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4 **Faculty Assembly's Proposed Text Revisions to**  
5 **Nielsen "603/604" Committee University Code Revisions**  
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7 **Code Section 602: Academic Tenure**  
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9 (6) Institutional tenure policies and regulations shall distinguish among the following:  
10

- 11 (a) the nonreappointment (or nonrenewal) of a faculty member at the expiration of a specified term  
12 of service;  
13 (b) the discharge from employment of a faculty member with permanent tenure or of a  
14 faculty member appointed to a specified term of service before that term expires only for  
15 reasons of (a) incompetence, (b) neglect of duty, ~~(c) unsatisfactory performance,~~  
16 ~~including but not limited to multiple unsatisfactory post tenure reviews, or (d)~~ (c)  
17 misconduct of such a nature as to indicate that the individual is unfit to continue as a  
18 member of the faculty, *as specified in Code Section 603.*  
19  
20 ...



1  
2 **Code Section 603: Due Process Before Discharge or Imposition of Other Serious Sanction**  
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4 (1) *A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection*  
5 *against unjust and arbitrary application of disciplinary penalties. During the period of such*  
6 *guarantees the faculty member may be discharged from employment, suspended, or demoted in rank*  
7 *only for reasons of*  
8

9 (a) *incompetence, including significant, sustained unsatisfactory performance after the faculty*  
10 *member has been given an opportunity to remedy such performance and fails to do so within a*  
11 *reasonable time;*  
12

13 (b) *neglect of duty including sustained failure to meet assigned classes or to perform other core*  
14 *faculty professional obligations, or*  
15

16 (c) *(c) misconduct of such a nature as to indicate that the individual is unfit to continue as a member*  
17 *of the faculty, including significant demonstrated violations of professional ethics, substantial*  
18 *mistreatment of students, significant research misconduct, willful financial fraud related to*  
19 *university duties, or demonstrated criminal conduct sufficiently related to a faculty member's*  
20 *academic responsibilities as to disqualify the individual from effective performance of*  
21 *university duties.*  
22

23 *An action to discharge a faculty member will ordinarily be used only in instances in which the*  
24 *faculty member's conduct is so serious as to render the individual permanently unfit to*  
25 *continue as a member of the faculty. Lesser sanctions including suspension and demotion in*  
26 *rank might be used in other instances.*  
27 ...  
28

29 (5) *If the faculty member makes a timely written request for a hearing, the chancellor shall ensure a*  
30 *process is in place so that the hearing is timely accorded before an elected standing committee of the*  
31 *institution's faculty. The hearing shall be on the written specification of reasons for the intended*  
32 *discharge or imposition of a serious sanction. The hearing committee shall accord the faculty*  
33 *member 20 days from the time it receives the faculty member's written request for a hearing to*  
34 *prepare a defense. The hearing committee may, upon the faculty member's written request and for*  
35 *good cause, extend this time by written notice to the faculty member. The hearing committee will*  
36 *ordinarily endeavor to complete the hearing within 90 calendar days except under unusual*  
37 *circumstances such as when a hearing request is received during winter or summer break and despite*  
38 *reasonable efforts the hearing committee cannot be assembled, or when additional fact-finding is*  
39 *required apart from the university discharge process.*  
40

41 (8) *In reaching decisions on which its written recommendations to the chancellor shall be based, the*  
42 *committee shall consider only the evidence presented at the hearing and such written or oral*  
43 *arguments as the committee, in its discretion, may allow. The university has the burden of proof. In*  
44 *evaluating the evidence, the committee shall use the standard of "clear and convincing" evidence in*  
45 *determining whether the institution has met its burden of showing that permissible grounds for*  
46 *serious sanction exist and are the basis for the recommended action. The committee shall make its*  
47 *written recommendations to the chancellor within ten days after its hearing concludes or after the full*  
48 *transcript is received, whichever is later.*



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2 **Code Section 604. Non-Reappointment of Tenure-Track Faculty Members**  
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4 **604B Impermissible Reasons for Nonreappointment.**  
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6 In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the  
7 faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by  
8 Article I of the North Carolina Constitution, or (b) the faculty member's race, color, sex, religion, creed,  
9 national origin, age, disability, ~~or~~ veteran's status *or other forms of discrimination prohibited under*  
10 *regulations adopted by campus Boards of Trustees*, or (c) personal malice. For purposes of this section,  
11 *the term "personal malice" means dislike, animosity, ill-will or hatred based on personal*  
12 *characteristics, traits or circumstances of an individual.*  
13

14 **604D. Review of Non-Reappointment Decisions ~~{Appeals and Grievances}~~**  
15

16 (2) Campus Based Review ~~Appeal~~. Subject to limitations contained in this Code and the Policies of the  
17 Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty  
18 member may seek review of the decision of the constituent institution not to reappoint the faculty  
19 member. Such procedures shall at a minimum provide for the following:  
20

- 21 (a) A reasonable time *of no less than 14 calendar days* within which after receiving the notice of  
22 non-reappointment, the faculty member may request review of the decision by the appropriate  
23 faculty committee and administrative officers.. If the faculty member does not request review the  
24 notice of non-reappointment *in a timely fashion as specified by campus tenure policies*, the non-  
25 reappointment is final without recourse to *any further review by faculty committees, the*  
26 *institution, or the Board of Governors.*  
27 (b) If the faculty member files *a request for review* in a timely fashion, ~~timely files an appeal or~~  
28 ~~grievance~~, the chancellor shall ensure a process is in place so that a hearing is timely accorded  
29 before an elected standing committee of the institution's faculty.  
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1 **Code Section 607. Faculty Grievance Committee for Constituent Institutions**  
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3 (3) "Grievances" within the province of the committee's power shall include matters directly  
4 related to a faculty member's employment status and institutional relationships within the  
5 constituent institution, *including matters related to post-tenure review*. However, no grievance  
6 that grows out of or involves matters related to a formal proceeding for the suspension, discharge  
7 or termination of a faculty member, or that is within the jurisdiction of another standing faculty  
8 committee, may be considered by the committee.  
9



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2 **New Code Section 610. *Rights of Special Faculty Members.***  
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4 (1) *Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers,*  
5 *artists-in-residence, writers-in-residence or other special categories are regarded as "special*  
6 *faculty members" for purposes of the University Code.*  
7

8 (2) *Special faculty members shall be appointed for a specified term of service, as set out in*  
9 *writing in the letter of appointment. The term of appointment of any special faculty member*  
10 *concludes at the end of the specified period set forth in the letter of appointment, and the letter of*  
11 *appointment constitutes full and timely notice that a new term will not be granted when that term*  
12 *expires. Special faculty members are not covered by Section 604 of the University Code and may*  
13 *not seek additional review of a decision by a constituent institution not to grant a new*  
14 *appointment at the end of a specified fixed term.*  
15

16 (3) *During the term of their employment, special faculty members are entitled to seek recourse under*  
17 *Section 607 of the University Code (relating to faculty grievances). They are also entitled to protection*  
18 *under any other applicable policy or law.*  
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## Appendix B: Introduction to University Code and Policies and Recent Historical Context

### A. General Background: Sources and Types of Documents.

Those unfamiliar with the structure governing University policies may wish initially to review the Board of Governors website to become familiar with relevant documents. There are several types and layers of inter-related documents including

- The “UNC Policy Manual” (a compendium of policies and guidelines at the University System level, adopted in most instances by the University System’s Board of Governors based on proposals from General Administration).
- The University Code (something like a charter, that governs such matters as how the Board of Governors operates, the roles of the President and Chancellors, and fundamental matters such as academic freedom and tenure). The Code appears in Chapter 100 of the Policy Manual.
- Campus-based policies and regulations, which in many instances are to be developed within the broader framework specified by the UNC Policy Manual or parts of the University Code.

It is worth becoming familiar with these basic documents in order to understand how the proposals and numerous documents developed by the Code 603/604 Committee are structured and related. The UNC Policy Manual is available at <http://www.northcarolina.edu/content.php/legal/policymanual/contents.htm>. Note that updates to the Policy Manual are not always fully incorporated into this main webpage, but are available by following the link in the upper right of this page (“Updates”). Also note the definitions of “policies,” “regulations,” “guidelines” and “transmissions” included in section 100.2 of the Policy Manual. Within the University Code itself (Chapter 100.1 of the Policy Manual) there 16 chapters covering a variety of matters.

### B. Specific Existing Provisions and Recent History

Chapter six of the University Code is titled “academic freedom and tenure” but includes some other matters as well (such as student rights). There are also related policies regarding appeals and reviews of campus-based decisions, found in the University Policy Manual (section 100.3, much of which has been repealed). Note, as well, that section 602(1) of the University Code specifies that each constituent institution’s Board of Trustees is to adopt campus-based policies and regulations governing academic tenure.

Also note that existing policies relating to post-tenure review are not included in the “University Code” but are instead situated in Chapter 400.3.3 of the Policy Manual (and related guidelines). Section 400.3.3 of the Policy Manual states that post-tenure review policies are to be developed on each individual campus, within the broad framework set forth in the BOG policy (including a requirement of periodic review, plans for improvement of deficient performance, sanctions including discharge for the most serious deficiencies, and peer review). Background materials relating to existing practices with regard to post-tenure review may be found elsewhere on the University System’s website. The original committee report (from 1997) is available at <http://www.northcarolina.edu/content.php/aa/tenure/reports/report.html>. A report from 2003 (five years after initial adoption of the existing post-tenure review policies) is available at <http://www.northcarolina.edu/content.php/bog/minutes/2003/appendixmm11.htm>. In January 2007 the Board of Governors’ Personnel and Tenure committee received a report on recent patterns on the individual campuses reflecting recent experience. That report is found at <http://intranet.northcarolina.edu/content.php/docs/bog/bogdocs/2007-01/personnel/Item%204.pdf>. In February and March, the Board of Governors’ Personnel and Tenure Committee discussed possible revisions in the Guidelines relating to post-tenure review. The Faculty Assembly was given an opportunity to review drafts and its input was incorporated into a version of the proposed Guideline revision that was on the June 2007 agenda of the Board of Governors Personnel and Tenure Committee. <http://intranet.northcarolina.edu/content.php/docs/bog/bogdocs/2007-06/personnel/PUBLIC%20-%20Tab%205.pdf>