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The University of North Carolina
GENERAL ADMINISTRATION
POST OFFICE BOX 2688, CHAPEL HILL, NC 27515-2688
HAROLD L. MARTIN, Senior Vice President for Academic Affairs
Telephone: (919) 962-4614 • Fax: (919) 962-0120 • E-mail: hmartin@northcarolina.edu

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May 21, 2009

Dr. Austin Bunch
Associate Provost for Academic and Student Affairs
East Carolina University
111 Spilman Building
East 5th Street
Greenville, NC 27858-4353

PROVOST OFFICE
MAY 28 2009
RECEIVED

Re: Review of Campus Tenure Related Policies

Dear Dr. Bunch, *Austin,*

We have completed our review of East Carolina University's Appendix D (tenure policies.) Generally, these are good policies and we commend the campus for its work on incorporating the revisions.

However, we do note a few significant issues in these policies:

1. Sub-section II.A.1.(a), the first line, (page D-5) and II.B. (page D-6): "Code 604C" should be changed to new "Code 610." ✓
2. II.A.3., second paragraph (page D-6): "creed" should be added. ✓
3. II.A.4.(page D-6): omitted is the requirement of Code 602(7)(a), the salary exception for a promotion when the faculty member was already tenured and no salary condition previously existed.
4. II.B. (page D-7) and IV.E.2.c. (page D-18): there are several references to contract "renewals." The committee that rewrote the Code was careful not to indicate any expectation of a "reappointment" to a special faculty position. Thus, the language discusses a new contract or appointment. (See Code 610(5). We recommend making changes accordingly so there is no suggestion of any "right" to a "re"appointment. ✓
5. II.B. (page D-7): the reference should be to Code ^{wrong, it should be 610.} "604", not "604 A". This will ensure that the lack of appeal rights on special faculty not receiving new contracts is stated clearly.
6. II.C. (page D-7): the first 2 paragraphs appear to be inconsistent regarding the period of notice. The second paragraph is correct but the first paragraph appears inaccurate in some situations. *confuse tenure w/ reappointment*
7. II.C.1.(a) (page D-8): most campuses only appoint an instructor for a total period of 1 to 3 years, none of which counts on the tenure clock. Please

seriously consider these instructor provisions. We realize that as this may take considerable time and thought, it does not need to be done immediately.

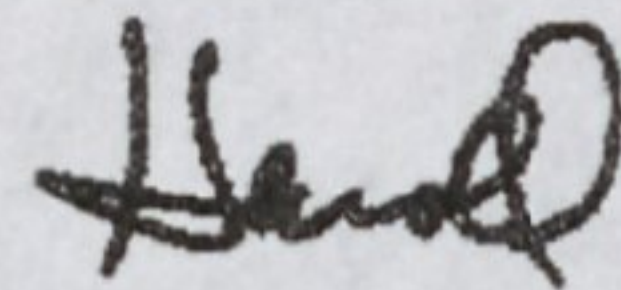
- ✓ 8. Footnote to II.C.5. (page D-9): appears to state that a denial of early tenure cannot be appealed. We perceive that a faculty member could file an internal grievance for an early tenure denial since Code 607 does not expressly forbid such a grievance.
- ✓ 9. V.C., fourth paragraph on page D-24: we perceive that the committee makes a recommendation to the chancellor, not the decision itself, then sends its report to the chancellor who decides the matter. The appellant in this non-reappointment appeal should not have to appeal from the committee to the chancellor.
- ✓ 10. V.C., fifth paragraph on page D-24: the appeal time to the Board of Governors should be 14 calendar days.
- ✓ 11. V.E., the last paragraph of page D-26: please add a brief explanation of the purpose of an appeal to the Board of Governors. See Code 604 D.(2) for the language. Also, the Board of Governors recently declined to hear an attempted appeal from a denial of tenure that did not involve a non-reappointment (early tenure decision). Please make this section clear on that issue.
- ✓ 12. Beginning with the last paragraph on page D-30: "The exercise of the Board of Governors" and continuing until reaching sub-section I., through "as judged by the three basic standards." should all be deleted. These concepts would apply to a non-reappointment, but not to an appeal concerning a discharge, which involves a property right.
- ✓ 13. VII.B.3.b., page D-33: the 30 day period on the offer of re-employment after a termination begins with the "attempted delivery" of the notice, not the "transmission."
- ✓ 14. The next to last paragraph of Sec. VII., page D-37: an appeal of a termination ends with the campus Board of Trustees. The Board of Governors does not hear such appeals. (This was changed in 2004; see Code 605(6), which does not provide for any further appeal.)
15. Provisions of new Code 610 do not appear to have been added, which are listed for your convenience:
 - a. Those special faculty who are not paid may be appointed to a fixed term or at will, per letter of appointment;
 - b. Entitled to pursue grievances during term of employment (a grievance policy was not sent that showed this has been added.) Of course, we accept your confirmation that it has been added or is in the policy, without a need to review the grievance policy.

16. Throughout this document, the chancellor makes the final administrative decision on non-reappointment/tenure, whereupon the appeal process begins. (See, for example, page D-20 through 21 and D-25) Please consider having the provost make the decision about non-reappointment/tenure and send the letter of non-reappointment/denial of tenure. Experience has shown that when such matters are later appealed, they return to the Chancellor and that this type of situation may cause the Chancellor to have to recuse himself from an appeal. This change is only a recommendation, not a requirement..

Once we receive an electronic version of the revised policy showing the above changes, we will submit them to the President for approval. We will review the remaining personnel policy changes at a later date as we are focusing on the tenure policy revisions at this time.

Please do not hesitate to contact me or Charles Waldrup if you have any questions.

Sincerely,



Harold L. Martin, Sr.
HLM/la
copy: Charles Waldrup