall support the faculty member's request for a Hearing.

The faculty member may accept the chancellor's confirmation of the committee's decision not to validate the request for a hearing, or the faculty member may appeal in the manner provided by Section 501 (C)4 of The Code of the University of North Carolina.

If the committee validates the request for a hearing, or the decision not to validate the request for a hearing is not supported by the chancellor, the committee shall so notify the faculty member by registered mail, return receipt requested, and begin the processes necessary to set the time and date for the Hearing.

#### D. Procedures for the Hearing.

##### 1. Time and Date of Hearing

The time and date of the Hearing will be governed by the committee. The committee shall provide a complete copy of the request for a hearing to all individuals named in the request for a hearing.

The faculty member and respondents directly named in the request for a hearing may bring a person (advisor) of their choosing to the Hearing. During the Hearing the role of the advisor is limited to consulting with and advising the person for whom they serve as advisor. The advisor shall not conduct any part of the Hearing. The advisors shall be identified in writing to the committee.

The committee will set the time, date, and place for the Hearing. The date for the hearing must be within forty days of the notification to the affected faculty member that the request for a hearing was validated. The committee shall then notify the affected faculty member, those individuals (cf. Section V.B.1 above) who may provide information in support of the affected faculty member's contention, the chancellor, the chair of the faculty, the respondents, and all advisors of the time, date, and place of the Hearing.

##### 2. Conduct of the Hearing

The chair of the Hearing Committee is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for in the following, the hearing shall be conducted according to the latest edition of *Robert's Rules of Order, Newly Revised*. Attendance at the hearing is limited to the committee's members and alternates, the faculty member requesting the hearing (the complainant), one person who may advise the complainant but who may not take an active part in the proceedings, the respondents, an East Carolina University attorney who shall advise these respondents but who may not take an active part in the proceedings, the chancellor (or the chancellor's representative) and an East Carolina University attorney representing the chancellor who may advise the committee at the committee's request. Other persons (witnesses) providing information to the committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the committee as appropriate. An audio recording or a "court reporter's" transcript of the proceedings shall be made.

The hearing shall begin with an opening statement by the chair of the committee limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. The



chair explicitly will note that the committee shall consider only information bearing on the allegations presented in the complainant's request for the hearing.

Following the opening remarks by the committee chair, the complainant shall present his or her contentions and supporting witnesses and documentary evidence. The respondents to the complaint, through the chancellor or the chancellor's representative, may then reply to these contentions and present supporting witnesses and evidence. During these presentations, the complainant, and the respondents (through the chancellor or the chancellor's representative), may cross-examine opposing witnesses. Committee members may also question witnesses for purposes of clarification.

At the end of such presentations, the committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two working days, at which time it shall reconvene in executive session to determine whether it sustains or does not sustain the allegations stated in the request for the hearing. In reaching its decisions the committee shall consider only the testimony and other materials entered or presented as evidence during the hearing. The complainant shall have the burden of proof by the greater weight of the evidence to establish that a basis for his or her contentions is found in one of the reasons listed in Section V.B.2.

#### E. Procedure After the Hearing

Within ten working days of finishing its deliberations the committee shall provide the complainant, respondents, and the chancellor with a copy of the committee's report and a copy of the audio recording or court reporter's transcript of the hearing.

If the Hearing Committee determines that the faculty member's contention has not been established, it shall, by simple, unelaborated statement, so notify the faculty member, the chair of the appropriate deliberative body, the unit administrator, the chair of the faculty, and the chancellor. Such a determination confirms the decision not to reappoint or not to confer permanent tenure.

If the Hearing Committee determines that the faculty member's contention has been satisfactorily established, it shall notify the faculty member, the unit administrator, the chair of the faculty, and the chancellor by written notice and shall recommend further substantive review.

Within thirty working days after receiving the recommendation of the Hearing Committee, the chancellor shall notify the faculty member, the unit administrator, the chair of the faculty, and the chair of the Hearing Committee what further substantive review, if any, will be made of the original decision not to reappoint or not to confer permanent tenure.

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

## VI. DUE PROCESS BEFORE DISCHARGE OR IMPOSITION OF SERIOUS SANCTION

### A. Penalties

A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary penalties. During the period of such guarantees, the faculty member may be discharged or suspended from employment or diminished in rank only for reasons of incompetence, neglect of duty, or misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty. These penalties may be imposed only in accordance with the procedures prescribed in this section.<sup>8</sup> For purposes of these regulations, a faculty member serving a



stated term shall be regarded as having tenure until the end of the term. These procedures shall not apply to non-reappointment (Section V) or termination of employment (Section VII).

#### B. Notice

Written notice of intent to discharge or to suspend from employment or to diminish in rank (these penalties hereinafter in Section VI are referred to as "the penalty") shall be sent by the chancellor or by the chancellor's designee to the faculty member by registered mail, return receipt requested. The statement shall include notice of the faculty member's right, upon request, to both written specification of the reasons for the intended penalty and a hearing by the Due Process Committee (Section VI.E.).

#### C. Penalty Without Recourse

If, within ten working days after the faculty member receives the notice referred to in Section VI.B. above, the faculty member makes no written request for either a specification of reasons or a hearing, the faculty member may be penalized without recourse to any institutional grievance or appellate procedure.

#### D. Specification of Reasons and Hearing Request

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

A faculty member's request for a hearing is to be directed to the chancellor in writing by registered mail, return receipt requested. If the faculty member makes no written request to the chancellor for a hearing within ten working days after receiving the specification, the faculty member may be penalized without recourse to any institutional grievance or appellate procedures. If a faculty member makes a timely request for a hearing, the chancellor or the chancellor's designee shall insure that the hearing convenes within twenty working days, except as provided in Section VI.E.

#### E. Due Process Committee

The Due Process Committee shall be composed of five members and five alternates, each of whom is a full-time, permanently tenured voting faculty member without administrative appointment. Candidates shall be elected in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Upon organization, the elected members of the committee shall elect a chair and a secretary from among their members. Members and alternates shall be elected to three-year terms. A quorum for the hearing shall be five members or their alternates. Should any of the elected officers be absent at the beginning of the hearing, the committee shall elect for purposes of the hearing their substitutes. Committee members who hold an appointment in the faculty member's academic unit, who will testify as witnesses, or who have any other conflict of interest should disqualify themselves from participating in this hearing. The faculty member and the chancellor are permitted to challenge committee members for cause. The other members of the committee will decide on any potential disqualifications if a committee member is so challenged but wishes to remain.

Upon notification by the chancellor or the chancellor's designee that a faculty member has requested a hearing, the chair of the committee shall determine the availability of the elected members. The chair of the committee shall determine the availability of the alternates and shall select from those available one or more alternates, as appropriate. The ranking of the available alternates for selection shall be determined by their

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<sup>8</sup> Retirement for reason of disability shall be in accordance with North Carolina statutes and regulations governing retirement for faculty members who are members of the state retirement system. A faculty member who is not a member of the state retirement system and who is mentally or physically disabled may be discharged because of that disability only in accordance with the procedures of this section.



years of service to the University. That alternate who is most highly ranked shall attend all sessions of the hearing. The chair of the faculty in consultation with the committee on Committees shall, when necessary, appoint sufficient additional members who meet the qualifications for election to the committee. Vacancies on the committee will be filled by first moving alternates to members and by making appointments as alternates.

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

#### F. Conduct of Hearing

The hearing shall be closed to the public unless the faculty member and the Due Process Committee agree that it may be open. The chair of the Due Process Committee is responsible for conducting the hearing and for maintaining order during the hearing. Attendance at the hearing is limited to the committee's members and alternates, the faculty member requesting the hearing, counsel for the faculty member, the chancellor or the chancellor's delegates (hereinafter, the chancellor), and counsel for the chancellor. Other persons (witnesses) providing information to the committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the committee as appropriate. An audio recording or a "court reporter's" transcript of the proceedings shall be made.

The hearing shall begin with an opening statement by the chair of the committee limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. Following the opening remarks by the committee chair, the faculty member or the faculty member's counsel shall present his or her contentions and supporting witnesses and documentary evidence. The chancellor or the chancellor's counsel may then reply and present supporting witnesses and evidence. During these presentations, the faculty member or his or her counsel, and the chancellor or his or her counsel, may cross-examine opposing witnesses. Committee members may also question witnesses for purposes of clarification.

At the end of such presentations, the committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two working days, at which time it shall reconvene in executive session. In reaching its decisions the committee shall consider only the testimony and other materials entered or presented as evidence during the hearing.

#### G. Procedures After the Hearing

Within ten working days of finishing its deliberations the committee shall provide the faculty member and the chancellor with a copy of its report and a copy of the audio recording or court reporter's transcript of the hearing.

In reaching a decision, the chancellor shall consider only the written transcript of the hearing and the report of the Due Process Committee. Within thirty working days of receiving the report, the chancellor's decision shall be conveyed in writing to the Due Process Committee and the affected faculty member by registered mail, return receipt requested.

#### G. Appeal

If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the decision shall be final.

If the chancellor rejects a finding, conclusion, or recommendation of the Due Process Committee, the chancellor shall state the reasons for doing so in a written decision. If the chancellor either declines to



accept a Committee recommendation that is favorable to the faculty member or concurs in the committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision to the Board of Trustees.

This appeal shall be transmitted through the chancellor and shall be addressed to the chair of the Board. Notice of appeal shall be received by the chancellor within ten working days after the faculty member receives the chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board of Trustees; however, the Board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members.

The Board of Trustees, or its committee shall consider the appeal on the written transcript of the hearing held by the Due Process Committee, but it may, in its discretion, hear such other evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be made within forty-five working days after the chancellor has received the faculty member's request for an appeal to the Trustees.

This decision shall be final except that the faculty member may, within ten working days of receiving the Trustees' decision, file a written petition for review with the Board of Governors if the faculty member alleges that at least one of the specified provisions in The Code of The University of North Carolina has been violated. Any such petition to the Board of Governors shall be transmitted through the President, and the Board shall, within forty-five working days, grant or deny the petition or take such other action as it deems advisable. If it grants the petition for review, the Board's decision shall be made within forty-five working days after it notifies the faculty member by registered mail, return receipt requested, that it will review the petition.

#### H. Suspension During a Period of Intent to Discharge

When a faculty member has been notified of the institution's intention to discharge the faculty member, the chancellor may suspend the faculty member at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension during a period of intent to discharge shall be exceptional and shall be with full pay and benefits.

### VII. TERMINATION OF FACULTY EMPLOYMENT

#### A. Reasons Justifying Termination and Consultation Required

##### 1. Reasons for Terminating Employment

The employment of a faculty member with permanent tenure or of a faculty member holding a fixed-term or probationary appointment may be terminated by East Carolina University because of (1) demonstrable, bona fide institutional financial exigency, or (2) major curtailment or elimination of a teaching, research or public service program.

Financial exigency is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section VII.A.2. below.

This determination is subject to concurrence by the President and then approval of the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the institution's contractual obligation to a faculty member cannot be met, the employment of the



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

## 2. Consultation with Faculty and Administrative Officers

When it appears that the institution will experience an institutional financial exigency or when it is considering a major curtailment in or elimination of a teaching, research, or public service program, the chancellor or the chancellor's delegate shall forthwith prepare a report which identifies specifically the state of financial exigency or the program change. The report must outline the options readily apparent to the chancellor at the time, including any options which would or might involve terminations of faculty employment.

The chancellor's report shall be directed to the Educational Policies and Planning Committee for their written advice and recommendations. In considering this report the Educational Policies and Planning Committee shall have access to information on which the chancellor's report was based. The Committee may interview appropriate persons. The Educational Policies and Planning Committee shall prepare a report in response to the chancellor, to be submitted at a time determined by the chancellor.

Should the chancellor decide, following receipt of the Educational Policies and Planning Committee's report, to consider reducing a unit's faculty for reasons of financial exigency or major curtailment or elimination of a program, the chancellor shall promptly establish and convene an ad hoc Faculty Advisory Committee to advise the chancellor regarding the contemplated reduction.

Whenever such a Committee is created, it shall consist of two members and two alternates elected by the unit; the unit's administrator as an ex officio member; and four members and four alternates from disciplines complementary to the unit, nominated by the University Curriculum Committee and elected by the Faculty Senate. Except for the ex officio member, membership on an ad hoc committee shall be limited to full-time permanently tenured faculty without administrative title. Upon organization, the committee shall elect a chair and a secretary. The ad hoc Faculty Advisory Committee, following procedures according to the most recent edition of *Robert's Rules of Order, Newly Revised*, shall submit a report of their advice and recommendations, at a time determined by the chancellor. In preparing this report, the committee shall have access to information considered in any prior reports, and the committee may interview appropriate persons.

## B. Termination Procedure

### 1. Consideration in Determining Whose Employment is to be Terminated

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

### 2. Timely Notice of Termination

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



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

### 3. Type of Notice to be Given

a. Should the chancellor decide to terminate employment following receipt of the report of the Ad hoc Faculty Advisory Committee, the chancellor or the chancellor's delegate shall send the faculty member whose employment is to be terminated a written statement of this fact by registered mail, return receipt requested. This notice shall include a statement of the conditions requiring termination of the faculty member's employment; a general description of the procedures followed in making the decision; a disclosure of pertinent financial or other data upon which the decision was based; a statement of 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 member: (1) a claim that the contention can be supported by representation of factual evidence, and (2) an agreement that the institution may offer in rebuttal of the faculty member's contention any relevant data within its possession.



## 6. Structure and Jurisdiction of the Reconsideration Committee

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

The Reconsideration Committee shall be composed of five members and five alternates, each of whom is a permanently tenured voting faculty member holding no administrative title. Candidates shall be nominated in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Members and alternates shall serve three-year terms. Upon organization, the elected members of the Reconsideration Committee shall elect a chair and a secretary from among their members. Should any of the elected officers be absent at the beginning of a hearing, the Reconsideration Committee shall elect for purposes of the hearing their substitutes.

A quorum for purposes of conducting a hearing by the Reconsideration Committee shall be five members or their alternates. Committee members who hold an appointment in the faculty member's academic unit, who will testify as witnesses, who participated directly in the decision to terminate the faculty member's employment, or who have any other conflict of interest should disqualify themselves from participating in this hearing. The faculty member and the chancellor are permitted to challenge committee members for cause. The other members of the committee will decide on any potential disqualifications if a committee member is so challenged but wishes to remain. The chair of the faculty, in consultation with the committee on Committees, shall, when necessary, appoint sufficient additional members who meet the qualifications for election to the committee. Vacancies on the committee will be filled by first moving alternates to members and by making appointments as alternates.

## 7. Conduct of the Hearing

The hearing shall be closed to the public unless the faculty member and the Reconsideration Committee agree that it may be open. The chair of the Reconsideration Committee is responsible for conducting the hearing and for maintaining order during the hearing. Attendance at the hearing is limited to the committee's members and alternates, the faculty member requesting the hearing, counsel for the faculty member, the chancellor or the chancellor's delegates (hereinafter, the chancellor), and counsel for the chancellor. Other persons (witnesses) providing information to the committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the committee as appropriate. The faculty member and the committee shall be given access, upon request, to documents that were used in making the decision to terminate the faculty member's employment after the decision was made that the position must be terminated. An audio recording or a "court reporter's" transcript of the proceedings shall be made.

The hearing shall begin with an opening statement by the chair of the committee limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. Following the opening remarks by the committee chair, the faculty member or the faculty member's counsel shall present his or her contentions and supporting witnesses and documentary evidence. The chancellor or the chancellor's counsel may then reply and present supporting witnesses and evidence in rebuttal of the faculty members contentions or in general support of the decision to terminate the faculty member's employment. During these presentations, the faculty member or his or her counsel, and the chancellor or his or her counsel, may cross-examine opposing witnesses. Committee members may also question witnesses for purposes of clarification.



At the end of such presentations, the committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two working days, at which time it shall reconvene in executive session. In reaching its decisions the committee shall consider only the testimony and other materials entered or presented as evidence during the hearing. The Committee shall make its written recommendations to the chancellor within ten working days after its hearing concludes.

#### 8. Procedure After the Hearing

Within ten working days of finishing its deliberations the committee shall provide the faculty member and the chancellor with a copy of the committee's report and a copy of the audio recording or court reporter's transcript of the hearing.

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

If the Reconsideration Committee determines that the faculty member's contention has been satisfactorily established, it shall so notify the faculty member, the chair of the faculty, and the chancellor by a written notice that shall also include a recommendation for corrective action by the chancellor.

Within thirty working days after receiving the recommendation, the chancellor shall send written notice to the faculty member by registered mail, return receipt requested, with copies to the chair of the faculty, and the chair 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 chair 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 chair of the Reconsideration Committee.

### VIII. THE FACULTY GRIEVANCE COMMITTEE

#### A. Structure and Jurisdiction

When it considers a faculty grievance, the Faculty Affairs Committee shall serve as the Faculty Grievance Committee. It shall consist of eight faculty members and two alternate members, with representation from each professorial rank, elected by the faculty, plus the chair of the faculty or, as his or her delegate, the vice-chair of the faculty, ex-officio. However, a faculty member who holds the rank of instructor is not eligible to serve on the Faculty Grievance Committee in any capacity. Furthermore, no officer of administration shall serve on the committee. For purposes of this section, "officer of administration" shall include the department chair.



#### 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 respondents or by another university administrator, 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 petition shall be written to, addressed to, and delivered to the chair of the Faculty Grievance Committee by the affected faculty member. The petition shall set forth in detail the nature of the grievance, the persons against whom it is directed (the respondents), and the relief sought. It shall contain any information that the petitioner considers pertinent to the petitioner's case.

The Faculty Grievance Committee shall decide whether the complaint merits a detailed investigation so that submission of a petition shall not result automatically in further consideration of the petition. The Faculty Grievance Committee shall limit its investigations to the written complaints and statement of relief sought provided by the petitioner. 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.

If it is determined that a detailed investigation is needed, the investigation shall be limited to attempting to determine the truth of the allegations brought in the written complaint provided by the petitioner. After the investigation, the committee shall determine whether to recommend the relief sought by the petitioner.

#### E. Report of Recommendations

The Faculty Grievance Committee shall submit a written report of its findings and recommendations to the university administrator responsible for providing the relief sought. The committee shall provide a copy of its report to this official's immediate superior, the petitioner, and the respondents. If the administrator does not provide the relief recommended by the committee within twenty working days, the committee may notify the chancellor of its recommendation and of the failure of the administrator to act on its recommendation, with a copy to the petitioner, the respondents, the administrator 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 involved.

F. Further Appeal

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

IX. EFFECTIVE DATE

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

B. These policies and procedure shall become operative on \_\_\_\_\_.