

**EAST CAROLINA UNIVERSITY  
2005-2006 FACULTY SENATE**

The seventh regular meeting of the 2005/2006 Faculty Senate will be held on  
**Tuesday, March 21, 2006**, at 2:10 in the Mendenhall Student Center Great Room.

**FULL AGENDA**

- I. Call to Order**
- II. Approval of Minutes**  
February 21, 2006
- III. Special Order of the Day**
  - A. Roll Call
  - B. Announcements
  - C. Steve Ballard, Chancellor
  - D. Catherine Rigsby, Chair of the Faculty
  - E. Approval of Spring 2006 Graduation Roster, including honors program graduates, subject to the completion of degree requirements.
  - F. Question Period
- IV. Unfinished Business**

Faculty Governance Committee, Puri Martinez

  - 1. Proposed Revisions to the *ECU Faculty Manual*, Appendix C. Personnel Policies and Procedures for the Faculty, Section I.D. Specific Criteria for Appointment (attachment 1).
  - 2. Proposed Revisions to the *ECU Faculty Manual*, Appendix D. Tenure and Promotion Policies and Procedures (attachment 2).  
(To aid in the discussion on this document, please refer to line numbers when addressing issues during the Faculty Senate meeting.)
- V. Report of Committees**
  - A. University Curriculum Committee, Cheryl Estes  
Curriculum matters contained in the minutes of the February 9, 2006, and February 23, 2006, meetings.
  - B. Calendar Committee, Mary Farwell
    - 1. Proposed Summer 2007 – Spring 2008 University Calendars (attachment 3).
    - 2. Proposed Policy for Making Up Missed Class Days (attachment 4).

- C. Educational Policies and Planning Committee, Dale Knickerbocker  
For information only.  
Request from the Department of Construction Management of a Notification to Establish a Masters degree in Construction Management (MCM).
  
- D. Faculty Governance Committee, Puri Martinez  
Proposed revisions to the *ECU Faculty Manual*, Part VII. Section II. Patent Procedures (attachment 5).
  
- E. Unit Code Screening Committee, Garris Conner
  - 1. Approval of the Revised College of Business Unit Code of Operation.
  - 2. Approval of the Revised School of Art and Design Unit Code of Operation.

All approved unit codes of operation are available on the Faculty Senate website at:  
<http://www.ecu.edu/cs-acad/fsonline/uc/unitcodes.cfm>

## **VI. New Business**

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed Revisions to the *ECU Faculty Manual*, Appendix C. Personnel Policies and Procedures for the Faculty, Section I.D. Specific Criteria for Appointment

(The Faculty Governance Committee proposes the following revisions and have noted them by additions in underlined print and deletions in ~~double strikethrough~~.)

**APPENDIX C. PERSONNEL POLICIES AND PROCEDURES FOR THE FACULTY OF EAST CAROLINA UNIVERSITY**

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# PERSONNEL POLICIES AND PROCEDURES FOR THE FACULTY OF EAST CAROLINA UNIVERSITY

## I. Selection and Appointment of New Faculty

### A. Determination of Number and Nature of Positions

Needed allocation of positions is the prerogative of the vice chancellor for academic affairs, the vice chancellor for health sciences and dean of the School of Medicine, and the vice chancellor for student life, as appropriate.

The unit administrator is responsible for recommending through administrative channels to the vice chancellor for academic affairs, the vice chancellor for health sciences and dean of the School of Medicine, or the vice chancellor for student life the number and nature of positions needed to carry on the functions of the unit.

The unit administrator, in keeping with the mission of the unit and the institutional context, shall follow the provisions of the unit code in making recommendations concerning the number and nature of positions needed.

### B. Selection Procedure

The unit administrator shall notify the unit personnel committee of the number and nature of positions allocated to the unit. The actual selection process must then proceed in accordance with *Appendix D, Tenure and Promotion Policies and Procedures* and *Part VI, General Personnel Information*, the most recently revised Affirmative Action Plan, and applicable unit code provisions.

### C. General Criteria<sup>2</sup>

For appointment, as well as reappointment and promotion, the faculty member is evaluated on potential or achievements in:

- Teaching
- Creative Activity/Research
- Service to the university, the profession, and the community. East Carolina University recognizes the primary importance of teaching.

#### 1. Teaching

East Carolina University expects each member of the faculty to have knowledge of subject matter commensurate with one's teaching assignment, to maintain awareness of developments in one's discipline, and to communicate to students one's knowledge of and interest in the discipline. The faculty member will encourage students in responsible and careful inquiry, in appreciation of the interrelation of various disciplines, and in recognition of the uses of learning and the value of the educated mind. Teaching includes activities and responsibilities beyond the classroom setting, e.g., advisement; mentoring; laboratory supervision; clinical rounds by a physician/professor accompanied by students; the direction of research projects and papers, dissertations, and theses; and other contacts and relationships outside the classroom. (Faculty Senate Resolution #97-43, December 1997)

#### 2. Creative Activity/Research

East Carolina University encourages and supports the continuing efforts of faculty to develop a deeper appreciation of the importance of professional competency acquired through scholarship, research, and other creative activities appropriate to one's discipline.

<sup>1</sup>For policies and procedures dealing with persons on fixed term appointment, *ECU Faculty Manual*, Appendix D.

<sup>2</sup>These criteria are not designed to be used for persons with administrative rank to evaluate their administrative service. Criteria for that purpose shall be developed by proper administrative authority.<sup>4</sup>

A faculty member's research and creative activities shall reflect the high professional standards incumbent upon those who enjoy full academic freedom; such activities must be measured by standards of quality, not merely by quantity.

3. Service

East Carolina University considers service to the university, the academic profession, and the community as an important aspect of academic performance. (See Section III.)

D. Requirements for ranks and titles

1. General Provisions

Appointments are made at the academic ranks of instructor, assistant professor, associate professor, and professor. These are the only ranks which may involve a permanent tenure commitment. Appointments to all other titles are for a definite term and do not involve a permanent tenure commitment.

The following are the minimum required qualifications which may be considered when making appointments.

2. Ranks of Tenure-Track appointments

Instructor

- has evidence of a sound educational background for the specific position, or has equivalent professional experience
- has completed most or all the requirements for the appropriate terminal degree
- has demonstrable proof that the degree will be obtained within a short period of time as agreed upon by the academic unit and the appointing officer
- has demonstrated potential for effective teaching
- has demonstrated potential for effective clinical practice in disciplines where appropriate

Assistant Professor

- has qualifications of the previous rank
- holds the appropriate terminal degree, as evaluated by the academic unit and affirmed by the appointing officer and the profession concerned
- shows evidence of potential for continued professional growth in teaching effectiveness, creative activity, or research has ability and willingness to participate in departmental, college, and university affairs
- has membership in professional organizations
- has demonstrated expertise in clinical practice in disciplines where appropriate

Associate Professor

- has qualifications of the previous rank
- has demonstrable teaching effectiveness
- has a record of creative or research activity resulting in publication or comparable productivity
- has demonstrated ability and willingness to participate in department, college, and university affairs
- has a record of effective service to the profession
- has a record of effective clinical practice in disciplines where appropriate

Professor

- has qualifications of the previous rank

- has an established record of excellence in teaching
- has a significant record of creative or research activity resulting in publication or comparable productivity
- has demonstrated excellent ability and willingness to participate in department, college, and university affairs
- has a record of significant service to the profession
- has a record of effective clinical practice in disciplines where appropriate

### 3. Titles of Fixed-Term Appointments

#### a. Faculty with duties primarily in instruction

##### Teaching Instructor

- holds, at a minimum, a master's degree appropriate to the area of instruction, or has equivalent professional experience
- has demonstrated potential for effective teaching

##### Teaching Assistant Professor

- has qualifications of the previous title
- holds the appropriate terminal degree, as evaluated by the academic unit and affirmed by the appointing officer and the profession concerned
- has demonstrated effectiveness in teaching

##### Teaching Associate Professor

- has qualifications of the previous title
- has demonstrated superior teaching ability
- engages in professional development activities

##### Teaching Professor

- has qualifications of the previous title
- has demonstrated excellence in teaching
- engages in professional development activities
- has demonstrated a degree of proficiency sufficient to establish an excellent reputation among colleagues
- is qualified and competent in mentoring others (such as graduate students, teaching instructors, etc.)

#### b. Faculty with duties primarily in research

Research faculty are typically externally funded. Research faculty are encouraged to give seminars and teach occasional courses in their specialty. Teaching is at the discretion of the unit and the availability of funds.

##### Research Instructor

- holds a minimum of a master's degree appropriate for the specific position or has equivalent professional experience
- has demonstrated potential for effective research
- should be capable of carrying out individual research or should be trained in research procedures
- should have had the experience and specialized training necessary to develop and interpret data required for success in such research projects as may be undertaken

#### Research Assistant Professor

- has qualifications of the previous title
- holds the appropriate terminal degree, as evaluated by the academic unit and affirmed by the appointing officer and the profession concerned
- has demonstrated effectiveness in research
- is qualified and competent to direct the work of others (such as technicians, graduate students, etc)

#### Research Associate Professor

- has qualifications of the previous title
- has extensive successful experience in scholarly or creative endeavors
- has the ability to propose, develop, and manage major research projects

#### Research Professor.

- has qualifications of the previous title
- has demonstrated a degree of proficiency sufficient to establish an excellent reputation among colleagues
- has demonstrated scholarly production in research, publications, professional achievements or other distinguished and creative activity

#### c. Faculty with duties primarily in clinical teaching

##### Clinical Instructor

- holds, at a minimum, a graduate degree appropriate for the specific position or has equivalent professional experience
- has demonstrated potential in clinical practice and teaching in the field

##### Clinical Assistant Professor

- has qualifications of the previous title
- holds the appropriate terminal degree, as evaluated by the academic unit and affirmed by the appointing officer and the profession concerned
- has training and experience in an area of specialization
- has demonstrated expertise in clinical practice and teaching in the field

##### Clinical Associate Professor

- has qualifications of the previous title
- has extensive successful experience in clinical or professional practice in a field of specializations, or in a subdivision of the field, and in working with and/or directing others (such as professionals, faculty members, graduate students, etc) in clinical activities in the field
- has demonstrated superior teaching ability

##### Clinical Professor

- has qualifications of the previous title
- has demonstrated a degree of sustained excellence in clinical practice and teaching sufficient to establish and outstanding reputation among colleagues

#### d. Additional faculty titles

Artist-in-Residence; Writer-in-Residence. These titles may be used to designate temporary appointments, at any salary and experience level, of persons who are serving for a limited time or part-time, and who are not intended to be considered for professorial appointment.

Adjunct Instructor; Adjunct Assistant Professor; Adjunct Associate Professor; Adjunct Professor. These titles are used to appoint outstanding persons who have a primary employment responsibility outside the university or in a different department in the university, and who bring some specific professional expertise to the academic program. These positions are typically unfunded.

Affiliate Instructor; Affiliate Assistant Professor; Affiliate Associate Professor; Affiliate Professor. These titles are used in the School of Medicine to appoint outstanding persons who have a primary employment responsibility outside the university and who bring some specific professional expertise to the academic program. These positions are typically unfunded.

Visiting Instructor; Visiting Assistant Professor; Visiting Associate Professor; Visiting Professor. The prefix "visiting" before an academic title is used to designate a short-term full or part time appointment without tenure. Therefore the visiting title shall not be used for periods of time beyond the initial contract period. It shall be used only for those fixed-term faculty members who are visitors, temporary replacements, or for whose disciplines the institution in good faith expects to have only a short-term need. Use of the visiting title for extended periods of time is a misuse of this title.

#### 4. Emeritus status

The titles "emeritus" and "emerita" will be conferred upon those retired tenured faculty, including those on Phased Retirement, who have made a significant contribution to the university through a long and distinguished record of scholarship, teaching, and/or service.

#### D. Specific Criteria for Appointment

Among the many qualifications which may be considered when making appointments, the following are essential:

Instructor – Evidence of a sound educational background for the specific position, including sufficient progress toward a terminal degree that the degree will be obtained within a short period of time as agreed upon by the academic unit and the appointing officer; and evidence of teaching capacity. (Faculty Senate Resolution #05-09, April 2005)

Assistant Professor – Qualifications of the previous rank; an appropriate terminal degree, as evaluated by the academic unit and affirmed by the appointing officer and the profession concerned; evidence of potential for continued professional growth which shall be in part measured by teaching effectiveness, creative activity/research; and membership in professional organizations.

Associate Professor – Qualifications of the previous ranks; evidence of teaching effectiveness; a record of creative or research activity resulting in publication or comparable productivity; a record of participation in organizations; effective service on academic and/or administrative committees, and a record of effective service to the profession.

Professor – Qualifications of the previous ranks; an established record of excellence in teaching; a record of significant publication or creative activity, or research activity; and a record of significant service to the profession, such as contributions to the development of public forums, institutes, continuing education projects, and patient services; consulting in the private and public sectors; and a record of significant contribution as a member of academic and/or administrative committees. (Faculty Senate Resolution #99-7, March 1999)

Notwithstanding any previous statement that has appeared herein, competence for appointment to a specific rank may be attested to by advanced study, culminating in appropriate graduate degrees, or by extensive work experience in the teaching fields or in a

~~professional practice which is demonstrably of highest quality.~~

## E. Initial Appointment

Appointment to the faculty is made by the chancellor or his/her designee.<sup>3</sup> Criteria for evaluation of faculty performance shall be provided in writing and discussed before initial employment. A record of this discussion shall be placed in the faculty member's personnel file. Any action conferring permanent tenure with the initial appointment requires approval of the board of trustees. The initial contract shall be signed by the chancellor, or his designee, and the appointee. This contract shall be accompanied by and elaborated on by a letter signed by the chancellor, or his designee, and a letter signed by the unit administrator.

The chancellor's letter shall specify rank or title; salary; length of appointment; and tenure status, whether fixed term, probationary term appointment, or appointment with permanent tenure (*ECU Faculty Manual*, Appendix D). The unit administrator's letter shall establish the specific conditions of employment.

## II. Assignments

### A. Assignment of Teaching Responsibilities

Prior to making final faculty assignments and at least two weeks prior to the beginning of each semester, the unit administrator shall apprise each unit faculty member, in writing, of the duties and responsibilities in teaching, after soliciting faculty teaching preferences. If changes in a faculty member's assignment become necessary, the faculty member shall be notified of such changes prior to the effective date of the amended assignment.

### B. Assignment of Released Time

Faculty members who are to be granted released time from teaching shall be informed in writing of the purpose of the reduced teaching assignment.

## Evaluation

Each faculty member with a probationary term appointment and each permanently tenured faculty member shall receive annually an evaluation of his/her performance from the unit administrator which shall be based upon current academic year data, except that data from the previous year's spring semester survey of student opinion of teaching may be utilized when current spring semester survey data are unavailable<sup>4</sup>. This annual evaluation shall:

- be in writing;
- state the percentage of salary increment available to the unit to be recommended by the unit administrator for the faculty being evaluated;
- be discussed with the faculty member prior to being sent to any other administrator or placed in the faculty member's personnel file; in the case of faculty members with probationary period appointments, a record of this discussion shall be placed in the faculty member's personnel file; and
- shall be signed and dated by the unit administrator and the faculty member, who may attach to the evaluation a concise comment regarding the evaluation. The signature of the faculty member signifies that the faculty member has read, but does not necessarily concur in, the evaluation.

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<sup>3</sup>Reference to the chancellor's designee shall include and be limited to the vice chancellor of academic affairs, vice chancellor for student life, or the vice chancellor for health sciences.

<sup>4</sup>With respect to Appendix C, Section III. Evaluation, "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, Health Sciences Library, and any other units in which faculty evaluations 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.

The unit administrator shall forward to each faculty member a copy of that member's annual evaluation within ten days after completing the evaluations of unit members.

The unit administrator's annual performance evaluation of faculty members shall employ the criteria contained in the unit code approved by the chancellor (*ECU Faculty Manual, Appendix L*). The evaluation shall be based upon that year's assigned duties and responsibilities (except, as earlier noted, for the previous year's Spring semester survey of student opinion) and shall consider:

1. teaching

The quality of teaching must be evaluated by means of

- a. data from surveys of student opinion, when such data have been gathered in accordance with established procedures of the department or the university which guarantee the integrity and completeness of said data. As part of the effort to evaluate the teaching of faculty members, each unit shall either: develop and use its own instrument(s) as approved by the chancellor to determine student opinion of teaching or utilize the instrument developed by the Teaching Effectiveness Committee to determine student opinion of teaching.
- b. formal methods of peer review, including direct observation of the classroom teaching of new and tenure-track faculty.
- c. procedures provided for in unit codes;

2. research and creative activities;

3. patient care;

4. services rendered on department, school, college, and university committees, councils, and senates; service to professional organizations; service local, state and national governments; contributions to the development of public forums, institutes, continuing education projects, patients services and consulting in the private and public sectors; and

5. other responsibilities as may be appropriate to the assignment.

The relative weight given to teaching, research/creative activity, and service in personnel decisions shall be determined by each unit code. In no case, however, shall service be weighed more heavily than either teaching or research/creative activity. (Faculty Senate Resolution #97-43, December 1997)

IV. Professional Advancement

Promotion is a means through which professional achievement is encouraged, recognized, and rewarded by the university. Evaluation of faculty for purposes of promotion shall accord with the regulations established in accordance with the unit code and shall employ the criteria contained in the unit code approved by the chancellor (*ECU Faculty Manual, Appendix L*).

Departments in professional schools may also establish guidelines for evaluation of faculty for promotion consistent with the criteria in their school's unit code. Specific regulations and criteria governing evaluation of faculty for purposes of promotion may vary from unit to unit. As a minimum each unit shall:

- apply published criteria in teaching and creative activity and service for evaluating faculty for promotion;
- make available procedures which will permit each faculty member to report achievements annually or on a more frequent basis;
- assure each faculty member the right to discuss one's candidacy with the unit administrator and/or the personnel committee at any time; and
- notify each faculty member within four days of receipt of the administration's call for promotion recommendations.

Upon request by the faculty member, the unit administrator and the unit personnel committee shall evaluate the faculty member for promotion. Following such evaluation, the unit administrator

and the personnel committee shall inform the faculty member of their respective recommendations. Promotion shall be based primarily upon the faculty member's total demonstrated professional competence and achievement. Procedures to be followed for promotion are found in *ECU Faculty Manual*, Appendix D. Among the many qualifications which may be considered when making recommendations for promotion, the following are essential:

Assistant Professor - Qualifications necessary to be appointed to the rank of instructor, an appropriate terminal degree, as evaluated by the academic unit and affirmed by the appropriate administrative officer and the profession concerned; a record of progress toward teaching effectiveness; and evidence of a potential for continued professional growth which shall, in part, be measured by creative activity/research and membership in professional organizations.

Associate Professor - Qualifications of the previous rank; evidence of teaching effectiveness; a record of creative or research activity resulting in publication or comparable productivity; a record of participation in professional organizations; effective service on academic and/or administrative committees, and a record of effective service to the profession.

Professor - Qualifications of the previous ranks; an established record of excellence in teaching; a record of significant publication, creative activity, or research activity; a record of significant service to the profession, such as contributions to the development of public forums, institutes, continuing education projects, and patients services; consulting in the private and public sectors; and a record of significant contribution as a member of academic and/or administrative committees. (Faculty Senate Resolution #99-7, March 1999)

Promotion usually should be accompanied by a salary increment which shall be separate from any and all other increments to which the individual may be entitled. Notwithstanding any previous statement that has appeared herein, competence for promotion to a specific rank may be attested to by advanced study, culminating in appropriate graduate degrees, or by extensive work experience in the teaching fields or in a professional practice which is demonstrably of highest quality.

## V. Salary

### A. Initial Salary

Initial salary shall be based on degree attainment, pertinent experience, professional activity, scholarly publication or its equivalent, and level of responsibility, consideration being given to the salaries of personnel presently in the unit and salaries within the discipline in comparable institutions.

### B. Determination of Annual Salary Increments

The unit administrator shall recommend annual salary increments to appropriate administrative officials in accordance with requirements imposed by the North Carolina General Assembly, The University of North Carolina Board of Governors, and the university administration, and shall employ any additional criteria that have been established in this appendix, in units codes, or in policies required by unit codes. Basic criteria for assessing merit shall include the degree of teaching excellence; creative activity and research; service to local, state, and national governments; as well as contributions to the development of public forums, institutes, continuing education projects, and patients' services. The unit administrator shall report annually to the unit, in dollar amounts and percentages, the total increment allotted, mean salary increment, and range in salary increments for the unit. Each faculty member shall be informed by the unit administrator of any salary increment recommendations made on behalf of the faculty member by the unit administrator.

## VI. Faculty Personnel Files

**[Please refer to interpretation #I90-1 located in the Index of ECU Faculty Manual**

### Interpretations.]

North Carolina law defines a personnel file as any information gathered by East Carolina University that relates to an individual's application, selection or non-selection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or termination of employment, wherever located and in whatever form. A faculty member's primary personnel file shall reside in the code unit office under the supervision of the code unit administrator. The location and custodian of other files containing personnel records will be listed in the *Personnel File Checklist* attached to the inside cover of the primary personnel file. All evaluative documents will be contained in the primary personnel file. Official copies of Personnel Action Dossiers shall reside in the primary personnel file. Faculty members are encouraged to examine their primary personnel file often, subject to certain restrictions of state law. Faculty members may examine other files containing personnel records subject to the same restrictions. A faculty member may obtain copies of any materials that are not restricted by state law in the personnel file and may attach a concise statement in response to any item therein. This concise statement shall be submitted to the custodian for inclusion as an attachment to the specific document. A person designated by the faculty member may examine that employee's personnel file with the written authorization of the faculty member. No material obtained from an anonymous source shall be placed in the primary personnel file or any other file containing personnel records except for data from student opinion surveys. Data from student opinion surveys shall be used in the annual evaluation and shall be submitted by the authorized surveying agent to the faculty member and the unit administrator. Evaluative materials or summaries thereof prepared by peer committees as part of a regular evaluation system may be placed in the primary personnel file when signed by a representative of the committee. Faculty members must be made aware within a reasonable time of any change in their personnel file. The procedures of Article 7 of Chapter 126 of the General Statutes of North Carolina shall govern matters relating to personnel files.

Please see the ECU Faculty Manual, Part VI. for further information on state statutes and ECU policy concerning faculty personnel files. (Faculty Senate Resolution #00-12, March 2000)

### VII. Amendment Procedure

Amendments to *ECU Faculty Manual, Appendix C. Personnel Policies and Procedures* may be proposed by any full-time member of the faculty, by any faculty committee, or by any member of the administration of East Carolina University. The proposed amendment(s) shall be submitted to the Faculty Senate for consideration and shall be handled as any other item of legislation which comes before the senate. Such proposed amendments, if approved by the senate, shall be submitted to the chancellor, and then to the board of trustees for its approval.

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**Approved: Faculty Senate Resolution #94-05  
18 March 1994  
East Carolina University Board of Trustees**

**Amended: Faculty Senate Resolution #96-4, March 1996  
Faculty Senate Resolution #97-20, April 1997  
Faculty Senate Resolution #97-43, December 1997  
Interpretation made to Section VI. (2-15-90)  
Faculty Senate Resolution #99-7, March 1999  
Faculty Senate Resolution #00-12, March 2000  
Faculty Senate Resolution #05-09, April 2005**

## FACULTY GOVERNANCE COMMITTEE REPORT

### Proposed Revisions to the *ECU Faculty Manual*, Appendix D. Tenure and Promotion Policies and Procedures

The Faculty Governance Committee proposes the following revisions to the Faculty Senate and have noted them by additions in underlined print and deletions in ~~double-strikethrough~~.

Proposed revisions pending final approval from the UNC General Administration are noted by additions in **bold** print and deletions in ~~strikethrough~~.

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## TENURE AND PROMOTION POLICIES AND PROCEDURES OF EAST CAROLINA UNIVERSITY

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## Tenure and Promotion Policies and Procedures of East Carolina University

### ~~Prologue: Academic Freedom~~

Academic freedom, the set of norms and values that protects a faculty member's freedom of intellectual expression and inquiry, 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 *Part III, Academic Freedom* of the *ECU Faculty Manual*. 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.

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 colleges and schools, the departments in the College of Arts and Sciences, professional colleges and schools without departments, Academic Library Services, Health Sciences Library, and any other units in which faculty appointments are made. In the College of Arts and Sciences and in professional colleges and 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.

### I. Tenure

Academic tenure serves to insure academic freedom by guarding faculty members against negative consequences of expressing unpopular points of view. Academic tenure refers to the conditions and guarantees that apply to a faculty member's professional employment. Tenure protects a faculty member against involuntary suspension or discharge from employment or reduction in rank except upon specified grounds and in accordance with the procedures provided in Section VI.; or against termination of employment except as provided for in Section VII. 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, misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, or demonstrable, bona fide institutional financial exigency or major curtailment or elimination of a teaching, research, or public service program as detailed in Sections VII.A.1 and VII.A.2. (Faculty Senate Resolution #03-44, March 2004)

#### 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~~ Board of Trustees of East Carolina University, 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 in teaching, research and creative activity, and service; a potential for future contributions; and the institution's needs and resources. While teaching is the first consideration, neither teaching nor research and creative activity nor patient care

nor service is the sole measure of a faculty member's competence and contribution, ~~teaching is the first consideration~~. 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 [cf. Special Faculty Appointments, the UNC Code, 604C and ECU Faculty Manual, Appendix C.]. Fixed-term appointees do not hold professorial ranks, ~~but are appointed with titles such as lecturer~~ but are appointed with the following titles: visiting instructor, visiting assistant professor, visiting associate professor, visiting professor, teaching instructor, teaching assistant professor, teaching associate professor, teaching professor, research instructor, research assistant professor, research associate professor, research professor, clinical instructor, clinical assistant professor, clinical associate professor, clinical professor, artist in residence, writer in residence, adjunct instructor, adjunct assistant professor, adjunct associate professor, and adjunct professor. ~~visiting assistant professor, visiting associate professor, or clinical professor.~~ Fixed-term appointments are without permanent tenure and do not entitle the faculty member to consideration for reappointment or 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 ~~re-employment will be offered for a succeeding term~~ the contract will be renewed (except as specified in Section II.B.1).

(b) Probationary Appointments and Reappointments. Probationary appointments are made at the professorial ranks of instructor, assistant professor, associate professor, or professor. Probationary appointees are entitled to reappointment reviews and, if reappointed throughout the probationary period, are entitled to a tenure review. The timing of these reviews is explained below.

(c) Appointments with Permanent Tenure. Appointments with permanent tenure are continuous until retirement, resignation, or removal according to the provisions of Section VI or VII of this document. Appointments with permanent tenure may be made at the professorial ranks of assistant professor, associate professor, or professor.

#### 2. Criteria for Initial Appointment and Reappointment

All appointments, including fixed-term appointments, and all reappointments of candidates to probationary-term positions shall be based on assessments of candidates' 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>5</sup> shall set out in writing, with a copy to the faculty member, the terms and the conditions of each appointment, including fixed-term appointments, 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>6</sup> The responsibility for initiating the inclusion of special terms and conditions in documents of appointment is with the unit administrator. Prior to initial appointment the unit administrator shall provide a copy of the unit's criteria for evaluating faculty performance to persons offered a faculty appointment in the unit. Criteria

<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 ~~16~~ 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.

~~for evaluating faculty performance shall be discussed by the unit administrator in a meeting with each probationary-term faculty member at the beginning of academic year in which a reappointment or tenure decision is made. A record of the discussion~~ Criteria for evaluating faculty performance shall be discussed by the unit administrator in a meeting with each fixed-term and probationary-term faculty member at the beginning of the first term of employment and at the beginning of each academic year thereafter. A summary of this discussion shall be placed in the faculty member's personnel file. The responsibility for calling this meeting is with the unit administrator.

Notice of reappointment or non-reappointment to probationary-term persons shall be written. The decision not to reappoint probationary term faculty 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, color, national origin, religion, veteran's status, gender, age, sexual orientation, political affiliation, or disability; or (3) personal malice. (Faculty Senate Resolution #03-37, March 2004)

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 should provide the unit administrator with 90 days advance notice, in writing, of resignation from employment. A permanently tenured faculty member should provide the unit administrator with 120 days advance notice in writing of resignation from employment. In no case should a resignation occur in mid-semester.

B. Fixed-Term Appointments [cf. Special Faculty Appointments, The UNC Code, 604C]

~~These special~~ Fixed-term faculty appointments are without permanent tenure and do not entitle the faculty member to consideration for ~~reappointment or 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~~ the contract will be renewed for a succeeding term, except as specified below.

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 non-reappointment when the term expires. Whenever possible multi-year contracts, of up to five years, with eligibility for renewal, will be offered to fixed-term faculty members who have demonstrated their effectiveness and contributions and/or who have outstanding credentials. The provisions of 604 A and 602(4) of The Code of The University of North Carolina do not apply to these special faculty 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~~ a contract will be renewed for a succeeding term. ~~A second or subsequent appointment of a fixed-term faculty member does not constitute a reappointment of the faculty member. Only probationary-term faculty members are entitled to consideration for reappointment.~~ However, If the fixed-term faculty member, not earlier than 180 calendar days nor later than 90 calendar days before the current term expires, provides the unit administrator with

a written request for an appointment for the following academic year contract renewal, the unit administrator shall so notify the chair of the unit Personnel Committee. Within 30 calendar days of receiving the request the Personnel Committee and the unit administrator shall notify the faculty member in writing of their respective recommendations and that any recommendation is subject to the availability of position, funding, administrative approval, and continued effective performance. ~~The unit administrator may but is not required to respond to a written request for an appointment for the following academic year that is received later than 90 calendar days before the current term expires.~~

2. Fixed-Term Employment Evaluation Policy [cf. Special Faculty Appointments, The UNC Code, 604C]

Any faculty member employed in a fixed term position shall be evaluated annually in accordance with the provisions of the employment contract. A fixed-term faculty member should submit a portfolio to the Personnel Committee and the unit administrator prior to the unit administrator and the Personnel Committee recommending contract renewal. The portfolio should contain information that demonstrates the effectiveness of the fixed-term faculty member in carrying out the duties specified in the contract. The specific contents of the portfolio shall be determined by the unit. ~~However, a fixed-term faculty member does not have to submit a Personnel Action fr to the Personnel Committee and unit administrator prior to the Personnel Committee and unit administrator recommending a second or subsequent fixed-term appointment.~~

3. Initial recommendations for advancement in title for faculty holding fixed term appointments is the responsibility of the unit Personnel Committee (see Section IV, A.1.).

C. Probationary Appointments

~~[Please refer to interpretations #196-5 and #196-4.]~~

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. In accordance with the UNC Code, 604A1, the faculty member shall be notified not later than twelve months before the end of the probationary period whether he or she will be recommended for permanent tenure. 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.

During the second year of continuous service at East Carolina University, no fewer than 180 calendar days of notice of reappointment or nonreappointment 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 fewer than twelve months notice of reappointment or nonreappointment before the employment contract expires.

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 rank of instructor is reserved for persons who lack the qualifications for appointment as assistant professor. Faculty members appointed as instructors are eligible for an initial three-year appointment and one successive reappointment of two years. Instructors promoted to the rank of assistant professor no later than the beginning of the fourth year of employment are eligible for a final two-year probationary appointment in the higher rank. The maximum probationary term is seven years.
- (b) Assistant Professor. The maximum probationary term is seven years, consisting of an initial three-year appointment and two successive two-year appointments.
- (c) Associate Professor. The maximum probationary term is five years, consisting of an

- initial three-year appointment followed by a two-year appointment.
- (d) Professor. The probationary term is three years, consisting of one three-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.C.3.

When a faculty member in probationary appointment requests and is awarded promotion in rank before the end of the probationary term, the original contractual probationary term shall not be altered.

In order to afford the maximum opportunity for tenure, the probationary term for personnel hired at the professorial ranks, whose contract date occurs earlier than the beginning of the Fall semester (or July 1 for faculty in the Health Sciences and Academic Library Services), will be measured from the beginning of the subsequent Fall semester (or July 1 for faculty in the Health Sciences and Academic Library Services).

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, or associate 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 appropriate 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 all employment obligations which are granted to probationary-term faculty may include extension of the length of the probationary term. (Leaves of absence normally should be for not more than two academic years or occur more often than once in three years). Extensions of the probationary term should be requested by the faculty member and shall be granted only in cases of severe personal exigency, such as illness, childbirth, child care, or other compelling personal circumstances, and shall be limited to a total of no more than two years. Probationary term faculty who have received paid leave of at least 15 weeks under the ECU Serious Illness and Disability Leave Policy shall receive an extension of the probationary term if requested. 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. All such extensions must be approved in writing by the faculty member, the unit Personnel Committee, the unit administrator, the dean, the appropriate vice chancellor, and the chancellor or the chancellor's designee. A probationary-term faculty member who assumes a full-time administrative position for one or more semesters may be granted extensions of the length of the probationary term in the same way.
4. Progress Toward Tenure Letters  
Each Spring semester, the unit Tenure Committee and unit administrator will review the annual report of each probationary term faculty member. On the basis of this review, the unit administrator, in consultation with the unit Personnel-Tenure Committee, will write a progress toward tenure letter to each probationary term faculty member having a

~~probationary appointment.~~ In the event the unit Personnel Tenure Committee and the unit administrator cannot agree on the contents of the letter, the next higher administrator shall confer jointly with the Personnel unit Tenure Committee and unit administrator, determine at his or her discretion the content of the letter, and prepare the progress toward tenure letter. Copies of the progress toward tenure letter will be placed in the faculty member's personnel file, and a copy will be sent to the unit Personnel Tenure Committee and to the next higher administrative level. The unit administrator and a representative of the unit Tenure Committee 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 addressed to the unit administrator for inclusion in the personnel file and the PAD. Copies of this letter will be placed in the faculty member's personnel file, and a copy will be sent to the unit Personnel Tenure Committee and to the next higher administrative level. (See Section IV.C.3.)

5. 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.1-3) 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>7</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.

E. Joint Appointments

Joint appointments are made when faculty members are appointed with responsibilities in more than one unit. The source of funds for joint appointments may come solely from one unit, or it may come separately from two or more units to which the faculty member has a joint appointment.

Faculty members who hold joint appointments in more than one unit or center within East Carolina University shall be assigned to a primary academic unit with a greater than half-time appointment in the primary academic unit. The letter of appointment will specify the terms of the appointment, will identify the primary academic unit and will reference all units in which the faculty member holds joint appointments. A single appointment letter signed by all supervising administrators is preferable, but in instances where a jointly appointed faculty member has disparate duties in the various units, a separate joint appointment letter may be issued by the administrators of the units in which the faculty member holds joint appointments, provided that a copy of each joint appointment letter is forwarded to the unit administrator(s) of the other supervising unit(s).

Each appointment letter issued by the primary and joint appointment units will specify the faculty member's responsibilities, performance expectations, and compensation, if any, for that department and/or program. Annual, written evaluations of the faculty member will be prepared by the unit administrator of the faculty member's primary academic unit, in consultation with the administrator(s) of the unit(s) to which the faculty member is jointly appointed. If the administrators of the units to which the faculty member is jointly appointed disagree on the annual evaluation, the next higher administrator to the primary academic unit

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<sup>3</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 committee and any administrator(s) shall be directly forwarded to the appropriate vice chancellor. Because a faculty member will be considered for permanent tenure if he or she reaches the end of the probationary term, denials of requests for permanent tenure made before the end of the probationary term are not subject to appeal.

will arbitrate the disagreement and will write the final annual faculty evaluation, if agreement cannot be reached among all joint appointment units.

For probationary faculty appointments and permanently tenured faculty appointments, the policies and procedures of the primary academic unit shall be used for reappointment, tenure, and promotion of the faculty member, as appropriate to the appointment type. Annual progress toward tenure letters for probationary faculty will be prepared by the unit administrator of the primary academic unit, in consultation with the administrator(s) of the unit(s) to which the faculty member is jointly appointed, and in consultation with the ~~Personnel~~ Tenure Committee of the primary academic unit. If there is disagreement on the progress toward tenure letter, the next higher administrator of the primary academic unit will confer with the ~~Personnel~~ Tenure Committee of the primary academic unit and with the administrators of the units to which the faculty member is jointly appointed, determine at his or her discretion the content of the letter, and prepare the progress toward tenure letter.

For all faculty on joint appointments, annual salary increase recommendations will be made on each funding source of the appointment according to the guidelines of the units, the ~~Office of the President~~ General Administration, and those of the University. If there is one source of funding, the administrators of the separate portions of the appointment will consult and recommend together. If there is disagreement, it will be appealed to the next higher administrator of the primary academic unit.

All faculty members who hold joint appointments are governed by the *ECU Faculty Manual*, and all provisions of each faculty appointment must be consistent with relevant sections of the *ECU Faculty Manual*.

(Faculty Senate Resolution #02-05, October 2002)

#### 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, Personnel Policies and Procedures for the Faculty of ECU*. Promotion is governed by the policies and procedures set forth in Section IV, below. By the first week of March of every ~~During the Spring semester of the academic year,~~ a faculty member who wishes to be considered ~~who requests in writing consideration~~ for promotion to the next professorial rank shall write a letter requesting a personnel action of promotion in rank to her or his unit administrator. The request for promotion shall be considered for promotion by the appropriate unit committee during the Fall semester of the next academic year.<sup>8</sup>

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

Recommendations for appointments, reappointments, promotion, and the conferral of permanent tenure to faculty are the responsibility of unit committees and the unit administrator. Evaluation of faculty for appointment, reappointment, promotion, and the conferral of permanent tenure shall be initiated by the appropriate unit committee on notice from the unit administrator and higher administrative authority. The appropriate unit committee shall also evaluate faculty for promotion and the early conferral of permanent tenure at the request of the faculty member. Once the evaluation has been completed, the committee's recommendation and the recommendation of the unit administrator shall be forwarded to the next higher administrator above the unit level for initiation of administrative review of the recommendations. The pertinent structures and

<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 promotion, a copy of all documents submitted to support the request and a record of all decisions by the appropriate committee and any administrator(s) shall be directly forwarded to the appropriate vice chancellor.

processes are set forth in this section. The timeline for these processes is set forth in Part XIII. of the ECU Faculty Manual.

Confidentiality must be maintained when conducting any substantive business pertaining to initiation, review, conferral of permanent tenure, and approval of appointments, reappointments, and promotions. Email should be used with discretion because it does not guarantee confidentiality. Formal correspondences relating to any substantive business pertaining to initiation, review, conferral of permanent tenure, and approval of appointments, reappointments, and promotions should be maintained in paper form.

#### Description of "voting faculty"

For the purposes of Section IV, **voting faculty members are determined by the permanently tenured faculty of the unit using the following criteria;** ~~[Please refer to interpretations #100-14.]~~

A voting faculty member of a unit is someone who:

- holds a full-time faculty position with East Carolina University and a greater than one-half time position in the unit, and
- ~~holds regular professorial rank (instructor, assistant professor, associate professor, or professor), and~~
- **is either a probationary term (tenure track) faculty member or a permanently tenured faculty member.**
- has at least one-half of the teaching/research duties normally assigned in the unit, **as determined by the permanently tenured faculty of the unit using standards appropriate to their discipline.**
- is in at least the twelfth consecutive calendar month of appointment to the faculty of the unit **as either a probationary term (tenure track) faculty member or a permanently tenured faculty member.**
- **is not a unit administrator or an individual with one half or more of his/her load assigned to administrative duties as determined by the permanently tenured faculty in consultation with the unit administrator.**
- or **normally** meets the above conditions and is on leave of absence from all university duties but is in attendance at the meeting of the appropriate committee at the time of the committee's vote on a personnel action (reappointment, promotion, or tenure recommendation). (Faculty Senate Resolution #03-30 April 2003)

Related faculty within the same academic department (or other comparable institutional subdivision of employment) shall not participate, either individually or as a member of a committee, in the evaluation of related persons for appointment, reappointment, promotion, the conferral of permanent tenure, cumulative review, salary recommendations, or any other personnel action. A faculty member made ineligible for participation in the evaluation of a related person does not count for quorum purposes and his/her ineligibility does not constitute a recommendation against the proposed personnel action.

#### A. Unit Committees<sup>9</sup>

##### 1. Personnel Committee ~~[Please refer to interpretations #197-7, #101-16 and #103-18.]~~

###### a. Function

The Personnel Committee shall be responsible for making recommendations regarding initial probationary appointments and initial and additional special fixed-term appointments (for other functions of the Personnel Committee, see Section IV.B.).

<sup>9</sup> Except as provided herein, meetings of the committees shall be conducted according to the most recent edition of *Robert's Rules of Order, Newly Revised*.

b. Composition

The composition of each unit's Personnel Committee shall be determined by the unit but shall consist of at least three members. The membership of the committee shall be composed of some or all of the permanently tenured and probationary-term voting faculty members of the unit, including those who are on leave but in attendance at the meeting at the time of the committee's vote, but excluding the unit administrator. At least two thirds of the unit Personnel Committee membership shall be permanently tenured voting faculty. When there are not enough permanently tenured voting 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.b. above. All other members of the unit Personnel Committee shall be elected by the permanently tenured and probationary-term voting faculty of the unit. The chair of the unit Personnel Committee shall be permanently tenured and shall be elected annually by and from the committee's membership.

c. Additional Roles of Unit Personnel Committee

In addition to making recommendations to the unit administrator on initial and additional fixed-term appointments and initial probationary-term appointments, the unit Personnel Committee has the following responsibilities:

1. Notifying fixed-term faculty members that the Personnel Committee will or will not recommend an additional fixed-term appointment when the fixed-term faculty member requests notification not earlier than 180 calendar days nor later than 90 calendar days before the current term expires.
2. Reviewing requests for reduction in the normal probationary term at the time of initial appointment (see Section II.C.2).
3. Reviewing requests for the extension of the normal probationary term (see Section II.C.3).
4. ~~Consulting with the unit administrator in the preparation of the progress toward tenure letter (see Section II.C.4).~~
5. Consulting with faculty members who are considering requesting conferral of permanent tenure prior to the end of the probationary term (see Section II.C.5).
6. Consulting with faculty members who are considering requesting promotion (see Section III.).
7. ~~Producing a list of possible external reviewers and selecting external peer reviewers from lists produced by the Committee and by the candidate (see Section IV.E).~~
8. ~~Selecting, with the unit administrator, the research and creative activity materials to be sent to external peer reviewers (see Section IV.E).~~
9. Reviewing additional 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.).
10. The personnel committee may elect a search committee of voting faculty to fulfill the responsibilities of soliciting and screening applicants and recommending to the unit's Personnel Committee candidates for initial appointments.
11. Making recommendations for advancement in title for fixed term faculty.

d. Role of the Chair of the Unit Personnel Committee

The chair of the unit Personnel Committee shall be permanently tenured and shall be elected annually by and from the committee's membership. The chair ~~shall preside over all committees making personnel recommendations for the faculty, and may participate in the decisions of any committee of which the chair is a member, except as noted below.~~ If the chair of the unit Personnel Committee holds a professional rank lower than that to which a faculty member requests promotion, the unit Personnel Committee chair shall not be eligible to participate and shall only be responsible for calling the meetings of such committees and facilitating the election of a chair of the

committee from among its membership. In such cases where the Chair of the unit Personnel Committee is ineligible to participate, he/she shall not attend any meetings of the committee except to facilitate the election of the chair as noted above. The elected chair of the committee shall obtain and distribute materials to be used during the deliberation of such bodies, insure that a valid vote has been taken, communicate the results of such votes to the appropriate faculty and to the unit administrator, and perform other duties as designated by the unit. ~~chair the Promotion Committee but shall not have a vote on that committee. The chair shall be responsible for calling the meetings of such committees, 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.~~

2. Promotion Committee [~~Please refer to interpretation #197-8.~~]

a. Function

The Promotion Committee shall be responsible for making recommendations for promotions in rank and for recommending the ranks of initial appointments at the associate professor or professor level.

b. Composition

The membership of the Promotion Committee shall be composed of those permanently tenured and probationary-term voting faculty members who hold rank at least equal to the rank for which the candidate is being considered, including those on leave but in attendance at the committee's meeting at the time of the committee's vote, but excluding the unit administrator. The composition of the committee shall thus vary with the rank to which a faculty member is being considered for promotion. ~~When a unit has fewer than three permanently tenured or probationary-term voting 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 committee to three, with at least two-thirds of the members being permanently tenured faculty. These appointments to the committee shall be from a list of candidates selected by a vote of the permanent tenured and probationary-term faculty having rank at least equal to the candidate(s) being considered for promotion.~~ When a unit has fewer than three permanently tenured voting faculty members of sufficient rank and not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured faculty at the required rank from other units across the university to increase the committee's membership to three, with at least two-thirds of the members being permanently tenured faculty. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term faculty having rank at least equal to the candidate(s) being considered for promotion. The list forwarded to the next higher administrator by the faculty will contain at least twice the number of faculty members required to complete the membership of the committee. Before voting on the list to be forwarded to the next higher administrator, the chair of the committee will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this important capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

Meetings of the promotion committee shall be convened by the Chair of the unit's Personnel Committee. The first order of business for a newly convened Promotion Committee shall be to elect a Chair from among its membership.

3. Tenure Committee

[Please refer to interpretation #197-7.]

a. Function

The Tenure Committee shall be responsible for making recommendations for reappointments of probationary-term faculty members, the granting of permanent tenure, and conferral of tenure for initial appointments with permanent tenure. The unit administrator, in consultation with the unit Tenure Committee (or properly constituted subcommittee), will write a progress toward tenure letter to each probationary term faculty member as described in Section II.C.4.

b. Composition

The membership of the Tenure Committee shall be composed of the permanently tenured voting faculty of the unit, including those who are on leave but in attendance at the meeting at the time of the committee's vote, but excluding the unit administrator. ~~When a unit has fewer than three permanently tenured voting faculty members not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured faculty from other units to increase the committee's membership to three. These appointments to the committee shall be from a list of candidates selected by a vote of the permanently tenured and probationary-term faculty of the unit.~~ When a unit has fewer than three permanently tenured voting faculty members not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured faculty from other units to increase the committee's membership to three. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term faculty of the unit. The list forwarded to the next higher administrator by the appropriate faculty will contain at least twice the number of faculty members required to complete the membership of the committee. Before voting on the list to be forwarded to the next higher administrator, the voting faculty will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this important capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

c. Additional roles of the unit Tenure Committee.

A Code Unit may establish, in its Code of Operation, procedures for fulfilling their additional roles; however, if the Code of a unit is silent in this regard, it is hereby established that the entire membership of the unit Tenure Committee will participate in these additional roles. In accordance with the unit code, if the unit's Tenure Committee has more than five members, the unit Tenure Committee may elect a subcommittee of at least five members to participate in these additional roles. The unit Tenure Committee (or properly constituted subcommittee):

1. Consults with the unit administrator who writes a progress toward tenure letter to each probationary term faculty member as described in Section II.C.4.
2. Produces a list of possible external reviewers and selects external peer reviewers from lists produced by the Committee and by the candidate (see Section IV.E).
3. Selects, with the unit administrator, the research and creative activity materials to be sent to external peer reviewers (see Section IV.E).
4. Prepares a cumulative evaluation of the candidate's teaching, research, service, and any other relevant duties at least two weeks prior to their vote.

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

~~In addition to making recommendations to the unit administrator on initial and additional fixed-term appointments and initial probationary-term appointments, the unit Personnel Committee has the following responsibilities:~~

1. ~~Notifying fixed-term faculty members that the Personnel Committee will or will not recommend an additional fixed-term appointment when the fixed-term faculty member~~

~~requests notification not earlier than 180 calendar days nor later than 90 calendar days before the current term expires.~~

- ~~2. Reviewing requests for reduction in the normal probationary term at the time of initial appointment (see Section II.C.2).~~
- ~~3. Reviewing requests for the extension of the normal probationary term (see Section II.C.3).~~
- ~~4. Consulting with the unit administrator in the preparation of the progress toward tenure letter (see Section II.C.4).~~
- ~~5. Consulting with faculty members who are considering requesting conferral of permanent tenure prior to the end of the probationary term (see Section II.C.5).~~
- ~~6. Consulting with faculty members who are considering requesting promotion (see Section III.).~~
- ~~7. Producing a list of possible external reviewers and selecting external peer reviewers from lists produced by the Committee and by the candidate (see Section IV.E).~~
- ~~8. Selecting, with the unit administrator, the research and creative activity materials to be sent to external peer reviewers (see Section IV.E).~~
- ~~9. 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.).~~

#### ~~C. Role of the Chair of the Unit Personnel Committee~~

~~The chair of the unit Personnel Committee shall be permanently tenured and shall be elected annually by and from the committee's membership. The chair shall preside over all committees making personnel recommendations for the faculty, and may participate in the decisions of any committee of which the chair is a member. If the chair of the unit Personnel Committee holds a professional rank lower than that to which a faculty member requests promotion, the unit Personnel Committee chair shall chair the Promotion Committee but shall not have a vote on that committee. The chair shall be responsible for calling the meetings of such committees, 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.~~

#### ~~B. Role of Unit Administrator~~

~~The unit administrator serves to provide leadership, support, and guidance to the total functioning of the unit. As indicated at the beginning of this section, the personnel recommendations of the unit administrator shall be forwarded to the next higher administrator along with the recommendation of the appropriate faculty committee.~~

~~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 Tenure Committee for preparation of the progress toward tenure letters. The unit administrator, in consultation with the unit Personnel Tenure Committee (or properly constituted subcommittee), will write a progress toward tenure letter to each probationary term faculty member as described in Section II.C.4. The unit administrator prepares a cumulative evaluation of the candidate's teaching, research, service, and any other relevant duties at least two weeks prior to the unit Tenure Committee's vote.~~

Unit administrators are excluded from all unit committee discussions concerning candidates for appointment, re-appointment, promotion, or permanent tenure, and must be excluded from any meeting when such matters are considered. However at the invitation by a majority vote

of the membership of the Personnel Committee a unit administrator may meet with the committee to discuss initial appointments. Further, the administrator can meet with the Tenure Committee (or properly constituted subcommittee) in reference to progress toward tenure letters as noted in II.C.4.

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.

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

"External peer review" means a review of a candidate's research and creative activity by persons who are not faculty or employees of East Carolina University. External peer review of the quality of the research and creative activity material submitted by the candidate for promotion or conferral of permanent tenure or both will be used by the appropriate committee 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. According to the provisions of unit codes, other materials that reflect the candidate's scholarly activities may be included in the selection to be sent to external reviewers.

~~In~~ By the last week of March of the Spring term prior to the academic year in which a promotion or tenure decision is scheduled, the unit Personnel- Tenure 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, if any, between the reviewer and the candidate. The candidate shall also provide similar relationship information for each name on the unit Personnel- Tenure Committee's list. [Please refer to interpretation #100-15.] These two lists must be independently compiled and if the two lists contain a common set of prospective external reviewers, the unit Personnel- Tenure Committee list shall be revisited and new possible external reviewers shall be identified as replacement for those originally on both lists.

The unit ~~Personnel- Tenure~~ Committee shall select a sufficient number of names from the unit ~~Personnel- Tenure~~ Committee's list and the candidate's list to insure a minimum of three external reviewers, two from the unit ~~Personnel- Tenure~~ Committee's list and one from the candidate's list. Code units that require more than three external reviewers shall make special provisions in their unit codes. These provisions must clearly indicate the number of external reviewers required by the unit. In those cases where a unit requires more than three reviewers, the choice of reviewers must reflect, as nearly as possible, the two to one ratio of reviewers proposed by the unit Tenure Committee to those proposed by the candidate.

The unit administrator will notify the reviewers that they have been nominated to conduct the review and will ascertain their willingness to serve as reviewers. Selected material with a cover letter prescribed by the appropriate vice chancellor shall be sent to the reviewers. Correspondence with the reviewers shall be written in neutral terms, serving to neither support nor oppose the candidate and shall not deviate substantially from the prescribed cover letter. Copies of the prescribed letters are available on the Faculty Senate website at <http://www.ecu.edu/cs-acad/fsonline/fg/facultygovernance.cfm>. Copies of all correspondence with the reviewers and the reviews shall be made a part of the Personnel Action Dossier (hereinafter, "the dossier") (see Section IV.F.2).

Only the unit administrator will communicate with the external reviewers and only on procedural matters for the duration of the personnel action.

The unit administrator and the unit ~~Personnel- Tenure~~ Committee shall select the material

from the dossier 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 dossier 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 dossier. The unit administrator shall then notify the members of the appropriate committee 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 dossier.

#### D. Documentation for Personnel Actions

##### 1. Employment Applications

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

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

The Personnel Action Dossier is a file containing materials for evaluating a faculty member's professional activity. The dossier is compiled by candidates for reappointment, promotion, and/or permanent tenure in consultation with the unit administrator and the chair of the unit Personnel Committee. The dossier will be used by the appropriate committee in making personnel recommendations. A fixed-term faculty member seeking to be recommended for a second or subsequent fixed-term appointment need not compile the dossier.

##### 3. Disagreements as to inclusion or removal of documents

The dossier shall include the required documents and lists relevant to the faculty member's teaching, research/creative activity, and service as described above. If the faculty member disagrees with the unit administrator and/or the unit personnel committee as to the inclusion of relevant documents, the documents will be included and each may include a statement about the document in the dossier.

For details on organization, content and limitations of the dossier, see Part XII. of the *ECU Faculty Manual*.

#### E. Initiation of Recommendations by Unit Personnel, Tenure and Promotion Committees

~~[Please refer to interpretation #199-11.]~~

##### 1. Procedural Rules for conducting committee business

The unit administrator shall give timely notice to the chair of the unit Personnel Committee when personnel actions are to be initiated, and of the date by which the committee's recommendation must be communicated to the unit administrator. After being notified by the unit administrator that a personnel action is required, the chair of the unit Personnel Committee shall make at least three attempts at intervals of no less than five working days each to hold a committee meeting of the appropriate committee for the pending personnel action. In order to conduct business a committee shall not meet without a quorum.

A quorum is defined as two thirds of the membership for a committee that has twenty or fewer members; and a quorum is defined as a majority (50% plus one) of the membership for a committee that has more than twenty members.

The purpose of this meeting is to hold a vote by secret ballot on the pending personnel action. All materials pertaining to the pending personnel action (see Section IV.D) must be available for inspection at least five business days prior to the meeting. Members of the

committee(s) having authority over the pending personnel action shall review the materials individually in preparation for discussion at the meeting. A faculty member on leave and not in attendance at a meeting shall not be counted for the purposes of determining a quorum for that meeting. A faculty member on leave but in attendance at a meeting shall be counted for the purposes of determining a quorum for that meeting. If the committee fails to meet the ~~unit administrator's~~ deadline for receipt of the committee's recommendation, this outcome shall count as a recommendation by the committee against appointment, reappointment, promotion, or tenure. In such a case, the chair of the unit Personnel Committee shall report in writing to the unit administrator that after at least three attempts the committee has failed to meet due to a lack of a quorum, and that this outcome constitutes a recommendation against appointment, reappointment, promotion, or tenure. The unit administrator shall forward the committee's recommendation and the unit administrator's recommendation to the candidate and to the next higher administrator.

2. a. In the case of initial appointment recommendations, each member of the unit Personnel Committee will indicate by secret ballot his or her choice for the appointment. A candidate who receives a majority vote of the committee members present shall be recommended for appointment. See Section IV.A.4. above.

b. Faculty recommendations for reappointment, promotion, and conferral of permanent tenure shall come from the appropriate committee (see Section IV.A). ~~If the appropriate committee consists of ten or more eligible voting members,~~ The committee members may choose to vote by mail according to the latest edition of *Robert's Rules of Order, Newly Revised*. Within ~~ten~~ fifteen working days of notification by the unit administrator of the need to initiate a personnel action, the chair of the unit Personnel Committee shall convene a meeting of the appropriate committee (see Section IV.E.1). At this meeting, the chair of the unit Personnel Committee shall ~~to~~ ascertain whether or not the committee will vote by mail. If a motion to vote by mail is approved by a majority of the committee members present and voting, voting shall be by mail. If a committee chooses to vote by mail, all members must vote by mail.

c. In the case of ~~re-employment~~ contract renewal recommendations for faculty members holding fixed-term appointments, each member of the unit Personnel Committee will indicate by secret ballot his or her choice for or against recommending ~~re-employment~~ contract renewal. **This vote may be taken at a committee meeting or by mail ballot as described in Section IV.G E.2b.** A vote for the recommendation by a majority of the committee members present and shall constitute a recommendation for reemployment. A member who is present when a vote is taken but who does not vote counts as part of the membership of the committee for the purposes of determining what constitutes a majority vote. Failure to obtain a majority vote constitutes a recommendation against re-employment contract renewal. (Faculty Senate Resolution #03-30, April 2003)

d. If a committee votes by mail, the ballots shall be sent by ~~certified mail~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3 or distributed by the committee chair. The refusal by a committee member to receive the correspondence containing the ballot within five business days of the first delivery attempt shall count as a vote against appointment, reappointment, promotion, or tenure. If ballots are distributed, the committee chair shall assure that recipients acknowledge receipt in writing. The acknowledgment must include the date of receipt. A ballot either shall be returned by ~~certified mail~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3 or shall be personally returned by hand to the committee chair, at the discretion of the individual committee member. Committee members returning ballots by hand shall

sign a confirmation form that is retained by the committee chair. Ballots not returned within twenty working days of ~~certified~~ verified receipt shall count as a vote against recommending appointment, reappointment, promotion, or tenure. If a committee votes by mail, a faculty member on leave may choose either to vote or not to vote, at his or her discretion. The unit administrator shall ascertain and shall inform the chair of the unit Personnel Committee in writing as to whether or not a faculty member on leave will participate in a mail ballot. If a faculty member on leave chooses to participate in a mail ballot, the faculty member shall count in determining what is required for a majority vote in favor of the recommendation. If the faculty member on leave chooses not to participate in a mail ballot, the faculty member shall not count in determining what is required for a majority vote in favor of the recommendation. ~~(Faculty Senate Resolution #03-30, April 2003)~~

3. In the case of reappointment, promotion, and conferral of permanent tenure, each member of the appropriate committee will indicate by secret ballot his or her vote for or against recommending that the candidate be reappointed, promoted, and/or granted permanent tenure. **This vote may be taken at a committee meeting or by mail ballot as described in Section IV.G E.2d.** A vote for the recommendation by a majority of the committee members present ~~(see IV.A.1.b., IV.A.2.b. and IV.A.3.b.)~~, ~~which includes those voting faculty members on leave but in attendance at the meeting at the time of the committee's vote,~~ shall constitute a recommendation for reappointment, promotion, and/or conferral of permanent tenure. A member of a committee who is ~~not present when a vote is taken and who is not on leave at the time of the vote or who is present when a vote is taken but who does not vote~~ counts as part of the membership of the committee for the purposes of determining what constitutes a majority vote. ~~of the membership of the committee.~~ Failure to obtain a majority vote ~~of the entire membership of the appropriate committee~~ shall constitute a recommendation against reappointment, promotion, and/or the conferral of permanent tenure. ~~(Faculty Senate Resolution #03-30, April 2003)~~
4. The recommendation of the appropriate committee shall be communicated by the chair of the unit Personnel Committee to the candidate and the unit administrator (see IV.A.1.d.).

#### F. Notification of Recommendations

The faculty member shall be informed of all recommendations at every level, beginning with the unit administrator's recommendation and continuing up to the level where the final decision is made.

#### G. Procedure for Concurring Recommendations

In the case of disagreement at any level refer to the procedures outlined in H. below.

If the recommendations of the appropriate committee and unit administrator agree, the next higher 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 the recommendation 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 committee of the unit which made the initial recommendation.

If the vice chancellor concurs in a recommendation for promotion and/or conferral of permanent tenure, he or she shall forward the recommendation to the chancellor. The

chancellor shall consider the recommendation from the vice chancellor to promote and to confer permanent tenure.

If the vice chancellor concurs in a decision not to recommend reappointment, promotion, and/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 Appendix Y.

If the chancellor concurs in a recommendation to confer permanent tenure, he or she shall submit the recommendation to the Board of Trustees for final approval. If the chancellor concurs in a recommendation for promotion, the chancellor's approval shall be final. ~~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 Appendix Y.~~

#### H. Procedure for Nonconcurring Recommendations

~~[Please refer to interpretation #199-12.]~~

If the recommendations of an ~~from the unit~~ administrator and the appropriate committee disagree, that administrator shall ~~the unit administrator's immediate supervisor shall seek resolution of the disagreement~~ discuss the potential nonconcurrence at the unit committee level before forwarding the committee's recommendation and his or her concurrence or nonconcurrence to the next higher administrator. If the unit administrator and the appropriate committee 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 appropriate vice chancellor. In the case of fixed term employment recommendations the decision of the appropriate vice chancellor is final. ~~The~~ All other personnel actions shall ~~then~~ be handled in accordance with the procedures provided in Section IV.G. Procedures for Concurring Recommendations.

#### ~~J. Procedures for Nonconcurrence of a Tenure or Promotion Recommendation by Vote of the Appropriate Faculty Committee~~

~~In the event that the vice chancellor is considering a recommendation that is contrary to the vote of the appropriate unit committee, the vice chancellor shall meet with the committee to discuss the potential nonconcurrence recommendation. If the vice chancellor concurs with the committee vote but the chancellor is considering a recommendation that is contrary to the vote, the chancellor shall meet with the committee to discuss the chancellor's potential nonconcurrence recommendation.~~

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 Appendix Y.

#### 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. However, before the expiration of the deadline 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. Within 10 working days of receiving a request for extension, decisions on requests for extension of time 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 25 working days of receiving written notice from the vice chancellor or chancellor of non-reappointment or non-conferral of permanent tenure, a faculty member (hereinafter, the complainant) may request a hearing before the Faculty Hearing Committee.

1. The Hearing Committee

The Hearing 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. Members shall be elected 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. A quorum for the committee shall be the five members or their alternates.

Upon organization, the members of the Hearing Committee shall elect a chair and a secretary. ~~The chair and the secretary of the~~ The members of the committee are to be appropriately trained in accordance with guidelines and procedures jointly established by the faculty officers and chancellor. 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. **(Faculty Senate Resolution #03-49, pending final approval)**

When the committee is convened to consider any matter associated with a complainant's request for a hearing, those committee members who hold an appointment in the complainant's academic unit, those who might reasonably expect to be called as witnesses, those who might reasonably expect to be asked to serve as advisors (see Section V.D.2, Conduct of the Hearing) to any party of the request for a hearing, or those who may have any other 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 those individuals or groups who are alleged to be responsible for the action or actions described by the complainant in the request for the hearing (hereinafter, 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. Vacancies on the committee will be filled by first moving alternates to members and by making appointments as alternates.

Upon receipt of a request for a hearing, the chair of the committee shall determine the availability of the elected members and alternates, and shall select from those available one or more alternates, as necessary. The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing.

The committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise

to the hearing, nor will advise the University administrator(s) following the committee action(s). (See *Part VIII, Responsibilities of Administrative Officers.*)

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>10</sup>

Section 604B of The Code of The University of North Carolina states: "In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, sex, religion, national origin, age, disability, or honorable service in the armed services of the United States, or (c) personal malice."

"Material procedural irregularity" means a departure from prescribed procedures governing reappointment and conferral of permanent tenure that cast reasonable doubt upon the **integrity** validity of the original decision not to reappoint or not to confer permanent tenure. Whether a material procedural irregularity 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. **(Faculty Senate Resolution #03-49, pending final approval)**

The complainant'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 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 complainant's request for a hearing shall be made to the chair of the Hearing Committee.

C. Validation of the Request for Hearing.

Validation of the complainant's request for a hearing is the first step in the hearing process. The Hearing Committee shall convene within 15 days after receipt of the complainant's request for a hearing. The committee shall notify the complainant of the meeting date by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3. 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 complainant's request for a hearing shall be limited solely to the documents and information submitted as part of the complainant's request for a hearing.

The complainant may submit additional documentation and information supporting the request for a hearing up to 72 hours prior to the committee meeting. All documentation and information submitted after the original request for a hearing must (a) support contentions set

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<sup>10</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.

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 complainant.

The Hearing Committee's review of the complainant's request for a hearing shall be limited solely to determining whether the facts alleged by the complainant, 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 604B 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.

If the request for a hearing is not validated, the complainant shall be notified by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3, within 10 calendar days of the committee meeting. Such a determination confirms the decision not to reappoint or not to confer permanent tenure. (Faculty Senate Resolution #99-4, February 1999)

The complainant may accept the decision of the Hearing Committee not to validate or appeal to the chancellor within 10 calendar days of receipt of the Hearing Committee's decision. The chancellor, within 14 days of the complainant's appeal shall decide to confirm the committee's decision or shall support the complainant's request for a hearing. (Faculty Senate Resolution #99-4, February 1999)

The complainant may accept the chancellor's confirmation of the committee's decision not to validate the request for a hearing, or the complainant may appeal to the Board of **Governors** ~~Trustees~~ within 10 calendar days following receipt of the Chancellor's decision. ~~as provided in Section 501C (4) of the Code of the University of North Carolina and the regulations of the Board of Governors implementing that provision.~~ (Faculty Senate Resolution #99-4, February 1999) **(Faculty Senate Resolution #03-49, pending final approval)**

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 complainant by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3 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

If the request for a hearing is validated, the committee shall provide a complete copy of the request for a hearing to the individuals named in the request for a hearing. The committee shall set the time, date, and place for the hearing. The date for the hearing must be within 30 working days of the notification to the complainant that the request for a hearing was validated. The committee shall then notify the complainant, the respondents, the chair of the faculty, and the chancellor, of the time, date, and place of the hearing. At least 15 working days before the hearing, the complainant shall notify the committee, the respondents, the chair of the faculty, and the chancellor of the identity of the complainant's advisor, if any, and whether or not the advisor is an attorney. ("Attorney" is defined as anyone with a Juris Doctor, or other recognized law degree, regardless of whether or not

that person is licensed to practice law in the State of North Carolina and/or whether or not that person is "representing" the employee).

2. Conduct of the Hearing

The chair of the Hearing Committee or an elected member of the committee if the chair is unavailable, is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, 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 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 faculty member (with or without administrative appointment) selected by the chancellor to represent the respondents in the conduct of the hearing, an East Carolina University attorney who shall advise the respondents and their representative but who may not take an active part in the proceedings, the chancellor, and an East Carolina University attorney representing the chancellor, who may advise the chancellor but may not take an active part in the proceedings. 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. For any hearing from which an appeal may be taken, a professional court reporter must be used to record and transcribe the hearing. (Faculty Senate Resolution #03-37, March 2004) **Any such record is a part of the personnel inquiry and must be treated with appropriate confidentiality. Only the immediate parties to the controversy, the responsible administrators and attorneys, and the members of the University governing boards and their respective committees and staff are permitted access to such materials. (Faculty Senate Resolution #03-49, pending final approval)**

The hearing shall begin with an opening statement by the committee member chairing the hearing. This statement shall be limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. The hearing 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~~ hearing chair, the complainant shall present his or her contentions and any supporting witnesses and documentary evidence. The respondent(s), through their representative, may then reply to these contentions and present any supporting witnesses and evidence. During these presentations, the complainant, and the respondent(s), through their representative, may cross-examine opposing witnesses. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, the complainant and then the respondent(s) will be given the opportunity to provide summary statements.

E. Procedures After the Hearing

After the hearing, 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. Initiation of Hearing.

Within 10 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 court reporter's transcript of the hearing. (Faculty Senate Resolution #03-37, March 2004)

If the Hearing Committee determines that the complainant's contention has not been established, it shall, by simple, unelaborated statement, so notify the complainant, the respondents, 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 complainant's contention has been satisfactorily established, it shall notify the complainant, the respondents, the chair of the faculty, and the chancellor by written notice and shall recommend further substantive review.

Within 30 working days after receiving the recommendation of the Hearing Committee, the chancellor shall notify the complainant, the respondents, 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 complainant may appeal an adverse decision to the Board of Trustees within 10 calendar days as provided in Section 501C (4) of the Code of The University of North Carolina and the Board of Governors regulations implementing that provision. (Faculty Senate Resolution #99-4, February 1999) (Faculty Senate Resolution #03-49, pending final approval)~~

**If the chancellor is considering taking action inconsistent with the committee's recommendations, the chancellor shall request that a joint meeting with the committee occur within 10 working days. At the joint meeting, the chancellor will communicate his or her concerns and the committee will have an opportunity to respond. The joint meeting must occur within the 30 working day period in the preceding paragraph. The chancellor must base his or her decision on a thorough review of (1) the record evidence from the hearing and (2) the report of the committee. While the chancellor should give deference to the advice of the faculty committee, the final campus-based decision is the chancellor's.**

**The chancellor will inform the complainant of his or her decision in writing by a method that produces adequate evidence of delivery. In the event of an adverse decision, the chancellor's notice must inform the complainant: (1) that, within 10 calendar days of the complainant's receipt of the decision, the complainant may file a notice of appeal with the president requesting review by the Board of Governors in accordance with the Board of Governors Policy 101.3.1, (2) that a simple written notice of appeal with a brief statement of its basis is all that is required within this ten-day period, and (3) that, thereafter, a detailed schedule for the submission of relevant documents will be established if such notice of appeal is received in a timely matter. (Faculty Senate Resolution #03-49, pending final approval)**

~~The exercise of the Board of Governors' jurisdiction under Section 501C (4) of the Code is refined to insure that primary emphasis remains properly focused on the campus grievance procedures. Requests for appellate review will be screened to determine whether the Board should consider the issues raised in a petitioner's request for review. The following basic standards will guide that screening process:~~

- ~~1. The Board will grant requests to review contentions that the grievance procedures followed by the campus in a particular case did not comport with University requirements that affect the credibility, reliability, and fairness of such inquiries, thereby arguably depriving the grievant of a valid opportunity to establish his or her contentions.~~

- ~~2. The Board will grant requests to review University policy issues implicated by a particular grievance, when the question appears to require intervention by the governing board to clarify the definition, interpretation, or application of such policies.~~
- ~~3. The Board will review questions about the sufficiency of the evidence to sustain the conclusion reached only if (a) the case involves a substantial interest of the grievant, e.g., tenure or reappointment and/or (b) the history of the case reveals disagreement, with respect to the sufficiency of the evidence to sustain the grievant's contentions, among the responsible decision makers, i.e., the hearing committee, the chancellor, or the board of trustees; <sup>11</sup> or the board of trustees<sup>11</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Governors. (Faculty Senate Resolution #03-49, pending final approval)~~

~~Under the foregoing prescriptions, it is necessary for prospective petitioners to evaluate their circumstances carefully, to understand the purposes of permissible appellate review, and to formulate clearly and concisely their statement of the one or more grounds on which they believe the Board should exercise its appellate jurisdiction. Thus, the first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, with staff assistance, of the grievant's written statement of grounds for appeal, to determine whether the issues sought to be raised warrant Board attention, as judged by the three basic standards.~~

## 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. 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 vice chancellor with supervisory authority or by the vice chancellor's designee to the faculty member by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3. 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.). (Faculty Senate Resolution #99-10, March 1999)

### C. Penalty Without Recourse

If, within 10 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 10 working days after the faculty member receives notice referred to in Section VI.B. above, the faculty member makes a written request to the vice chancellor with supervisory authority, ~~registered mail, return receipt requested~~ a method that provides delivery verification

<sup>7</sup>The board of trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmation of a faculty committee decision) was clearly erroneous.

and is consistent with UNC Policy 101.3.3, for a specification of reasons, the vice chancellor with supervisory authority or the vice chancellor's designee shall supply such specification in writing by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3, within 10 working days after receiving the request. A faculty member's request for a hearing is to be directed to the vice chancellor with supervisory authority in writing by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3. Upon receipt of such a request the vice chancellor with supervisory authority shall, within ten working days, notify the chair of the Due Process Committee of the need to convene a hearing in accordance with Section VI.F.1. If the faculty member makes no written request to the vice chancellor with supervisory authority for a hearing within 10 working days after receiving the specification, the faculty member may be penalized without recourse to any institutional grievance or appellate procedures. (Faculty Senate Resolution #99-10, March 1999)

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. Members shall be elected 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. A quorum for the committee shall be the five members or their alternates. Upon organization, the members of the Due Process Committee shall elect a chair and a secretary. 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 as witnesses, or those who may have any other conflict of interest should disqualify themselves from participation in the activities of the committee related to this specific request for a hearing. The faculty member and the vice chancellor with supervisory authority 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. (Faculty Senate Resolution #99-10, March 1999)

When membership of the committee falls below the specified five members and five alternates, the Faculty Senate will elect additional faculty members to the committee. Vacancies on the committee will be filled first by moving alternates to member status and by electing new alternates and/or members as needed to fill the committee roster.

Upon notification by the vice chancellor with supervisory authority or the vice chancellor's designee that a faculty member has requested a hearing, the chair of the committee shall determine the availability of the elected members and alternates, and shall select from those available one or more alternates, as necessary (see Part XI of the ECU Faculty Manual, UNC Code, Section 603). The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. (Faculty Senate Resolution #99-10, March 1999)

The committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise to the hearing, nor will advise the University administrator(s) following the committee action(s). (See

F. Procedures for the Hearing

1. Time and Date of Hearing

The Due Process Committee shall set the time, date, and place for the hearing. The date for the hearing must be within 30 working days of the time the committee receives the vice chancellor with supervisory authority's notification of the faculty member's written request for a hearing. The committee shall notify the affected faculty member, the vice chancellor with supervisory authority, and the chair of the faculty of the time, date, and place of the hearing. The committee may, upon the faculty member's written request and for good cause, postpone the date of the hearing by written notice to the faculty member.

2. Conduct of Hearing

The hearing shall be on the written specification of reasons for the intended penalty. The chair of the Due Process Committee, or an elected member of the committee if the chair is unavailable, is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, 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, counsel for the faculty member, the vice chancellor with supervisory authority, and counsel for the vice 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. For any hearing from which an appeal may be taken, a professional court reporter must be used to record and transcribe the hearing. (Faculty Senate Resolution #03-37, March 2004)

The hearing shall begin with an opening statement by the hearing 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 hearing ~~committee~~ chair, the vice chancellor with supervisory authority or his/her counsel shall present the university's contentions and any supporting witnesses and documentary evidence. The faculty member or the faculty member's counsel may then reply and present any supporting witnesses and documentary evidence. During these presentations, the vice chancellor with supervisory authority or his or her counsel, and the faculty member or his or her counsel, may cross-examine opposing witnesses. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member and then the vice chancellor with supervisory authority will be given the opportunity to provide summary statements. (Faculty Senate Resolution #99-10, March 1999)

G. Procedures After the Hearing

After the hearing, 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.

Within 10 working days of finishing its deliberations the committee shall provide the faculty member and the chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing. In its report the committee shall state whether or not it recommends that the intended penalty be imposed.

(Faculty Senate Resolution #03-37, March 2004)

In reaching a decision, the chancellor shall consider only the written transcript of the hearing and the report of the Due Process Committee. Within 30 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~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3.

#### H. 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 45 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 days after receiving the trustees' decision, file a written petition for review with the Board of Governors if he or she alleges that one or more specified provisions of the Code of The University of North Carolina have been violated. Any such petition to the Board of Governors shall be transmitted through the President, and the Board shall, within 45 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 45 working days after it notifies the faculty member by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3, that it will review the petition.

The exercise of the Board of Governors' jurisdiction ~~under Section 501C(4) of the Code~~ is refined to insure that primary emphasis remains properly focused on the campus grievance procedures. Requests for appellate review will be screened to determine whether the Board should consider the issues raised in a petitioner's request for review. The following basic standards will guide that screening process:

1. The Board will grant requests to review contentions that the grievance procedures followed by the campus in a particular case did not comport with University requirements that affect the credibility, reliability, and fairness of such inquiries, thereby arguably depriving the grievant of a valid opportunity to establish his or her contentions.
2. The Board will grant requests to review University policy issues implicated by a particular grievance, when the question appears to require intervention by the governing board to clarify the definition, interpretation, or application of such policies.
3. The Board will review questions about the sufficiency of the evidence to sustain the conclusion reached only if (a) the case involves a substantial interest of the grievant, e.g., tenure or reappointment and/or (b) the history of the case reveals disagreement, with respect to the sufficiency of the evidence to sustain the grievant's contentions, among the responsible decision makers, i.e., the due process committee, the chancellor, or the board

of trustees<sup>12</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Governors.

Under the foregoing prescriptions, it is necessary for prospective petitioners to evaluate their circumstances carefully, to understand the purposes of permissible appellate review, and to formulate clearly and concisely their statement of the one or more grounds on which they believe the Board should exercise its appellate jurisdiction. Thus, the first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, with staff assistance, of the grievant's written statement of grounds for appeal, to determine whether the issues sought to be raised warrant Board attention, as judged by the three basic standards.

I. 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

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<sup>12</sup>The board of trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmation of a faculty committee decision) was clearly erroneous.

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 Committee on Committees 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 appointment. 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 its 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 Procedures

##### 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.

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~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3. 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; 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, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3 to the address last furnished to the chancellor's office, 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 10 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 10 working days after receiving the notice required by Section VII.B.3, the faculty member may request by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3 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. Upon receipt of such a request the chancellor shall, within 10 working days, notify the chair of the Reconsideration Committee of the need to convene a hearing in accordance with Section VII.B.7.
  6. The Reconsideration Committee  
The Reconsideration 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. Members shall be elected 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. A quorum for the committee shall be the five members or their alternates.

Upon organization, the members of the Reconsideration Committee shall elect a chair and a secretary. Should any committee officer be absent at the beginning of a hearing, the committee shall elect an alternate officer for 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 as witnesses, who participated directly in the decision to terminate the faculty member's

employment, or those who may have any other conflict of interest should disqualify themselves from participation in the activities of the committee related to this specific request for a hearing. The faculty member and the chancellor or the chancellor's representative 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. Vacancies on the committee will be filled by first moving alternates to members and by making appointments as alternates.

Upon receipt of a request for a hearing, the chair of the committee shall determine the availability of the elected members and alternates, and shall select from those available one or more alternates, as necessary. The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. The committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise to the hearing, nor will advise the University administrator(s) following the committee action(s). (See *Part VIII, Responsibilities of Administrative Officers.*)

#### 7. Procedures for the Hearing

##### a. Time and Date of Hearing

The Reconsideration Committee shall set the time, date, and place for the hearing. The date for the hearing must be within 30 working days of the time the committee receives the chancellor's notification of the faculty member's written request for a hearing. The committee shall notify the affected faculty member, the chancellor, and the chair of the faculty of the time, date, and place of the hearing. The committee may, upon the faculty member's written request and for good cause, postpone the date of the hearing by written notice to the faculty member.

##### b. Conduct of Hearing

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 chair of the Reconsideration Committee is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, 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, 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. For any hearing from which an appeal may be taken, a professional court reporter must be used to record and transcribe the hearing. (Faculty Senate Resolution #03-37, March 2004)

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 any supporting witnesses and documentary evidence. The chancellor or the chancellor's counsel may then reply and present any 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 question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member and then the chancellor or the chancellor's counsel will be given the opportunity to provide summary statements.

#### 8. Procedures After the Hearing

After the hearing, 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.

Within 10 working days of finishing its deliberations the committee shall provide the faculty member and the chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing. (Faculty Senate Resolution #03-37, March 2004)

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 to the chancellor within 10 calendar days following receipt of the committee's decision. ~~as provided in Section 501C (4) of the Code of the University of North Carolina and Board of Governors regulations implementing that provision.~~ (Faculty Senate Resolution #99-4, February 1999)

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 30 working days after receiving the recommendation, the chancellor shall send written notice to the faculty member by ~~registered mail, return receipt requested~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3, 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~~ a method that provides delivery verification and is consistent with UNC Policy 101.3.3, with copies to the chair of the faculty, and the chair of the Reconsideration Committee. The faculty member may appeal the termination to the Board of Trustees within 10 calendar days following receipt of the chancellor's decision. ~~as provided in Section 501C (4) of the Code of the University of North Carolina and Board of Governors regulations implementing that provision.~~ (Faculty Senate Resolution #99-4, February 1999)

The exercise of the Board of Governors' jurisdiction ~~under Section 501C(4) of the Code~~ is refined to insure that primary emphasis remains properly focused on the campus grievance procedures. Requests for appellate review will be screened to determine whether the

Board should consider the issues raised in a petitioner's request for review. The following basic standards will guide that screening process:

- a. The Board will grant requests to review contentions that the grievance procedures followed by the campus in a particular case did not comport with University requirements that affect the credibility, reliability, and fairness of such inquiries, thereby arguably depriving the grievant of a valid opportunity to establish his or her contentions.
- b. The Board will grant requests to review University policy issues implicated by a particular grievance, when the question appears to require intervention by the governing board to clarify the definition, interpretation, or application of such policies.
- c. The Board will review questions about the sufficiency of the evidence to sustain the conclusion reached only if (a) the case involves a substantial interest of the grievant, e.g., tenure or reappointment and/or (b) the history of the case reveals disagreement, with respect to the sufficiency of the evidence to sustain the grievant's contentions, among the responsible decision makers, i.e., the reconsideration committee, the chancellor, or the board of trustees<sup>13</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Governors.

Under the foregoing prescriptions, it is necessary for prospective petitioners to evaluate their circumstances carefully, to understand the purposes of permissible appellate review, and to formulate clearly and concisely their statement of the one or more grounds on which they believe the Board should exercise its appellate jurisdiction. Thus, the first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, with staff assistance, of the grievant's written statement of grounds for appeal, to determine whether the issues sought to be raised warrant Board attention, as judged by the three basic standards.

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. Effective Date

- A. These policies and regulations supersede all other institutional documents governing the matters covered herein.
- B. Except as otherwise provided below, all provisions of these policies and regulations shall become operative on the date they are approved by the President and the Board of Governors of the University of North Carolina.

These regulations as amended shall apply only to those appeals following nonreappointments and nonconferrals of tenure in which the original decision not to reappoint or not to confer permanent tenure was made after the effective date of these regulations. Regulations applicable to appeals following nonreappointment or nonconferral of tenure in which the original decision not to reappoint or not to grant permanent tenure was made prior to the effective date of these regulations are those rules in effect at the time that the original decision was made.

- ~~1. Sections II C(1) entitled "Probationary Terms" and II C(2) entitled "Reduction of the Normal Probationary Term for Previous Academic Employment" shall apply only with respect to those persons employed after the effective date of these regulations. These sections shall not modify the terms of employment for persons holding current untenured appointments made under previous forms of these regulations.~~

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<sup>13</sup>The board of trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmation of a faculty committee decision) was clearly erroneous.

Approved: Faculty Senate Resolution #94-18  
September 14, 1995  
UNC Board of Governors

Amended: Faculty Senate Resolution #99-4 (Sections V.C., V.E., VII.B.8) February 1999  
Faculty Senate Resolution #99-10 (Section VI. B., D., E., F) March 1999  
Faculty Senate Resolution #01-19 (Section IV.F) August 2001  
Faculty Senate Resolution #02-05 (Section II.E) October 2002  
Faculty Senate Resolution #03-30 (Section IV) April 2003  
Faculty Senate Resolution #03-37 (Sections II.A.3, D.2, V.E, VI.F.2, VI.G, VII.B.7.b, VII.8) March 2004  
Faculty Senate Resolution #03-44 (Section I) March 2004  
Faculty Senate Resolution #03-49 (Section V) *pending final approval*

Editorial Revisions:

Faculty Senate Resolution #95-13 (throughout the document) February 1996  
(Sections II.A.3, IV.G.2, VI.E., VIII.) August 1997

Interpretations:

Interpretation I96-4 and I96-5 (Section II.C) 3-96  
Interpretation I97-7 and I97-8 (Section IV.A.1., IV.A.2., and IV.A.3) 10-97  
Interpretation I99-11 (Section IV.G) Faculty Senate Resolution #99-9,3-99  
Interpretation I99-12 (Section IV.I) Faculty Senate Resolution #99-28, 12-99  
Interpretation I00-14 (Section IV) Faculty Senate Resolution #00-21, 4-00  
Interpretation I00-15 (Section IV.E) Faculty Senate Resolution #00-31, 11-00  
Interpretation I01-16 (Section IV.A.3) Faculty Senate Resolution #01-11, 2-01  
Interpretation I03-18 (Section IV.A.3) Faculty Senate Resolution #03-33, 4-03

(According to UNC Code 602(1) final approval involves the Faculty Senate, Chancellor, Senior Vice President for Academic Affairs/General Counsel, and President of UNC System.)

**CALENDAR COMMITTEE REPORT**  
**Proposed Summer 2007 – Spring 2008 University Calendar**

The Spring 2008 calendar springs forward to start classes on January 11; this catches in the days the calendar had been backing up the past several years.

**Summer Session 2007**  
**First Term**

(Actual days First Term: 4 Mondays, 6 Tuesdays, 5 Wednesdays, 5 Thursdays, 5 Fridays, 1 day for registration, 1 day for final examinations.)

March 15, Thursday	Last day to apply for admission to Graduate School for first summer term.
May 11, Friday	Schedules canceled for all who have not paid fees by 4:00 pm.
May 14, Monday	New student registration; schedule changes.
May 15, Tuesday	Classes begin; late registration; schedule changes.
May 16, Wednesday	Last day for late registration and schedule changes (drop and add) for first term by 5:00 pm.
May 17, Thursday	Last day for schedule changes (add only) by 5:00 pm.
May 28, Monday	Memorial Day Break (no classes).
May 29, Tuesday	Last day for undergraduate students to drop term-length courses or withdraw from school without grades by 5:00 pm. Block courses may be dropped only during the first 40% of their regularly scheduled class meetings.
June 13, Wednesday	Last day for graduate students to drop courses without grades.
June 19, Tuesday	Classes end. Last day for submission of grade replacement requests
June 20, Wednesday	Final examinations.

**Second Term**

(Actual days Second Term: 5 Mondays, 5 Tuesdays, 4 Wednesdays, 6 Thursdays, 5 Fridays, 1 day for new student registration, 1 day for final examinations.)

May 1, Tuesday	Last day to apply for admission to Graduate School for second summer term.
June 18, Monday	Schedules canceled for all who have not paid fees by 4:00 pm.
June 20, Wednesday	New student registration; schedule changes.
June 21, Thursday	Classes begin; late registration; schedule changes.
June 22, Friday	Last day for late registration and schedule changes (drop and add) for second term by 5:00 pm.
June 25, Monday	Last day for schedule changes (add only) by 5:00 pm.
July 4, Wednesday	State holiday (no classes).
July 5, Thursday	Last day for undergraduate students to drop term-length courses or withdraw from school without grades by 5:00 pm. Block courses may be dropped only during the first 40% of their regularly scheduled class meetings.
July 16, Monday	Last day to submit thesis to Graduate School for completion of degree in the summer session.

July 20, Friday	Last day for graduate students to drop courses without grades.
July 26, Thursday	Classes end. Last day for submission of grade replacement requests
July 27, Friday	Final examinations; last day to submit appeals for readmission for Fall semester.

### 11-Week Summer Session

(Actual class days: 9 Mondays, 11 Tuesdays, 9 Wednesdays, 11 Thursdays, 10 Fridays, 1 day for Final Exams.)

March 15, Thursday	Last day to apply for admission to Graduate School for summer term
May 11, Friday	Schedules canceled for all who have not paid fees by 4:00 pm.
May 14, Monday	Registration and schedule changes
May 15, Tuesday	Classes begin; late registration; schedule changes
May 16, Wednesday	Last day for late registration and schedule changes (drop and add) by 5:00 pm.
May 17, Thursday	Last day for schedule changes (add only) by 5:00 pm.
May 28, Monday	Memorial Day Break (no classes)
June 12, Tuesday	Last day for undergraduate students to drop term-length courses or withdraw from school without grades by 5:00 pm. Block courses may be dropped only during the first 40% of their regularly scheduled class meetings.
June 20, Wednesday	Midsummer Break (no classes)
July 4, Wednesday	State Holiday (no classes)
July 16, Monday	Last day to submit thesis to Graduate School for completion of degree in the summer session
July 20, Friday	Last day for graduate students to drop courses without grades
July 26, Thursday	Classes end. Last day for submission of grade replacement requests.
July 27, Friday	Final examinations; last day to submit appeals for readmission for Fall semester.

### Fall Semester 2007

(Actual class days: 13 Mondays, 14 Tuesdays, 15 Wednesdays, 14 Thursdays, 14 Fridays, 13 Saturdays. Effective class days: 14 Mondays, 14 Tuesdays, 14 Wednesdays, 14 Thursdays, 14 Fridays, 13 Saturdays)

June 1, Friday	Last day to apply for admission to Graduate School for the Fall semester.
July 27, Friday	Last day to submit appeals for readmission for Fall semester.
August 10, Friday	Fall semester fees accepted with late processing fee.
August 10, Friday	Last day to apply as an undergraduate transfer student for the Fall term.
August 15, Wednesday	Schedules canceled for all who have not paid fees by 4:00 pm.
August 20, Monday	Faculty meetings.
August 21, Tuesday	Advising, registration, and schedule adjustments.
August 22, Wednesday	Classes begin; late registration; schedule changes.
August 28, Tuesday	Last day for late registration and schedule changes (drop and add) by 5:00 pm.
August 29, Wednesday	Last day for schedule changes (add only) by 5:00 pm.
September 3, Monday	Labor Day holiday (no classes).
September 5, Wednesday	Last day to apply for graduation in December.
September 28, Friday	Last day for undergraduate students to drop term-length courses or withdraw from school without grades by 5:00 pm. Block courses may be dropped only during the first 40% of their regularly scheduled class meetings.
October 13-16 Saturday-Tuesday	Fall Break.
October 17, Wednesday	8:00 am - Classes resume.
October 17, Wednesday	State holiday makeup day (classes which would have met on Monday, September 3, will meet on this day so there will effectively be the same number of Mondays and Wednesdays as every other weekday during the semester; Wednesday classes will not meet.)
October 29 - November 2 Monday-Friday	Advising for Spring Semester 2008.
November 5, Monday	Registration for Spring Semester 2008 begins.
November 14, Wednesday	Undergraduate students last day to remove incompletes given during Spring and/or Summer session 2007.
November 21-25 Wednesday-Sunday	Thanksgiving break.
November 26, Monday	8:00 am - Classes resume. Last day for graduate students to drop courses without grades.
November 27, Tuesday	Last day to submit thesis to the Graduate School for completion of degree in this term.
December 5, Wednesday	Graduate students last day to remove incompletes given during Fall 2006.
December 5, Wednesday	Classes end. Last day for submission of grade replacement requests.
December 6, Thursday	Reading day.
December 7, Friday	Final Examinations begin.
December 14, Friday	Exams for Fall semester close at 4:30 pm; last day to submit appeals for readmission for Spring semester.
December 15, Saturday	Commencement.

## EXAMINATION SCHEDULE FALL SEMESTER 2007

There will be no departure from the printed schedule, except as noted below: All examinations for one credit hour classes will be held during the last regular meeting of the class. Classes meeting more than three times a week will follow the examination schedule for MWF classes. The final exam meeting is required in order to satisfy the 750 contact minutes per credit hour required by the University of North Carolina Office of the President.

Classes beginning 6:00 pm or later are considered night classes. Examinations in classes meeting one night a week will be held at 7:30-10:00 pm on the first night of their usual meeting during the examination period (December 7-December 14). Examinations in classes meeting two or more nights a week and beginning before 8:00 pm will be held at 7:30-10:00 pm on the first night of their usual meeting during the examination period (December 7- December 14). Examinations in classes meeting two or more nights a week and beginning at or after 8:00 pm will be held at 7:30-10:00 pm on the second night of their usual meeting during the examination period (December 7- December 14). Classes meeting on Saturday morning will have the final examination on Saturday, December 8, at the usual hour at which the class meets.

Classes beginning on the half hour or meeting longer than one hour will have their final examination at the time determined by the hour during which the class begins (e.g., a 9:30-11:00 am, TTh class will meet the examination schedule of the 9:00 am TTh class; an 8:00-10:00 am MWF class will meet the examination schedule of the 8:00 am MWF class)

Common examinations will be held according to the following schedule:

MATH 1065	5:00 - 7:30 Friday, December 7
CHEM 0150, 1120, 1130, 1150, 1160	5:00 - 7:30 Monday, December 10
CHEM 1121, 1131, 1151, 1161, 2753, 2763	5:00 - 7:30 Tuesday, December 11
FREN 1001, 1003, SPAN 1001, 1004, GERM 1001	5:00 - 7:30 Wednesday, December 12
FREN 1002, SPAN 1002, 1003, GERM 1002	5:00 - 7:30 Thursday, December 13

Times class regularly meets	Time and day of examination
8:00 MWF	8:00 - 10:30 Monday, December 10
8:00 TTh	8:00 - 10:30 Thursday, December 13
9:00 MWF	8:00 - 10:30 Wednesday, December 12
9:00 TTh (9:30)	8:00 - 10:30 Friday, December 14
10:00 MWF	8:00 - 10:30 Friday, December 7
10:00 TTh	8:00 - 10:30 Tuesday, December 11
11:00 MWF	11:00 - 1:30 Monday, December 10
11:00 TTh	11:00 - 1:30 Tuesday, December 11
12:00 MWF	11:00 - 1:30 Wednesday, December 12
12:00 TTh (12:30)	11:00 - 1:30 Friday, December 14
1:00 MWF	11:00 - 1:30 Friday, December 7
1:00 TTh	11:00 - 1:30 Thursday, December 13
2:00 MWF	2:00 - 4:30 Monday, December 10
2:00 TTh	2:00 - 4:30 Thursday, December 13
3:00 MWF (3:30)	2:00 - 4:30 Wednesday, December 12
3:00 TTh (3:30)	2:00 - 4:30 Tuesday, December 11
4:00 MWF	2:00 - 4:30 Friday, December 7
4:00 TTh	2:00 - 4:30 Friday, December 14
5:00 MWF	5:00 - 7:30 Monday, December 10
5:00 TTh	5:00 - 7:30 Tuesday, December 11

### Spring Semester 2008

(Actual class days: 14 Mondays, 14 Tuesdays, 14 Wednesdays, 14 Thursdays, 14 Fridays, 14 Saturdays. Effective class days: 14 Mondays, 14 Tuesdays, 14 Wednesdays, 14 Thursdays, 14 Fridays, 14 Saturdays.)

October 15, Monday	Last day to apply for admission to Graduate School for the Spring semester.
November 30, Friday	Last day to apply as an undergraduate transfer student for the Spring term.
December 14, Friday	Last day to submit appeals for readmission for Spring semester.
January 3, Thursday	Spring semester fees accepted with late processing fee.
January 4, Friday	Class schedules canceled for all who have not paid fees by 4:00 pm.
January 10, Thursday	Advising and schedule adjustments.
January 11, Friday	Classes begin; late registration; schedule changes.
January 17, Thursday	Last day for late registration and schedule changes (drop and add) by 5:00 pm.
January 18, Friday	Last day for schedule changes (add only) by 5:00 pm.
January 21, Monday	State holiday (no classes).
January 25, Friday	Last day to apply for graduation in May.
February 20, Wednesday	Last day for undergraduate students to drop term-length courses or withdraw from school without grades by 5:00 pm. Block courses may be dropped only during the first 40 percent of their regularly scheduled class meetings.
March 9-16 Sunday – Sunday	Spring Break.
March 17, Monday	8:00 am - Classes resume.
March 17-20 Monday-Thursday	Advising for Summer session and Fall semester 2008.
March 21-22 Friday-Saturday	State holiday (no classes).
March 24-28 Monday-Friday	Founders week.
March 31, Monday	Registration for Summer session and Fall semester 2008 begins.
April 7, Monday	Undergraduate students last day to remove incompletes given during Fall semester 2007.
April 17, Thursday	Last day for graduate students to drop courses without grades.
April 18, Friday	Last day to submit thesis to the Graduate School for completion of degree in this term.
April 28, Monday	Graduate students last day to remove incompletes given during Spring and/or Summer session 2007.
April 28, Monday	Classes end. Last day for submission of grade replacement requests.
April 29-30 Tuesday-Wednesday	Reading days.
May 1, Thursday	Final examinations begin.
May 8, Thursday	Exams for Spring semester close at 4:30 pm.
May 10, Saturday	Commencement.

## EXAMINATION SCHEDULE SPRING SEMESTER 2008

There will be no departure from the printed schedule, except as noted below: All examinations for one credit hour classes will be held during the last regular meeting of the class. Classes meeting more than three times a week will follow the examination schedule for MWF classes. The final exam meeting is required in order to satisfy the 750 contact minutes per credit hour required by the University of North Carolina Office of the President.

Classes beginning 6:00 pm or later are considered night classes. Examinations in classes meeting one night a week will be held at 7:30-10:00 pm on the first night of their usual meeting during the examination period (May 1-May 8). Examinations in classes meeting two or more nights a week and beginning before 8:00 pm will be held at 7:30-10:00 pm on the first night of their usual meeting during the examination period (May 1-May 8). Examinations in classes meeting two or more nights a week and beginning at or after 8:00 pm will be held at 7:30-9:30 pm on the second night of their usual meeting during the examination period (May 1-May 8). Classes meeting on Saturday morning will have the final examination on Saturday, May 3, at the usual hour at which the class meets.

Classes beginning on the half hour or meeting longer than one hour will have their final examination at the time determined by the hour during which the class begins (e.g., a 9:30-11:00 am, TTh class will meet the examination schedule of the 9:00 am TTh class; an 8:00-10:00 am MWF class will meet the examination schedule of the 8:00 am MWF class)

Common examinations will be held according to the following schedule:

CHEM 0150, 1120, 1130, 1150, 1160	5:00 - 7:30 Thursday, May 1
CHEM 1121, 1131, 1151, 1161, 2753, 2763	5:00 - 7:30 Friday, May 2
FREN 1001, 1003, SPAN 1001, 1004, GERM 1001	5:00 - 7:30 Monday, May 5
FREN 1002, SPAN 1002, 1003, GERM 1002	5:00 - 7:30 Tuesday, May 6
MATH 1065	5:00 - 7:30 Wednesday, May 7

Times class regularly meets	Time and day of examination
8:00 MWF	8:00 - 10:30 Friday, May 2
8:00 TTh	8:00 - 10:30 Thursday, May 1
9:00 MWF	8:00 - 10:30 Monday, May 5
9:00 TTh (9:30)	8:00 - 10:30 Tuesday, May 6
10:00 MWF	8:00 - 10:30 Wednesday, May 7
10:00 TTh	8:00 - 10:30 Thursday, May 8
11:00 MWF	11:00 - 1:30 Friday, May 2
11:00 TTh	11:00 - 1:30 Thursday, May 8
12:00 MWF	11:00 - 1:30 Monday, May 5
12:00 TTh (12:30)	11:00 - 1:30 Tuesday, May 6
1:00 MWF	11:00 - 1:30 Wednesday, May 7
1:00 TTh	11:00 - 1:30 Thursday, May 1
2:00 MWF	2:00 - 4:30 Friday, May 2
2:00 TTh	2:00 - 4:30 Thursday, May 1
3:00 MWF (3:30)	2:00 - 4:30 Monday, May 5
3:00 TTh (3:30)	2:00 - 4:30 Thursday, May 8
4:00 MWF	2:00 - 4:30 Wednesday, May 7
4:00 TTh	2:00 - 4:30 Tuesday, May 6
5:00 MWF	5:00 - 7:30 Monday, May 5
5:00 TTh	5:00 - 7:30 Thursday, May 1

**CALENDAR COMMITTEE REPORT**  
**Proposed Policy for Making Up Missed Class Days**

**Explanation**

In recent years, classes have been canceled because of hurricanes in the Fall and winter storms in December and the Spring. The current ECU calendar is at the minimum contact minutes mandated by the UNC General Administration (minimum of 750 minutes per semester hour). Any lost time puts us below that minimum. Lost days can cause schedule problems in courses with common exams (e.g., MATH 1065), courses that meet one day per week (labs and night classes), and courses with tight syllabi (already under pressure from reducing classes from 15 weeks to 14 weeks of teaching and courses that are prerequisites to other courses and expect the syllabi in the earlier course to be covered).

We were charged with developing a policy for making up missed class days for several reasons. Without an extant policy, some faculty make adjustments for missed time on their own (e.g., extending class time). A policy would also allow the decisions of when and how to make up missed time more streamlined and not require action by both the Calendar committee and the Faculty Senate (Pitt Community College immediately decided to use their Fall Break to make up classes after Hurricane Isabel while ECU spent a much longer time for its decision making process). We appreciate that asking faculty and students to make up missed time is disruptive to plans faculty and students have already made, but making up missed time is done only because something unusual and harmful has occurred in the local area (classes are not canceled because the weather was too beautiful). Events that cause classes to be canceled usually cause major disruptions to members of the ECU community and there are times when classes need to be canceled. Having a policy in place will determine "what days will be made up" and "what days will be used to make up the missed days".

The first decision is what situations should cause missed time to be made up. PCC must make up any missed time (even if only a few hours during a day are lost) and Pitt County Schools must make up days if they lose more than half a day. The committee decided to recommend making up only days that are completely lost (so days that start late or end early as tends to happen with winter storms would not be made up). The committee feels that making up entire missed days meets the spirit of the General Administration requirement. Partially missed days will not be made up but may be handled by individual faculty.

The next decision was what days to use to make up missed days when the days are to be made up. The first choice for both semesters is Reading Days (Spring currently has two Reading Days which makes this easier). After using Reading Days, the choices are Fall Break (working toward the weekend) and the Wednesday before Thanksgiving and Good Friday. If additional days are needed or days are missed during the summer, the Executive Council and Calendar Committee should decide which days to use. Saturdays were not a first choice because of possible faculty and student conflicts with meeting on Saturday and religious considerations, but in an emergency Saturdays may be one of the few options left.

The committee thought it best to allow faculty flexibility in how to make up the time when it is to be made up. Faculty may choose to make up the lost time by meeting their classes on the designated make up day(s) but they should not be limited to only that option. The committee considered alternative approaches such as, use of the Internet, web exercises, other computer based activity, viewing films or videos, individual conferences, field trips, attending presentations on or off campus (e.g., colloquia, visiting speakers). The decision to use the alternative approaches would be made by faculty following any unit policies that are in place.

## Proposed Policy for Making Up Missed Class Days

Partial missed days should not be made up.

Entire missed days should be made up (in keeping with the 750 minutes per credit hour requirement set by the UNC General Administration)

### Designated make-up days

#### Fall Semester

Make-up days should be used in the following order:

Reading Days at the end of the semester

Tuesday of Fall Break

Monday of Fall Break

Wednesday before Thanksgiving

#### Spring Semester

Make-up days should be used in the following order:

Reading Days at the end of the semester

Good Friday

#### General Guidelines for all Semesters

If additional make-up days are needed, the Executive Council in conjunction with the Calendar Committee will decide how to make them up.

#### Suggestions on how to make up missed time

- By meeting at the usual class time on the designated make-up days (avoid giving tests on these days) or
- By some activity relevant to the class (outside the usual class time, but not necessarily on the designated make-up days, as decided by the instructor following whatever procedures have been adopted by the unit).

**FACULTY GOVERNANCE COMMITTEE REPORT**

**Proposed revisions to the *ECU Faculty Manual*, Part VII. Research Information, Section II.  
Patent Procedures of East Carolina University**

The Faculty Governance Committee proposes the following new text for Part VII., Section II. The current text is noted at the end of this report.

**Proposed New Text**

**"II. Patent Procedures of East Carolina University**

**A. General**

1. As defined by the patent and copyright policies of the Board of Governors, to which these procedures are expressly subject, East Carolina University has an interest in all inventions of University personnel (Disclosing Party) that are conceived or first actually reduced to practice as a part of or as a result of University research, activities within the scope of the Disclosing Party's employment by the University, or activities involving the use of University time, facilities, staff, materials, University information not available to the public, or funds administered by the University.
2. The University may also have an interest in inventions under the terms of contracts, grants, or other agreements. Faculty, staff, and students whose inventions are made on their own time and without University facilities, materials, or resources and which inventions are, therefore, their exclusive property as specified by the patent and copyright policies may avail themselves of the opportunity to submit the invention to the University for consideration of possible patenting and/or commercial exploitation and management under terms to be agreed between the Disclosing Party and the University.
3. The provisions of the patent procedures are subject to any applicable laws, regulations, or specific provisions of the grants or contracts, which govern the rights in inventions made in connection with sponsored research.
4. Under the terms of certain contracts and agreements between the University and various agencies of government, private and public corporations, and private interests, the University is or may be required to assign or license all patent rights to the contracting party. The University retains the right to enter into such agreements whenever such action is considered to be in the best interest of the University or the public. Ordinarily the University will not agree to assign rights in future inventions to private corporations or businesses.

**B. Responsibilities of University Personnel**

1. University personnel who, either alone or in association with others, make and/or conceive an invention within the scope of their University employment, in which the University has or may have an interest, shall disclose such inventions in a timely manner on forms provided for this purpose by the Office of Technology Transfer <http://www.research2.ecu.edu/ott/inventors/inventors1default.htm>. The Office of Technology Transfer will promptly acknowledge its receipt of completed disclosure forms and will distribute such forms as soon as practicable to the University Patent/Intellectual Property Committee (Committee) for consideration. The Committee will strive to preserve the right to timely publication by faculty.

The Committee will review each written disclosure promptly. The Disclosing Party or his or her representative shall be allowed to examine all written materials submitted to the Committee in connection with his or her disclosure and to make a written and, where practical, oral presentation to the Committee. The Committee will decide on the proper disposition of the invention to secure the interest of the University, the Disclosing Party, the sponsor, if any, and the public. The Committee's decision may include, but is not limited to, one or a combination of the following:

- a. to submit the disclosure for review by a patent or invention management firm;
- b. to make inquiries of potential licensees that may have an interest in the invention, including the financing of a patent application, where applicable;
- c. to study the practicality of applying for a patent with available University resources;
- d. in proper cases, to release its rights to the Disclosing Party subject to an agreement to protect the interests of the University, the sponsor if any, and the public, including an obligation to pay to the University a percentage of future royalties; and
- e. to dedicate the invention to the public.

The Committee will strive to review and consider the merits of each disclosure as soon as practicable given the circumstances surrounding the disclosure, but not longer than within three months from the time of disclosure to the University. The Disclosing Party will be notified in writing of the decision of the Committee on (1) the equities involved including financial participation, (2) whether the University plans to file a patent application, or (3) whether the University will accept assignment of the invention for patenting, licensing and/or commercial handling as applicable. If the University chooses neither to file a patent application or otherwise make available commercially nor to dedicate to the public an invention in which it asserts its rights, the invention, at the Committee's discretion, may be released in writing to the Disclosing Party, with the permission of the sponsor, if any. If, after the University has filed a patent application, it decides to abandon the patent, the Disclosing Party will be promptly notified in writing, and all rights at the Committee's discretion may be released by written agreement to the Disclosing Party, with the permission of the sponsor, if any.

In those cases in which the University has obtained a patent without obligation to sponsors and, if no arrangement has been made for commercial development within a reasonable period from the date of the issuance of the patent, the Disclosing Party may request in writing a release of the University's patent rights. The Committee will promptly either grant the request or will advise the Disclosing Party of the University's plans for the development of the invention.

As to any invention in which the University has an interest, the Disclosing Party, upon request, shall execute promptly all contracts, assignments, waivers, or other legal documents necessary to vest in the University or its assignees any or all rights to the invention, including complete assignment of any patents or patent applications relating to the invention.

2. University personnel may not :
  - a. sign patent agreements with outside persons or organizations which may abrogate the University's rights and interests as stated in the patent policy or as provided in any grant or contract funding the invention or
  - b. without prior authorization use the name of the University or any of its units in connection with any invention in which the University has an interest.

#### C. Publication and Public Use

The University strongly encourages scholarly publication of the results of faculty and student

research. Though the patent and copyright policies do not limit the right to publish, except for short periods of time necessary to protect patent rights, publication or public use of an invention constitutes a statutory bar to the granting of a United States patent for the invention unless a patent application is filed within one year of the date of first publication or public use. Publication or public use also can be an immediate bar to patent ability in many foreign countries.

In order to preserve rights in unpatented inventions, it shall be the duty of the Disclosing Party, or of his or her supervisor, if the Disclosing Party is not available to report immediately to the Office of Technology Transfer any publication, submission of manuscript for publication, sale, public use, or plans for sale or public use, of an invention. All disclosures of a University invention or unpublished research data supporting an invention to non-University individuals or organizations shall be preceded first by execution of a confidentiality agreement and/or materials transfer agreement through the Office of Technology Transfer. In all instances a written record shall be maintained containing the date and extent a disclosure was made, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

After disclosure to the Committee, the Disclosing Party shall promptly notify the Office of Technology Transfer of the acceptance for publication of any manuscript describing the invention or of any sale or public use made or planned by the Disclosing Party.

#### D. Requests for Waiver of University Rights by the Disclosing Party

If the Disclosing Party believes that the invention was made outside the general scope of his or her University duties and does not choose to assign the rights of the invention to the University, the Disclosing Party shall, in the invention disclosure, request that the Committee determine the respective rights of the University and the Disclosing Party in the invention and shall also include in the disclosure information on the following points:

1. the circumstances under which the invention was made and developed;
2. the employee's official duties at the time of the making of the invention;
3. whether he or she requests waiver or release of any University claims or acknowledgment that the University has no claim;
4. whether he or she wishes a patent application to be prosecuted by the University, if it should be determined that an assignment of the invention to the University is not required under the patent and copyright policies; and
5. the extent to which he or she would be willing voluntarily to assign domestic and foreign rights in the invention to the University if it should be determined that an assignment of the invention to the University is not required under the patent and copyright policies.

#### E. Revenue Sharing

1. The University shall share revenue, which it receives from patents or inventions with the Disclosing Party. As noted in the section above, specific provisions of grants or contracts may govern rights and revenue distribution regarding inventions made in connection with sponsored research; consequently, revenues the University receives from such inventions may be exclusive of payments of revenue to sponsors or contractors. Moreover, the University may contract with outside persons or organizations for the obtaining, managing, and defending of patents, and any revenue contractually committed to such persons or organizations may be deducted before revenues accrue to the University, unless a license agreement otherwise specifies reimbursement of such expenses by the licensee.
2. The Office of Technology Transfer shall strive to require the licensee to pay for all past, present, and future patent expenses, in addition to negotiate fees and/or royalties for each invention. All remaining revenues after payment of these expenses (net income) (per the preceding paragraph) shall be distributed to the disclosing party in a manner consistent

with the University License Income Distribution Policy, which can be found at <http://www.research2.ecu.edu/ott/inventors/incomedistrib.htm> but in an amount no less than a distribution of 50 percent of the first \$100,000 net and 25 percent net thereafter. Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the Disclosing Party. In no event shall the share payable to the Disclosing Party in the aggregate by the University be less than 15 percent of gross revenues received by the University.

3. To the extent practicable and consistent with State and University budget policies, the remaining revenue received by the University from an invention will be dedicated to research purposes, including research in the Disclosing Party's department or unit, if approved by the Chancellor upon recommendation of the Committee.

#### F. Administration

1. The University recognizes that the evaluation of inventions and discoveries and the administration, development, and processing of patents and licensable inventions involve substantial time and expense and require talents and experience that may not be available within the University, therefore the University may contract with non-University third party experts in technology licensing.
2. The Committee shall be represented by at least one representative from each academic school or college. Administrative oversight shall be provided by the Vice Chancellor for Research and Graduate Studies. The Committee shall review and recommend to the Chancellor or his or her delegate changes in these procedures, decide upon appropriate disposition of invention disclosures, resolve questions of invention ownership, recommend to the chancellor the expenditure of license revenues, and make such recommendations as are deemed appropriate to encourage disclosures and assure prompt and effective handling, evaluation, and prosecution of invention opportunities and to protect the interests of the University and the public."

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#### Current Text

#### "II. Patent Procedures of East Carolina University

##### A. General

1. As defined by the patent and copyright policies of the board of governors,\* to which these procedures are expressly subject, East Carolina University has an interest in all inventions of university personnel that are conceived or first actually reduced to practice as a part of or as a result of university research, activities within the scope of the inventor's employment by the university, and activities involving the use of university time, facilities, staff, materials, university information not available to the public, or funds administered by the university.
2. The university may also have an interest in inventions under the terms of contracts, grants, or other agreements. Faculty, staff, and students whose inventions are made on their own time and without university facilities, materials, or resources and which inventions are, therefore, their exclusive property as specified by the patent and copyright policies may avail themselves of the opportunity to submit the invention to the university for possible patenting and/or commercial exploitation and management under terms to be agreed between the inventor and the university.
3. The provisions of the patent procedures are subject to any applicable laws, regulations, or specific provisions of the grants or contracts which govern the rights in inventions made in connection with sponsored research.

4. Under the terms of certain contracts and agreements between the university and various agencies of government, private and public corporations, and private interests, the university is or may be required to assign or license all patent rights to the contracting party. The university retains the right to enter into such agreements whenever such action is considered to be in its best interest and in the public interest. Ordinarily the university will not agree to assign rights in future inventions to private corporations or businesses.

B. Responsibilities of University Personnel

1. University personnel who, either alone or in association with others, make an invention in which the university has or may have an interest shall disclose such inventions on forms provided for this purpose by the university technology transfer office. The university technology transfer office will promptly acknowledge its receipt of completed disclosure forms and will distribute such forms to the university Patent/Intellectual Property Committee for consideration at its next meeting.

The Administrative Patent/Intellectual Property Committee will review each written disclosure promptly. The inventor or his or her representative shall be allowed to examine all written materials submitted to the committee in connection with his or her disclosure and to make a written and, where practical, oral presentation to the committee. The committee will decide on the proper disposition of the invention to secure the interest of the university, the inventor, the sponsor, if any, and the public. Its decision may include, but is not limited to, one or a combination of the following:

- a. to submit the disclosure for review by a patent or invention management firm;
- b. to make inquiries of potential licensees that may have an interest in the invention, including the financing of a patent application, where applicable;
- c. to study the practicality of applying for a patent with university resources (an option with limited application because of financial constraints);
- d. in proper cases, to release its rights to the inventor subject to an agreement to protect the interests of the university, the sponsor if any, and the public, including an obligation to pay to the university a percentage of future royalties; and
- e. to dedicate the invention to the public.

Within four weeks of the receipt of the disclosure, the inventor will be notified in writing of the decision of the committee on (1) the equities involved including financial participation, (2) whether the university plans to file a patent application, or (3) whether the university will accept assignment of the invention for patenting, licensing and/or commercial handling as applicable. If the university chooses neither to file a patent application or otherwise make available commercially nor to dedicate to the public an invention in which it asserts its rights, the invention, at the committee's discretion, may be released in writing to the inventor, with the permission of the sponsor, if any.

If, after the university has filed a patent application, it decides to abandon the patent, the inventor will be promptly notified in writing, and all rights at the committee's discretion may be released by written agreement to the inventor, with the permission of the sponsor, if any.

In those cases in which the university has obtained a patent without obligation to sponsors, if no arrangement has been made for commercial development within a reasonable period from the date of the issuance of the patent, the inventor(s) may request in writing a release of the university's patent rights. The Patent/Intellectual Property Committee will promptly either grant the request or will advise the inventor of the university's plans for the development of the invention.

As to any invention in which the university has an interest, the inventor, upon request, shall

execute promptly all contracts, assignments, waivers, or other legal documents necessary to vest in the university or its assignees any or all rights to the invention, including complete assignment of any patents or patent applications relating to the invention.

2. University personnel may not :

- a. sign patent agreements with outside persons or organizations which may abrogate the university's rights and interests as stated in the patent policy or as provided in any grant or contract funding the invention or
- b. without prior authorization use the name of the university or any of its units in connection with any invention in which the university has an interest.

C. Publication and Public Use

The university strongly encourages scholarly publication of the results of faculty and student research. Though the patent and copyright policies do not limit the right to publish, except for short periods of time necessary to protect patent rights, publication or public use of an invention constitutes a statutory bar to the granting of a United States patent for the invention unless a patent application is filed within one year of the date of such publication or public use. Publication or public use also can be an immediate bar to patent ability in certain foreign countries.

In order to preserve rights in unpatented inventions, it shall be the duty of the inventor, or of his or her supervisor, if the inventor is not available to make such report, to report forthwith to the university patent office any publication, submission of manuscript for publication, sale, public use, or plans for sale or public use, of an invention, if a disclosure has previously been filed. If an invention is disclosed to any person who is not employed by the university or working in cooperation with the university upon that invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

After disclosure to the Patent/Intellectual Property Committee, the inventor shall promptly notify the university patent office of the acceptance for publication of any manuscript describing the invention or of any sale or public use made or planned by the inventor.

D. Inventory Requests for Waiver of University Rights

If the inventor believes that the invention was made outside the general scope of his or her university duties and does not choose to assign the rights of the invention to the university, the inventor shall, in the invention disclosure, request that the university Patent/Intellectual Property Committee determine the respective rights of the university and the inventor in the invention and shall also include in the disclosure information on the following points:

1. the circumstances under which the invention was made and developed;
2. the employee's official duties at the time of the making of the invention;
3. whether he or she requests waiver or release of any university claims or acknowledgment that the university has no claim;
4. whether he or she wishes a patent application to be prosecuted by the university, if it should be determined that an assignment of the invention to the university is not required under the patent and copyright policies; and
5. the extent to which he or she would be willing voluntarily to assign domestic and foreign rights in the invention to the university if it should be determined that an assignment of the invention to the university is not required under the patent and copyright policies.

E. Revenue Sharing

1. The university shall share revenue which it receives from patents or inventions with the inventors. As noted in the section above, specific provisions of grants or contracts may

govern rights and revenue distribution regarding inventions made in connection with sponsored research; consequently, revenues the university receives from such inventions may be exclusive of payments of royalty shares to sponsors or contractors. Moreover, the university expects to contract with outside persons or organizations for the obtaining, managing, and defending of patents, and any royalty shares or expenses contractually committed to such persons or organizations may be deducted before revenues accrue to the university.

2. The revenues (net, if applicable per the preceding paragraph) which the university receives from a patent or invention will be applied first to reimburse the university for any incremental expenses incurred by it in obtaining and maintaining patents and/or in marketing, licensing, and defending patents or licensable inventions. After provision for such expenses, the inventor's share of such revenues received by the university shall be as follows: 50 percent of the first \$100,000, 25 percent thereafter. In the case of co-inventors, each such percentage share shall be subdivided equally among them unless the university in its sole discretion determines a different share to be appropriate. Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the inventor. In no event shall the share payable to the inventor or inventors in the aggregate by the university be less than 15 percent of gross royalties received by the university.
3. To the extent practicable and consistent with state and university budget policies, the remaining revenue received by the university on account of an invention will be dedicated to research purposes, including research in the inventor's department or unit, if approved by the chancellor upon recommendation of the Patent/Intellectual Property Committee.

#### F. Administration

1. The university recognizes that the evaluation of inventions and discoveries and the administration, development, and processing of patents and licensable inventions involve substantial time and expense and require talents and experience not ordinarily found in its staff; therefore, in most cases it expects to contract with outsiders for these services. It may enter into a contract or contracts with an outside organization covering specific inventions or discoveries believed to be patentable and patents developed therefrom or covering all such inventions, discoveries, and patents in which the university has an interest.
2. The chancellor shall appoint a university Patent/Intellectual Property Committee consisting of no fewer than three members. The committee shall review and recommend to the chancellor or his or her delegate changes in these procedures, decide upon appropriate disposition of invention disclosures, resolve questions of invention ownership, recommend to the chancellor the expenditure of invention royalties, and make such recommendations as are deemed appropriate to encourage disclosures and assure prompt and effective handling, evaluation, and prosecution of invention opportunities and to protect the interests of the university and the public.

Approved: 15 March 1984  
The University of North Carolina Board of Governors "