

**EAST CAROLINA UNIVERSITY  
2008-2009 FACULTY SENATE**

The sixth regular meeting of the 2008/2009 Faculty Senate will be held on  
**Tuesday, February 24, 2009**, at 2:10 p.m. in the Mendenhall Student Center, Great  
Room.

**AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

January 27, 2009

**III. Special Order of the Day**

A. Roll Call

B. Announcements

C. Steve Ballard, Chancellor

Report on Faculty Employment, to include a longitudinal profile of faculty tenure status and tenure status of permanent and temporary faculty (by unit).

Report of the Task Force on Fixed-Term Appointments (9-06)

D. Kevin Seitz, Vice Chancellor for Administration and Finance

E. Janice Tovey, Chair of the Faculty

F. Election of Faculty Officers Nominating Committee

According to *ECU Faculty Manual*, Appendix A, Section VIII.

G. Question Period

**IV. Unfinished Business**

**V. Report of Committees**

A. Admission and Retention Policies Committee, Wendy Sharer and Gary Levine  
Proposed Revisions to the *ECU Faculty Manual*, Part V. Academic Information,  
Section I. Academic Procedures and Policies in reference to class roll  
verification (attachment 1).

B. Committee on Committees, Tom Caron

1. Second Reading of proposed revisions to the Standing Academic  
University Environment Committee Charge (attachment 2).

2. Nominee for Appellate Hearing Committee (attachment 3).

- C. Educational Policies and Planning Committee, Sandra Warren
1. Proposed change in name of BSBA in Management Accounting to BSBA in Accounting in the Department of Accounting, College of Business.
  2. Request for authorization to establish a MS in Sustainable Tourism in the Center for Sustainable Tourism, Division of Research and Graduate Studies.

- D. Faculty Governance Committee, Puri Martinez
1. Proposed revision to *ECU Faculty Manual*, Appendix C. Section III. Evaluation, in reference to the Student Opinion of Instruction Survey (attachment 4).
  2. Proposed revisions to *ECU Faculty Manual*, Appendix D, Section V. Procedure for Review of Notice of Non-Reappointment or Non-Conferral of Permanent Tenure (attachment 5).

(Link to changes made to UNC Code Policy #101.3.1 that necessitated these revisions.)

3. Proposed revisions to *ECU Faculty Manual*, Appendix D. Section VI. Due Process Before Discharge or the Imposition of Serious Sanctions (attachment 6).

(Link to changes made to the UNC Code, Section 603 that necessitated these revisions.)

- E. University Curriculum Committee, Janice Neil  
Curriculum matters contained in the minutes of the January 22, 2009, and February 12, 2009, Committee meetings.

## **VI. New Business**

Faculty Welfare Committee, Bruce Southard  
Recommendation on proposed increase in fees for parking permits.

**ADMISSION AND RETENTION POLICIES COMMITTEE REPORT**  
Proposed Revisions to the *ECU Faculty Manual*, Part V. Academic Information,  
Section I.D. Class Roll Verification

Revise Section I. Academic Procedures and Policies, D. Class Roll Verification to read as follows:

(Deletions are noted in ~~strikethrough~~ and additions are noted in **bold** print)

**"D. Class and Enrollment Verification** ~~Class Roll Verification~~

~~Each semester, the registrar sends class roll verifications to all instructors for each class they teach. The purpose of these forms is to verify the accuracy of the lists of properly registered students. Specific instructions for noting discrepancies and returning the forms accompany the class roll verifications and should be followed carefully.~~

**Twice each semester—once near the beginning of the term (prior to census day) and once near the mid-point of the term—the registrar contacts each instructor in order to verify student enrollment in that instructor's classes.**

**At the beginning of the term, the purpose of the verification is to ensure the accuracy of the lists of properly registered students. At the mid-point of the term, the purpose of the verification is to identify any students who are no longer attending class. In the event that a faculty member teaches a course in which attendance is not regularly taken, he or she should note any students who have ceased participating and submitting work.**

**Specific instructions for responding to the registrar will accompany the requests for class enrollment verification and should be followed carefully. Due to the significant impact students' enrollment status can have on their financial aid eligibility, the amount of financial aid the university is allowed to disburse, and the amount of financial aid the university is required to return, timely faculty response to class enrollment verification requests is essential."**

## Faculty Senate Agenda

February 24, 2009

Attachment 2.

### COMMITTEE ON COMMITTEES REPORT

Second reading of proposed revisions to the Academic University Environment  
Committee Charge

(Additions are noted in **bold** print.)

1. Name: University Environment Committee
2. Membership: 7 elected faculty members.  
(5 from the Division of Academic Affairs and 2 from the Division of Health Sciences.)

Ex-officio members (with vote): The Chancellor or appointed representative, the Provost or appointed representative, the Vice Chancellor for Health Sciences or appointed representative, the Vice Chancellor for Administration and Finance or appointed representative, the Vice Chancellor for Student Life or appointed representative, the Chair of the Faculty, one faculty senator selected by the Chair of the Faculty, and one student member from the Student Government Association.

The chair of the committee may invite resource persons as necessary to realize the committee charge. The chair of the committee may appoint such subcommittees as deemed necessary by the chair.

3. Quorum: 5 elected members exclusive of ex-officio.
4. Committee Responsibilities:
  - A. The committee recommends policies to preserve, improve and advance the general physical environment of the University.
  - B. The committee provides recommendations to mitigate the loss of habitat that includes repairing or replacing landscaping of the university that have been displaced owing to planned or unplanned actions.
  - C. The committee makes recommendations relating to traffic flow patterns, hardened sidewalk designs, speed limits, and parking facilities in and around the University campuses.
  - D. The committee indexes and recommends policies for maintenance of those trees of significant size and type, culturally historic landscape features, and ground covers possessing aesthetic, historic, and/or environmental value.
  - E. The committee reviews potential and actual effect of university projects upon water quality and quantity, runoff, and other physical impacts upon the community.
  - F. The committee shall be familiar with the current East Carolina University master plan and intended placement of buildings and other construction approved by the Board of Trustees. The Committee shall consult with planning officers regarding future land use, changes to the current master plan, and future campus development.
  - G. The committee promotes sustainability efforts on campus, which include energy and resource conservation, recycling, and the reduction of waste.**

**H. The committee raises the awareness and promotes how sustainability issues are included in the curriculum. The committee also promotes how faculty research in areas related to sustainability.**

5. To Whom The Committee Reports:

The committee reports to the Faculty Senate its recommended policies, procedures, and other procedural criteria.

6. How Often The Committee Reports:

The committee reports to the Faculty Senate at least once a year and at other times as necessary.

7. Power Of The Committee To Act Without Faculty Senate Approval:

The Committee may draft reports, hold hearings, or seek advice as necessary.

8. Standard Meeting Time:

The committee meeting time is scheduled for the fourth Thursday of each month.

**COMMITTEE ON COMMITTEES REPORT**  
 Nominee for Appellate Hearing Committee

The Committee on Committees has not finalized their list of nominees. If you are a tenured faculty member and interested in serving this one year term, please contact Professor Tom Caron at [caront@ecu.edu](mailto:caront@ecu.edu).

**2008/2009 HEARING COMMITTEE**

Regular Members (with vote)	Academic Unit	Term
Donna Lillian	English	2009
James Holloway	Business	2010
Mohammed Tabrizi	Technology and Computer Science	2010
Hanna Jubran	Art and Design	2011
Tara Jeffs	Education	2011
Alternate Members (with vote)		
Cal Christian	Business	2009
Cathy Hall	Psychology	2009
<b>open</b>		<b>2010</b>
Richard Bloch	Medicine	2011
Michael Felts	Health & Human Performance	2011

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed revision to ECU Faculty Manual, Appendix C.

Section III. Evaluation in reference to the Student Opinion of Instruction Survey

Revise Section III. Evaluation, 1. Teaching to read as follows:

(Deletions are noted in ~~strikethrough~~ and additions are noted in **bold print**)

**"1. teaching**

**The quality of teaching must be evaluated using multiple methods as chosen from among the following, as determined by the unit code. If not determined in the unit code, the voting faculty (as defined by Appendix L) shall determine the multiple procedures to be followed.**

- a. **formal methods of peer review, including direct observation of the classroom teaching of new and tenure-track faculty.**
- b. **review by the unit administrator and/or peers of course materials such as syllabi, reading lists, outlines, examinations, audiovisual materials, student manuals, samples of student's work on assignments, projects, papers, examples of student achievement, and/or other materials prepared for or relevant to instruction.**
- c. **data from surveys of student opinion when an individual faculty member's data vary consistently (more than 2 semesters) and significantly (more than 2 standard deviations) from the unit's median for similar courses.**
- d. **other procedures provided for in unit codes.**

~~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 to local, state and national governments; contributions to the development of public forums, institutes, continuing education projects, patient 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)"

Faculty Senate Agenda  
February 24, 2009  
Attachment 5.

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed revisions to *ECU Faculty Manual*, Appendix D, Section V. Procedure for Review of Notice of Non-Reappointment or Non-Conferral of Permanent Tenure

Link to changes made to [UNC Code Policy #101.3.1](#) that necessitated these revisions.

Revise Section V. to read as follows:

(Deletions are noted in ~~strikethrough~~ and additions are noted in **bold** print):

"V. Procedure for **Review** ~~Appeal~~ of Notice of Non-Reappointment or Non-Conferral of Permanent Tenure.

A. Deadlines for ~~Appeal~~ **Review**

Failure to submit the **review** ~~appeals~~ documents specified in this section within the time periods allotted constitutes a waiver of the right to **have the decision reviewed** ~~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 **Hearing Committee**. ~~individual or committee who is next to consider the appeal~~. Within 10 **calendar** ~~working~~ days of receiving a request for extension, decisions on requests for extension of time shall be made by the **Hearing Committee**. ~~individual or committee who is next to consider the appeal~~. **The Committee will endeavor to complete the review within the time limits specified except under unusual circumstances such as when the time period includes official university breaks and holidays and when, despite reasonable efforts, the Committee cannot be assembled.**

B. Request for Hearing with the Faculty Hearing Committee

Within 25 **calendar** ~~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 (**as per Appendix D, Section IV**). 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. **Because hearings in matters of non-reappointment or conferral of permanent tenure can present complex and difficult questions of fact, policy and law, and because of the central role of the committee in gathering and preserving the evidence upon which most subsequent decisions related to the matter will be based, it is important for the chancellor to ensure that faculty committee members, as well as** 8

**relevant administrators and aggrieved faculty members,** ~~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)

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 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 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 regular member status and by electing new alternates and/or members as needed to fill the committee roster.**

~~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 **regular** ~~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) **regarding** ~~following~~ the committee action(s) **during the review.** (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>i</sup> In addition, the University Equal Employment Opportunity policy prohibits employment discrimination based on sexual orientation.

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, **color**, sex, religion, **creed**, national origin, age, disability, **veteran's status** ~~honorable service in the armed services of the United States~~ **or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees**, or (c) personal malice. **For purpose of this section, the term 'personal malice' means dislike, animosity, ill-will, or hatred based on personal characteristics, traits, or circumstances of an individual.**" (See UNC Policy 101.3.1.II.B for details)

"Material procedural irregularity" means a departure from prescribed procedures governing reappointment and conferral of permanent tenure **that is of such significance as to** cast reasonable doubt upon the integrity of the original decision not to reappoint or not to confer permanent tenure. Whether a ~~material~~ procedural irregularity occurred, **and whether it is material**, 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)

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 and (f) a copy of the vice chancellor's notice of non-reappointment or non-conferral of permanent tenure.** The complainant's request for a hearing shall be made to the chair of the Hearing Committee **and delivered to the Faculty Senate office by a method that provides delivery verification.**

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 **calendar** days after receipt of the complainant's request for a hearing. The committee shall notify the complainant of the meeting date by 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~~ **4 calendar days** prior to the committee meeting. All documentation and information submitted after the original request for a hearing must (a) support contentions set forth in the

original request for a hearing and (b) be delivered to the Faculty Senate office 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 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)

The complainant, within 10 calendar days of receipt of the Hearing Committee's decision, may accept the decision of the Hearing Committee not to validate a hearing or may appeal to the chancellor **the decision not to conduct a hearing**. The chancellor, within 14 **calendar** 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)

The complainant, within 10 calendar days following receipt of the chancellor's decision, may accept the chancellor's confirmation of the Hearing Committee's decision not to validate a hearing or may appeal to the Board of Governors **the decision not to conduct a hearing**. (Faculty Senate Resolution #99-4, #03-49)

If the committee validates the request for a hearing, or if the decision not to validate the request for a hearing is not supported by the chancellor, the committee shall so notify the complainant by 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~~ **42 calendar working** days of the notification to the complainant that the request for a hearing was validated, **except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled**. 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 ~~45~~ **21 calendar 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 **regular** ~~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, **the respondent(s), and one person who may advise the respondent(s).** **If there is more than one respondent, the respondents will designate a spokesperson for the hearing. There will be an equal number of persons advising the complainant and respondent(s).** **The person advising the complainant** ~~but who~~ may not take an active part in the proceedings. **The person advising the respondent(s) at the hearing may be the respondents, either** an East Carolina University faculty member (with or without administrative appointment) selected by the Chancellor **or an East Carolina University attorney, if the complainant is accompanied by an attorney.** **The person advising the respondent(s) 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)

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)

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 hearing chair, the complainant shall present his or her contentions and any supporting witnesses and documentary evidence. The respondent(s), through their **spokesperson 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 **spokesperson representative**, may cross-examine opposing witnesses. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, **the complainant may make a summary statement of up to ten minutes in duration. If the complainant elects to do so, then the respondent(s), through their spokesperson, will be given the same opportunity** ~~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 **calendar 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. The standard applied by the committee ~~being that the evidence is clear and convincing by the greater weight~~ **shall be that the preponderance** of the evidence ~~to establishes~~ 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 **14 calendar** ~~40 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)

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 **42 calendar** ~~30 working~~ days after receiving the recommendation of the Hearing Committee **and the transcript**, 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. If the chancellor is considering taking action inconsistent with the committee's recommendations, the chancellor shall request within **14 calendar** ~~40 working~~ days that a joint meeting with the committee occur. 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 **42 calendar** ~~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 **14** ~~40~~ 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 **fourteen** ~~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~~ manner. (Faculty Senate Resolution #03-49)

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<sup>i</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. "

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**Faculty Senate Agenda  
February 24, 2009  
Attachment 6.**

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed revisions to *ECU Faculty Manual*, Appendix D, Section VI. Due Process Before Discharge or the Imposition of Serious Sanctions

Link to changes made to the UNC Code, Section 603 that necessitated these revisions.

Revise Section VI. to read as follows:

(Deletions are noted in ~~strikethrough~~ and additions are noted in **bold** print):

VI. Due Process Before Discharge or the Imposition of Serious Sanctions

A. ~~Sanctions Penalties~~

A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary ~~sanctions penalties~~. During the period of such guarantees, the faculty member may be discharged **from employment, suspended, or demoted in rank or serious sanctions may be imposed** ~~or suspended from employment or diminished in rank~~ only for reasons of:

1. incompetence, **including significant, sustained unsatisfactory performance after the faculty member has been given the opportunity to remedy such performance and fails to do so within a reasonable time;**
2. neglect of duty, **including sustained failure to meet assigned classes or to perform other significant faculty professional obligations;** or
3. misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, **including violations of professional ethics, mistreatment of students or other employees, research misconduct, financial fraud, criminal or other illegal, inappropriate or unethical conduct. To justify serious disciplinary actions, such misconduct should be either: (i) sufficiently related to a faculty member's academic responsibilities as to disqualify the individual from effective performance of university duties, or (ii) sufficiently serious to adversely reflect on the individual's honesty, trustworthiness or fitness to be a faculty member.**

These ~~sanctions penalties~~ **sanctions** may be imposed only in accordance with the procedures prescribed in this section. For purposes of **the Faculty Manual** 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 the faculty from **employment or to impose serious sanction, together with a written specification of the reasons** ~~suspend from employment or to diminish in rank~~ (these **sanctions** penalties hereinafter in Section VI are referred to as "**the sanction**" "~~the penalty~~") shall be sent by the vice chancellor with supervisory authority ~~or by the vice chancellor's designee~~ to the faculty member by 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)

C. Penalty Without Recourse

If, within **14 calendar** <sup>i</sup> ~~10 working~~ days after the faculty member receives the notice **and written specification of the reasons** 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 **discharged or serious sanction imposed** ~~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, method that provides delivery verification 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 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 ~~shall timely submit a request for a hearing is to be directed~~ to the vice chancellor with supervisory authority in writing by 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 **10 calendar** ~~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).~~

**If the faculty member shall submit a timely request for a hearing, the Chancellor shall ensure a process is in place so that the hearing is timely accorded before the Due Process Committee.**

E. Due Process Committee

The Due Process Committee (**hereinafter "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~~ **per Appendix D, Section IV**. 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 ~~e~~Committee officer be absent at the beginning,

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of a hearing, the eCommittee shall elect an alternate officer for the purposes of the hearing.

When the eCommittee is convened to consider any matter associated with a faculty member's request for a hearing, those eCommittee 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 eCommittee related to this specific request for a hearing. The faculty member and the vice chancellor with supervisory authority are permitted to challenge eCommittee members for cause. The other members of the eCommittee will decide on any potential disqualifications if a eCommittee member is so challenged but wishes to remain. (Faculty Senate Resolution #99-10)

When membership of the eCommittee 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 eCommittee 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)

The eCommittee 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 eCommittee action(s). (See *Part VIII, Responsibilities of Administrative Officers.*)

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 Committee shall accord the faculty member 30 calendar days from the time it receives the faculty member's written request for a hearing to prepare a defense. 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. The date for the hearing must be within 30 working calendar 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 eCommittee 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. The Committee will ordinarily endeavor to complete the hearing within 90 calendar days except under unusual circumstances such as~~

when a hearing request is received during official university breaks and holidays and despite reasonable efforts the Committee cannot be assembled.<sup>i</sup>

## 2. Conduct of Hearing

The hearing shall be on the written specification of reasons for the intended **discharge or imposition of a serious sanction** ~~penalty~~. The chair of the ~~Due Process~~ Committee, or an elected member of the eCommittee 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 eCommittee's members and alternates, the faculty member requesting the hearing, counsel for the faculty member, the vice chancellor with supervisory authority, **or his/her designee, and/or** ~~and~~ counsel for the vice chancellor. Other persons (witnesses) providing information to the eCommittee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the eCommittee 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). **The hearing shall be closed to the public unless both the faculty member and the Committee agree that it may be open.**

The hearing shall begin with an opening statement by the hearing chair limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. Following the opening remarks by the hearing chair, the vice chancellor with supervisory authority, **his/her designee**, 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, **his/her designee**, or ~~his/her~~ ~~his or her~~ counsel, and the faculty member or ~~his/her~~ ~~his or her~~ counsel, **shall have the right to confront and cross-examine adverse witnesses, and to make argument** ~~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, **or his/her designee**, will be given the opportunity to provide summary statements. (Faculty Senate Resolution #99-10).

## G. Procedures After the Hearing

After the hearing, the eCommittee shall meet in executive session and begin its deliberations or shall adjourn for no more than two **calendar working** days, at which time it shall reconvene in executive session. In reaching its decisions the eCommittee shall consider only the testimony and other materials entered or presented as evidence during the hearing **and such written or oral arguments as the committee, in its discretion, may allow. The University has the burden of proof. In evaluating evidence, the Committee shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action.**

Within **14 calendar** ~~40 working~~ days of finishing its deliberations **or after the full transcript is received, whichever is later**, the eCommittee shall provide the

faculty member<sup>1</sup> 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 ~~e~~Committee shall state whether or not it recommends that the intended **sanction** ~~penalty~~ be imposed (Faculty Senate Resolution #03-37).

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 **calendar** ~~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 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 ~~e~~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 ~~e~~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 **filed** ~~received by the chancellor~~ within **14 calendar** ~~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 **as soon as reasonably possible** ~~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 **14 calendar** ~~ten~~ days after receiving the trustees' decision, **file a written notice of appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery**, ~~file a written petition for review to the Board of Governors~~ **by alleging** ~~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 **appeal** ~~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 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 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:

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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>1</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 **reassign the individual to other duties or** 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."



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New Business

**TO:** Faculty Senate  
**FROM:** Faculty Welfare Committee  
**DATE:** 24 February 2009  
**SUBJECT:** Proposed increase in fees for parking permits

Prior to his January appearance before the Faculty Senate, Associate Vice Chancellor Koch met with the Faculty Welfare Committee to inform the committee of a proposed policy change to the waiting list for those seeking to purchase an "A" permit and of a proposed increase in fees for parking permits that is scheduled to take place in July 2009.

Since that time, it has become apparent to members of the Faculty Welfare Committee that university employees face the probability of no raises in the coming year, as well as the probability of significant changes in the costs associated with health care: increases in co-payments, deductibles, coinsurance maximums, and costs of medications and medical supplies for all employees; and increases in payment for coverage of dependents for employees insuring others.

Moreover, in his presentation before the Faculty Welfare Committee, Mr. Koch indicated that the fee change was needed in order to increase the money in the Parking Reserves; under a scenario that the fee increase would be implemented over a two-year period (with each year's increase being 50% of the total amount), in the first year (FY 09/10) the amount added to the Reserves would be \$227,851, while \$405,271 would be added in subsequent years. The five-year financial plan presented by Mr. Koch, however, shows a transfer of over \$200,000 in 09/10 for "Police/Admin. Fees"—an expenditure that apparently was initiated for FY 08/09.

The Faculty Welfare Committee is still unclear as to *why* fees from parking permits are now being diverted to "Police/Admin. Fees"; clearly, if those fees were not being re-allocated, the current fee structure would be sufficient to fund most of the projected increase in Parking Reserves for the coming fiscal year.

A possible use of the Parking Reserves that Mr. Koch cited is implementation of planning for a Parking Deck in FY 11/12, with construction beginning in FY12/13. Yet, it is unclear where such a Parking Deck would be located, who would use it, and what the total construction costs would be. Given the severity of the current financial crisis, the Faculty Welfare Committee believes that a Parking Deck should be very low on any prioritized list of needed university construction.

In sum, university employees already face increased health costs in the coming year and no increase in their salaries; yet, the possible uses of funds raised by an increase in fees for parking permits are not well-defined or clearly justified.

Accordingly, the Faculty Welfare Committee strongly recommends that the Parking and Transportation Committee and the university's administration reconsider its plans to increase the fees for parking permits for the coming two academic years.