BOARD OF TRUSTEES

THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO

ACTION ITEM: Proposed Revision of Policies, Regulations, and Guidelines

BACKGROUND INFORMATION:

In November 2006, a system-wide committee of university representatives was appointed to review sections of The Code of the University of North Carolina that address various faculty and EPA discharge and appeal processes generally encompassing Section 600 in Chapter VI of The Code.

In early 2008, the final recommendations of the committee were approved by the Board of Governors and these changes were transmitted to UNCG with a memo from Harold Martin dated March 10, 2008. These changes affected five faculty policies, three of which require Board of Trustees’ approval, and three EPA non-faculty policies which require Board of Trustees’ approval. The March 10th memo requested campus-level compliance with the mandated changes by October 1, 2008.

These mandated changes from the Board of Governors, as well as some elective changes that provide additional clarification, have been incorporated into UNCG’s policies, regulations, and guidelines. Relevant faculty bodies have endorsed these mandated and elective changes.

RECOMMENDED ACTION:

It is recommended that the Board of Trustees of The University of North Carolina at Greensboro approve the changes mandated by the Board of Governors as well as the elective changes to clarify policies, regulations, and guidelines.

David H. Perrin
Provost and Vice Chancellor for Academic Affairs
### Summary Chart of Policy Changes
for Board of Trustees Meeting
on September 18, 2008

<table>
<thead>
<tr>
<th>Name of UNCG Faculty Policy</th>
<th>BOG Mandated Changes?</th>
<th>Elective Changes?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Regulations on Academic Freedom, Tenure and Due Process</td>
<td>Yes</td>
<td>Yes</td>
</tr>
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<td></td>
<td>(Page 3)</td>
<td></td>
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<tr>
<td>2. Policy on Post Tenure Review</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(Page 30)</td>
<td></td>
</tr>
<tr>
<td>3. Faculty Grievance Committee Policies and Procedures</td>
<td>Yes</td>
<td>Name change only</td>
</tr>
<tr>
<td></td>
<td>(Page 36)</td>
<td></td>
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</tbody>
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<table>
<thead>
<tr>
<th>Name of UNCG EPA Non-Faculty Policy</th>
<th>BOG Mandated Changes?</th>
<th>Elective Changes?</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Appeal Guidelines for Designated Exempt Employees (EPA Non-Faculty)</td>
<td>Yes</td>
<td>Name change only</td>
</tr>
<tr>
<td></td>
<td>(Page 44)</td>
<td></td>
</tr>
<tr>
<td>5. Policy on Employees Exempt from the State Personnel Act (EPA Non-Faculty)</td>
<td>Yes</td>
<td>Name change only</td>
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<td>(Page 52)</td>
<td></td>
</tr>
<tr>
<td>6. Personnel Policies for Senior Academic and Administrative Officers (Tier II)</td>
<td>Yes</td>
<td>None</td>
</tr>
<tr>
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<td>(Page 64)</td>
<td></td>
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</tbody>
</table>

Note: After changes are approved, the policies will be proofed for formatting, numbering, and proper alignment.
1. TABLE OF CHANGES
REGULATIONS ON ACADEMIC FREEDOM, TENURE AND DUE PROCESS

Mandated Changes from the Board of Governors

☐ Page 2 – Code 103 (General Non-Discrimination Statement) – Change discrimination language concerning armed forces to “veteran status.”

☐ Page 2 – If not in campus policy on reappointment, add “color,” “creed,” “veteran’s status,” and any other form of discrimination barred by campus BOT.

☐ Page 3 and 4 – Reference to Chancellor instead of University.

☐ Page 7-8 – Replace information regarding special faculty.

☐ Page 9 – Rename Section 4 to “Reappointment, Non-reappointment, and Requirements of Notice and Review for Tenure Track Faculty.”

☐ Page 9 – Add short definition of “malice” and refer to policy that contains lengthy explanation of malice (Board of Governors Policy 101.3.1 II.B).

☐ Page 11 – Change to 14 calendar days to request hearing.

☐ Page 11 – Purpose of review is to determine if decision was made on impermissible reason under the Code and whether material deviation occurred in procedures so as to cast doubt on the decision.

☐ Page 12 – Committee only considers evidence from hearing and arguments by the parties.

☐ Page 18 – Insert reference to suspension or suspended and to demoted whenever policy mentions discharge.

☐ Page 18 – Add three (3) grounds for sanctions: incompetence, neglect of duty, misconduct.

☐ Page 19 – 14 calendar day appeal right.

☐ Page 19 – Chancellor is responsible for ensuring a process is place for a timely hearing.

☐ Page 19 – Have written specification of reasons include in notice of intention to sanction, and delete separate section on written specifications.
Page 19 – faculty member may make argument.

Page 19 – CAO may have designee participate, may present witnesses and other evidence, examine documents.

Page 19 – Campus has burden of proof, standard is “clear and convincing.”

Page 19 – Committee recommendation to Chancellor within 14 calendar days after hearing or receipt of transcript.

Page 20 – 14 calendar day appeal right from Chancellor decision.

Page 20 – BOT decision as soon as reasonably possible.

Page 20 – 14 calendar day appeal right to BOG.

Page 20 – Delete references to BOG timeframes on Appeals.

Page 20 – Insert may “reassign the individual to other duties or” prior to suspension pending hearing.

Additional Proposed Changes

Page 1 – Change the title of the policy to “Promotion, Tenure, Academic Freedom, and Due Process Regulations” from “Regulations on Academic Freedom, Tenure and Due Process.”

Page 1 – Once approved, update the dates on the header.

Page 1 – Add the web link where the policy can be found to the header.

Pages 3, 14, 15, 16 – Change references to “paragraph(s)” to “section(s)” to be consistent throughout the document and with other policies.

Page 3 and 4 – “University Librarian” replaced with “Dean of the University Libraries.”

Page 4 – Add item “e” under Section 3, G(1).

Page 4 – Add item “d” under Section 3, G(2).

Page 5 – delete Section 3, H (2) in order to simplify all of “Section H” by only addressing promotion and tenure in this section.
Page 6 – Clarify “Section 3, H (7) – Denial of Promotion,” and add a new section which will now be the new “Section 3, H (8) – Denial of Permanent Tenure” regarding permanent tenure review process.
SECTION 1. Freedom and Responsibility in the University Community

A. The University of North Carolina at Greensboro is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of these purposes. This institution therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.

B. The University of North Carolina at Greensboro shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.

C. Faculty and students of The University of North Carolina at Greensboro shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

SECTION 2. Academic Freedom and Responsibility of Faculty

A. It is the policy of The University of North Carolina at Greensboro to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of this institution. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the University and their position as men and women of learning. They should not represent themselves, without authorization, as spokespersons for The University of North Carolina at Greensboro.
B. The University of North Carolina at Greensboro shall not penalize or discipline members of the faculty because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

SECTION 3. Appointment, Reappointment, Promotion, and Tenure

A. Academic tenure refers to the conditions and guarantees that apply to a faculty member’s professional employment. In all instances, academic tenure is held with reference to The University of North Carolina at Greensboro, rather than with reference to The University of North Carolina as a whole. It may be conferred only by action of the President and the Board of Governors or by such other agencies or officers as may be delegated this authority by the Board of Governors.¹

B. The purpose of granting tenure is to protect the academic freedom of faculty members while providing them with a reasonable degree of economic security. The University recognizes that a tenure policy is a vital aid in attracting and retaining faculty members of high quality. Accordingly, a faculty member who holds permanent tenure or an appointment to a specified term of service may be discharged or suspended before that term expires only for 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. Further, it may become necessary to discontinue the employment of tenured faculty members because of financial exigency or program curtailment (see Section 6).

C. Faculty appointments may be for fixed terms of employment, automatically terminable when they expire ("fixed term appointment"); or they may be for probationary terms, leading to reappointment/tenure reviews ("probationary term appointment"); or they may be continuous until resignation, retirement, or death ("appointment with permanent tenure").

D. Appointment, reappointment, promotion, and permanent tenure shall be awarded on the basis of demonstrated professional competence, potential for future contribution, public service that is professionally related, and the needs and resources of the University.

E. Faculty members are evaluated annually in the areas of teaching, research and creative activity, and service. An optional category of evaluation, directed professional activity, may also be used. In addition to the University-Wide Evaluation Guidelines for Promotions and Tenure, each unit and department or academic program² has its own set of criteria (consistent with these Regulations and Chapter Six of The Code of The Board of Governors of The University of North Carolina) upon which appointments, reappointments, promotion and tenure decisions are made.

¹ Policy # 600.3.4 of the UNC Board of Governors, "Granting of Management Flexibility to Appoint and Fix Compensation," provides for the delegation to the Boards of Trustees of Special Responsibility Constituent Institutions the authority to administer various personnel actions. On September 13, 2002, the Board of Governors approved UNCG’s Institutional Plan for Management Flexibility, which delegated the authority to confer tenure to the Board of Trustees.

² Note that the term “academic program” is used to refer to an academic program that is independent of any particular department.
In the evaluation of faculty, explicit recognition must be given to the primary importance of teaching, as required in Administrative Memorandum 338.

Institutional policy mandates that clear and specific statements of criteria for evaluation of faculty performance be provided in writing and discussed with each probationary faculty member before initial employment, at the beginning of the first term of employment, and with each candidate being reviewed for reappointment or tenure at the beginning of the year in which the review is scheduled to be made. A record of these discussions must be kept in the individual’s personnel file. Implementation of these requirements occurs at the departmental/academic program or academic unit level.

F. Decisions on appointment, reappointment, promotion and tenure shall be made without regard to race, color, creed, religion, gender, sexual orientation, ethnicity, national origin, age, honorable veteran status service in the armed forces of the United States, political affiliation or disability as defined by law.

G. Persons holding the following faculty ranks are eligible for probationary term appointments or permanent tenure: Assistant Professor, Associate Professor, Professor, and Professional Librarians who are members of the faculty. With respect to the several academic ranks and positions, the University’s tenure policy is as follows:

(1) Assistant Professor

(a) In all cases an Assistant Professor shall be appointed to an initial term of four years.

(b) At least twelve months before the initial term of appointment as Assistant Professor expires, the department head, after assembling and consulting with the tenured members of the department faculty senior to the Assistant Professor in rank and receiving the result of their independent deliberation and vote, shall notify the candidate of the department’s decision (l) not to reappoint at the expiration of the candidate’s current term; or (2) to recommend to the Chancellor that the candidate be reappointed to a further term of three years (if

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3 “Department” is used as a generic term for departments, professional schools, academic programs, and any other academic units to which faculty appointments are made; “head” is a generic term for department heads or chairs, deans of professional schools, the University Librarian, Dean of the University Libraries, Academic Program Directors, and any other heads of academic units to which faculty appointments are made.

4 “Assembling” refers to the actual physical presence of the tenured faculty. However, if there are extenuating circumstances that prevent a particular tenured faculty member from being physically present, then that faculty member may participate by real-time electronic means, such as speaker phone or video conference, with prior approval of the Dean. Such use of electronic means for participation during the deliberation process does not modify any other requirements for the vote.

5 For details on the role of Deans concerning the unit committees for promotion and tenure, the prohibition of voting more than once for a candidate for promotion and tenure, and the independence of departmental committees for promotion and tenure, see the resolutions passed on December 1, 2004 by the Faculty Senate Promotions and Tenure Guidelines Committee.
not prohibited by paragraph section (c) below; or (3) to recommend to the Chancellor that the candidate be reappointed with permanent tenure at the same or higher rank.

(c) At least twelve months before an Assistant Professor has completed seven years of full-time service at that rank in this institution, the candidate’s department head, after consultation as provided above, shall notify the candidate of the department’s decision (1) not to reappoint at the expiration of the candidate’s current term; or (2) to recommend to the Chancellor that the candidate be reappointed with permanent tenure at the rank of Associate Professor upon the approval of the appropriate governing board.

(d) Notice of appointment or reappointment shall be in writing from the Chancellor or designee. Notice of nonreappointment shall be in writing from the department head or the Chancellor, depending upon where the decision is made not to reappoint. A notice of nonreappointment shall be limited to the statement of the fact of nonreappointment. Failure to give timely notice of nonreappointment shall oblige the University Chancellor to offer a terminal appointment of one academic year.

(e) A decision not to reappoint made by a department head, if concurred in by a majority of the voting department faculty, or the Chancellor shall be final, except as the decision may be reviewed in accordance with Section 4 of these regulations.

(e)(f) If an untenured Assistant Professor declines the review for promotion and tenure, as required in sections (b) and (c) above, the candidate should write to the department head in advance of the review period indicating that he or she will not prepare any materials for review and that he or she understands that employment will end at the conclusion of the current term appointment. Failure to participate in the review as specified above will be deemed to constitute resignation and withdrawal of any request for reappointment at the end of the current probationary contract. The department head shall acknowledge this in writing, with a copy to the dean and Provost.

(2) Associate Professor

(a) An Associate Professor promoted to that rank within this institution shall have permanent tenure. An Associate Professor appointed to that rank from outside the institution normally shall be appointed to a term of five years. Before the end of the fourth year of that term, the candidate’s department head, after assembling (see footnote 4) and consulting with the tenured associate and full professors of the department faculty (see footnote 5) and receiving the result of their independent deliberation and vote, shall notify the candidate of the department’s decision (1) not to reappoint at the expiration of the candidate’s current term; or (2) to recommend to the Chancellor that the candidate be reappointed with permanent tenure at the same or higher rank. With justification, initial appointment at the rank of Associate Professor may be with permanent tenure.

6 “Dean” is used as a generic term to include the dean of the College, deans of the professional schools, and the University Librarian, Dean of the University Libraries.
(b) In cases where the dean believes there are so few tenured faculty in the candidate’s department that an adequate department review cannot be conducted and/or where the department head is undergoing review for promotion to Professor, the dean and the Provost shall confer with the department head and tenured faculty in the department and determine the composition of the review committee. In such cases, the review committee must be composed of at least three (3) tenured faculty members at the same or higher rank. A memorandum of agreement between the candidate, the department head, the dean, and the Provost will specify the composition of the review committee.

(c) Notice of appointment or reappointment shall be in writing from the Chancellor or designee. Notice of nonreappointment shall be in writing from the department head or the Chancellor, depending upon where the decision is made not to reappoint. A notice of nonreappointment shall be limited to the statement of the fact of nonreappointment. Failure to give timely notice of nonreappointment shall oblige the University-Chancellor to offer a terminal appointment of one academic year.

(4) A decision not to reappoint made by a department head, if concurred in by a majority of the voting department faculty, or the Chancellor shall be final, except as the decision may be reviewed in accordance with Section 4 of these regulations.

(3) Professor

A Professor shall have permanent tenure.

(4) Professional Librarians

The provisions of subsection (l) above shall also govern the appointment, reappointment, and tenure of unranked Professional Librarians who are members of the faculty. When a Librarian with a faculty appointment is being considered for one or more of these actions, the University Librarian Dean of the University Libraries shall assemble and consult the appropriate library department head and supervisors and other senior members of the library staff familiar with the Librarian’s work (see footnote 5).

H. Procedures in Regard to Appointment, Reappointment, Promotion, and Tenure

(l) The department head shall consult annually with the appropriate members of the faculty as indicated in Section 3.G. to consider all full-time faculty below the rank of Professor for promotion and/or permanent tenure.

(2) The decision of the department head not to reappoint a faculty member as provided in Section 3.G., if concurred in by a majority of the voting department faculty as specified in Section 3.G., shall be final, except as the decision may be reviewed in accordance with Section 4 of these regulations.
(4.2) In all instances where the department head decides to recommend promotion and/or permanent tenure, the department head shall consult with the dean of the school or college and submit recommendations. The dean shall consult with a school or College committee on promotions and tenure, which will review these recommendations. The dean shall make available for the members of the school or College committee on promotions and tenure the formal, written bases upon which his or her recommendations on the candidates for promotions and tenure were made.

(4.3) All deans shall forward their recommendations to the Provost, including a summary report of the results of their reviews. The Provost may request review and comment by the Associate Provost for Research and/or the Dean of the Graduate School.

A. (4) Nominations receiving positive recommendations by the department faculty and the unit’s Committee on Promotions and Tenure and positive recommendations from the department head and dean will not normally be reviewed by the University Committee on Promotions and Tenure; however, as provided for in “The Constitution of the Faculty,” the Chancellor may submit any promotion and tenure nomination for review by the University Committee on Promotions and Tenure.

B. (5) The Provost shall organize the material for review by the University Committee on Promotions and Tenure and attend its initial meeting to review procedures and criteria. The Provost and the chair of the University Committee on Promotions and Tenure shall each submit recommendations directly to the Chancellor.

(7.6) Positive recommendations initiated by the department head will move through all stages of consideration to the Chancellor, regardless of recommendations against approval, which may be made at various stages in the process. Cases which receive a majority vote in favor of promotion and/or tenure or a tied vote by department faculty will move through all stages of consideration to the Chancellor, regardless of recommendations against approval which may be made at various stages in the process.

1. (7) Denial of Promotion: If the Chancellor decides not to recommend promotion or permanent tenure, the faculty member, it is a final decision. The Chancellor shall notify the faculty member of that decision by a simple, unelaborated written statement. The faculty member may then seek review of that decision by the Board of Governors’ Trustees’ Grievance Appeals Committee on Promotion and Tenure in accordance with Section 304 D204 B of The Code of The Board of Governors Trustees of The University of North Carolina and with the procedure set out in Section 609 D of The Code of The Board of Governors of The University of North Carolina. If the Chancellor decides to recommend that permanent tenure be conferred, the
Chancellor shall then forward the recommendation to the Board of Trustees for final approval. The Board of Trustees shall then decide whether or not to confer tenure.

(8) Denial of Permanent Tenure: If the Chancellor decides not to recommend permanent tenure, it is a final decision. The Chancellor shall notify the faculty member by a simple unelaborated statement. The faculty member may then seek review of that decision by the Board of Governors in accordance with Section 301 D of The Code of The Board of Governors of The University of North Carolina and with the procedure set out in Section 609 D of The Code of The Board of Governors of The University of North Carolina.

I. Maximum Probationary Service

The total period of full-time service before permanent tenure is recommended shall not exceed seven years, including all previous full-time service at the rank of Assistant Professor or higher in this institution, unless the faculty member has been granted an extension of the probationary term for any of the following reasons:

(1) Leave of Absence

Leaves of absence that are granted to probationary-term faculty may justify an extension of the length of the probationary term. The probationary term may be extended in increments of one or more academic years: for example, one year for leaves of one or two semesters, two years for leaves of three or four semesters, etc. At the time a request for leave is granted, the faculty member, the department head, the dean, and the Provost will agree in writing whether time spent on a leave of absence will count as probationary service. In the absence of an agreement or if the parties fail to reach agreement, time spent on a leave of absence shall count as probationary service. Leaves of absence normally should not be for more than two academic years or occur more often than once in three years.

(2) Personal Exigency

Extensions of the probationary term may be granted in cases in which a probationary-term faculty member does not take a leave of absence, but seeks to extend the probationary period for reasons of personal exigency. Examples of personal exigency may include, but are not limited to, extended illness, disability, childbirth or serious problems concerning the health or welfare of a child or other immediate family member. Extensions of the probationary term shall be limited to a total of no more than two years and must be expressly requested by the faculty member. The faculty member shall explain in writing his or her reasons for requesting an extension. Extensions of the probationary term must be approved by the department head, the dean, and the Provost, and stated in appointment or reappointment documents or added by a written memorandum of amendment during the term of an appointment.

(3) Administrative Assignment
Extensions of the probationary term may be granted in cases in which a probationary-term faculty member assumes a full-time administrative position for one or more semesters. The policies and procedures for extensions relative to full-time administrative positions are the same as described in Section 3.I. (2) above.

J. Continued Availability of Special Funding

The appointment, reappointment, or promotion 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 the continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon the continuing availability of such funds. Pursuant to Section 602(7) of The Code of The Board of Governors of The University of North Carolina, the following exceptions shall apply to either of the foregoing contingency requirements:

(1) That such a contingency shall not be included in a promotion to a higher rank if, before the effective date of that promotion, the faculty member had permanent tenure and no such condition was attached to the tenure.

(2) That such a contingency shall not be attached to the faculty member’s contract if the faculty member held permanent tenure in that institution on July 1, 1975 and the contract was not contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

(3) The federal funds provided to the North Carolina Agriculture Research Service through the Hatch Act shall be considered to be permanent trust funds. Faculty who are funded in whole or in substantial part from these funds shall not be subject to the contingency provisions of this section.

If a faculty member's appointment is terminated because of the non-availability of these funds, the institution will make every reasonable effort to give the same notice as set forth in Section 6.B. (2). This notice shall include the pertinent data upon which the termination action is based.

K. All full-time faculty members below the rank of Professor shall be reviewed annually for promotion, at least at the departmental level. The Chancellor may recommend that a faculty member be promoted or granted permanent tenure at any time. If the Chancellor recommends that a faculty member be hired with permanent tenure, then the tenured faculty of the hiring department will deliberate and vote on whether to grant tenure to the candidate for the position in question. The recommendation of the tenured faculty will then be forwarded to the dean, the Provost and the Chancellor.

L. Rights of Special Faculty Members and Fixed-Term Faculty Appointments
(2)(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, artists-in-residence, writers-in-residence, or other special categories are regarded as “special faculty members” for purposes of the University Code. Special faculty members may be paid or unpaid.

(3)(2) Special faculty members who are paid shall be appointed for a specified term of service as set out in writing in the letter of appointment. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires.

(4)(3) Special faculty members who are not paid may be appointed for a specified term of service or at will. Their pay and appointment status should be set out in the letter of appointment.

(5)(4) During the term of their employment, special faculty members are entitled to seek recourse under Section 607 of the University Code (relating to faculty grievances).

(5) Special faculty members, whether paid or unpaid, are not covered by Section 604 of the University Code, and that section does not accord them rights to additional review of a decision by a constituent institution not to grant a new appointment at the end of a specified fixed term.

(6) All appointments of Lecturers, Part-time Faculty, Visiting Faculty, Adjunct Faculty, Clinical Faculty, Academic Professionals, Instructors, or special categories of faculty such as Artists-in-Residence or Writers-in-Residence shall be for fixed terms of service. The term shall be set forth in writing when the appointment is made and the specification of the length of the appointment shall be deemed to constitute full and timely notice of nonreappointment when that term expires. In the letter of appointment, the Chancellor, or Chancellor’s designee, shall call to the appointee’s attention that such appointments do not culminate in eligibility for tenure and therefore the provisions of Sections 3.G. through 3.K., do not apply.

(7)(6) The Instructor rank is reserved for Assistant Professor candidates who are completing terminal degree requirements. An Instructor shall be appointed for a period of one year and may be reappointed successively in the same rank for a maximum of two further one-year terms. Upon the recommendation of the dean, an Instructor’s rank may be changed to Assistant Professor at the beginning of the academic year following the completion of the terminal degree requirements. If an Instructor is appointed to the rank of Assistant Professor, the time served as Instructor shall not be counted as part of the probationary service toward the attainment of permanent tenure.

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The terms of appointment for Adjunct Faculty members may be one, two, or three years, based upon the recommendation and justification of the dean. Adjunct appointments extended to University employees may be ongoing, as long as the relationship on which the appointment was based continues.
(8)(7) Individuals may be appointed, reappointed, and promoted to Clinical Faculty or 
Academic Professional non-tenure-track ranks based upon the fulfillment of 
avademic unit- or department- based criteria for each rank. Decisions regarding the 
conferral of rank among Clinical Faculty and Academic Professionals reside with the 
dean, with the concurrence of the Provost, and with the advice of the department 
head and a unit or departmental committee of faculty.

M. Terms and Conditions of Appointments

The terms and conditions of each initial appointment and each reappointment to the 
faculty shall be set out in writing. A copy of the terms, signed by the Provost, shall be 
delivered to the faculty member and a copy shall be retained by the Provost. The 
general terms and conditions of such appointments, including those provided herein, 
shall either be set out in the document of appointment or incorporated therein by clear 
reference to specified documents that shall be readily available to the faculty member. 
The University tenure regulations, including Chapter Six of The Code of The Board of 
Governors of The University of North Carolina, shall be published by the institution and 
distributed to all faculty members. Upon request, each faculty member shall have ready 
access to information about his or her employment status from the department head.

N. Resignation and Retirement

(1) A faculty member shall give prompt written notice of resignation, with its effective 
date, to the department head. Upon receiving such notification, the department 
head shall promptly inform the dean, the Provost, and the Chancellor of the 
resignation.

(2) Consistent with Section 606 of The Code of The Board of Governors of The University of 
North Carolina, each member of the faculty may retire in accordance with the provisions of 
Chapter 135 of the North Carolina General Statutes or in accordance with the provisions of 
UNCG’s Phased Retirement Program.

SECTION 4. Reappointment, Nonreappointment, and Requirements of Notice and Review 
for Tenure Track Faculty of Faculty Members on Probationary Term Appointments

A. Permissible and Impermissible Grounds for Nonreappointment

The decision whether to reappoint a faculty member when a probationary term of 
appointment expires may be based on any factor considered relevant to the total 
institutional interests, but it must consider the faculty member’s demonstrated 
professional competence, potential for future contributions, and institutional needs and 
resources. These considerations may form, in whole or in part, the basis of the ultimate 
decision; however, a decision not to reappoint may 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) the faculty member's race, color, creed, religion, gender, -sexual orientation, ethnicity, national origin, age, veteran status, political affiliation, or disability as defined by law, of honorable service in the armed forces of the United States; or (3) personal malice by decision makers toward the candidate. For purposes 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 Board of Governors Policy 101.3.1 II.B. for details.\(^6\)

B. Conference with Department Head

(1) Within ten\(^{10}\) days after receiving a written notice of nonreappointment from the faculty member's department head\(^{11}\), the faculty member may in writing request a private conference with the department head to discuss the reasons for nonreappointment. This request shall be granted and the conference held forthwith, within five days\(^{12}\) after receipt of the request if possible.

Within five days after the conference, the department head shall give the faculty member a simple, unelaborated, written statement of whether the original decision remains in effect.

(2) Conference with Supervisor of Department Head

\(^6\)On March 9, 1990, the Board of Governors issued an interpretation of The Code provisions prohibiting malice in reappointment decisions. That interpretation states, “As used in The Code, ‘personal malice’ means dislike, animosity, ill-will, or hatred based on personal characteristics, traits, or circumstances of an individual that are not relevant to valid University decision making. Having separately dealt with matters of race, sex, religion, and national origin, this particular Code provision simply goes on to state that other personal factors similarly may be outside the scope of proper consideration. Thus, to identify but a few possibilities, personnel decisions based on negative reactions to an employee’s anatomical features, marital status, or social acquaintances are intrinsically suspect. While the terms ‘ill-will,’ ‘dislike,’ ‘hated,’ and ‘malevolence’ may connote different degrees of antipathy, such distinctions make no difference in applying the fundamental rationale of the Board’s prohibition. Any degree of negative feeling toward a candidate based on irrelevant personal factors, regardless of the intensity of that feeling, is an improper basis for decision making.”

\(^9\)Additionally, The review for or against reappointment may not be used as a forum for consideration of unproven allegations of personal or professional misconduct. Discussion or consideration of personal or professional misconduct is considered an improper basis for decision making unless the candidate was previously found guilty of that misconduct by an appropriate hearing body (e.g., the Committee on Due Process) or by a court. Personal or professional misconduct may include, but is not limited to, criminal offenses, drug or alcohol abuse that renders the employee unable to fully execute work-related responsibilities, actions which violate various University conduct policies such as sexual harassment, undue favoritism, ethics in research, or other actions which may be deemed as inappropriate.

\(^10\)Changed from five to ten days by the note of the General Faculty, August 31, 2005.

\(^11\)In schools that are not departmentalized or in the case in which the candidate for reappointment is acting as the department head, the dean shall fill the role of the department head.

\(^12\)Wherever it is used in Sections 4, 6 and 7, except where calendar day is specified, the word “day” shall mean any day except Saturday, Sunday, or an institutional holiday. In computing any period of time, the day in which notice is received is not counted, but the last day of the period being computed is counted.
Within five days after receiving notice that the original decision remains in effect, the faculty member may in writing request a conference with the department head’s immediate administrative supervisor. This request shall be granted and the conference held forthwith, within five days after receiving the request if possible. The faculty member must provide written documentation to the immediate supervisor of the department head on support of his or her contentions regarding the reasons for nonreappointment.

Within ten days after this conference, the reviewing administrative officer shall send a written evaluation of the matter to the faculty member and to the department head. The evaluation may be in the form of an unelaborated concurrence with the decision; an expression of disagreement with the decision, with or without supporting reasons; or a recommendation for reconsidering the decision, with or without suggestions for specific procedures for the reconsideration. Whatever form the evaluation may take, it is merely recommendatory and is not binding upon the department head or final as to the faculty member.

Within five days after receiving an evaluation that disagrees with the decision or recommends its reconsideration, the department head shall give the faculty member and the department head’s immediate supervisor a response in writing.

C. Procedure for Review when Initial Decision Not to Reappoint is Made by the Chancellor

If the initial decision not to reappoint is made by the Chancellor, the faculty member may request review by the faculty Committee on Due Process as set out in Section 4.D. below.

D. Request for Review by Committee on Due Process: Scope of Review

Within fourteen calendar days after the faculty member receives notice of an unfavorable action resulting from the conference with the department head’s supervisor or within ten fourteen calendar days after the faculty member receives notice of nonreappointment from the Chancellor, the faculty member may request that the faculty Committee on Due Process (provided for in "The Constitution of the Faculty") review the decision. This review is limited to determining whether the decision not to reappoint was based upon any of the grounds stated to be impermissible in Section 4.A. or whether the procedures followed to reach the decision materially deviated from prescribed procedures resulted from failure to comply with the procedures specified in Section 3.G. and 3.H, such that doubt is cast on the integrity of the decision not to reappoint.

The request for review shall be written and addressed to the chair of the Committee on Due Process. It shall specify the grounds upon which the faculty member contends that
the decision was impermissibly based or arrived at improperly through procedural irregularities, with a short, plain statement of facts that the faculty member believes support the contention.

Such a request constitutes on the faculty member’s part: (1) a representation that the faculty member can prove the contention and (2) an agreement that the institution may offer in rebuttal of the contention any relevant data within its possession.

The Committee on Due Process shall consider the request and grant a hearing if it determines that (a) the request contains a contention that the decision was impermissibly based or arrived at improperly through procedural irregularities and (b) the facts suggested, if established, will support the contention. A denial of the request finally confirms the decision. If the request is granted, a hearing shall be held within twenty days after the request is received; the faculty member shall be given at least ten days’ notice of the hearing.

E. Conduct of Hearing

The hearing shall be conducted informally and in private. Only the members of the Committee on Due Process, the faculty member, the department head or Chancellor\(^\text{13}\) (depending upon where the decision was made not to reappoint) and such witnesses as may be called may attend except that the faculty member and the department head or Chancellor may each be accompanied by a person of their choosing. If either party chooses to be accompanied by an attorney, the attorney may not actively participate in the hearing. A quorum for the hearing is a simple majority of the total committee membership. Committee members who hold an appointment in the faculty member's department or school, who will testify as witnesses, or who have any other conflict of interest are disqualified from participating in that hearing. If the faculty member requests it and the chair of the committee approves, a transcript of the proceedings shall be provided to the faculty member. The committee may consider only such evidence and arguments by the parties as are presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by the committee members, the faculty member, the department head or the Chancellor, and the representatives of the faculty member and head or Chancellor. Except as herein provided, the conduct of the hearing is under the committee chair’s control.

F. Hearing Procedure

The hearing shall begin with the faculty member’s presentation of contentions, which shall be limited to those grounds specified in the request for a hearing and supported by

\(^{13}\) The Chancellor need not appear at the hearing in person but may designate a representative to attend and perform all functions assigned to the Chancellor in Sections 4.E. and 4.F.
such proof as the faculty member desires to offer. When the faculty member has concluded this presentation, the committee shall recess to consider whether the faculty member has established a prima facie case. If it determines that the contention has not been so established, it shall so notify the parties to the hearing and thereupon terminate the proceedings. Such termination confirms the decision not to reappoint. If it determines that rebuttal or explanation is desirable, it shall so notify the parties and proceed with the hearing. The department head or the Chancellor may then present in rebuttal of the faculty member’s contentions or in general support of the decision not to renew, such testimonial or documentary proofs as these individuals desire to offer, including their own testimony.

At the end of this presentation, the committee shall consider the matter in executive session. The burden is upon the aggrieved faculty member to satisfy the committee that the contention is true.

G. Procedure After Hearing

(1) When the Committee finds Against the Faculty Member

If the Committee on Due Process determines that the faculty member’s contention has not been established, it shall, by a simple, unelaborated written statement, so notify the parties. Such a determination confirms the decision not to reappoint. Further review may be had only in accordance with the procedure set out in Section 604 D of The Code of The Board of Governors of The University of North Carolina and the Board of Governors policy on “Appeals of Nonreappointment Decisions Under Section 604 of The Code of The Board of Governors of The University of North Carolina,” 101.3.1. Appeals from a negative decision at the departmental level are made to the Chancellor. Appeals from a negative decision by the Chancellor are made to the Board of Governors. Such appeals are based on the record of the committee hearing and are limited to three issues: (1) whether the procedures followed in reviewing the faculty member’s contentions failed to comport with the procedures set out in these regulations; (2) whether the decision that the faculty member failed to prove his or her contentions was clearly erroneous based on the available evidence; and (3) whether the decision contravened controlling law or University policy.

(2) When the Committee finds in Favor of the Faculty Member

If the committee determines that the faculty member’s contention has been satisfactorily established, it shall so notify the parties by a written notice that includes a recommendation for corrective action.

Within five days after receiving such a recommendation, the department head or the Chancellor (depending upon where the initial decision was made not to reappoint)
shall notify the faculty member, the faculty member’s immediate supervisor (in the case of a recommendation received by the Chancellor), the faculty member’s dean (in the case of a recommendation received by the department head), and the chair of the Committee on Due Process what modification, if any, will be made with respect to the original decision not to reappoint.

If the department head fails to make a recommended modification in the original decision, the committee shall submit a report to the Chancellor containing the committee’s findings and recommendations.

If the Chancellor decides not to recommend reappointment, it is a final decision. If the Chancellor is considering taking action that is inconsistent with the recommendation of the committee, the Chancellor should communicate or consult with the committee regarding the Chancellor’s concerns before making a decision. The Chancellor shall notify the faculty member and relevant administrators of that decision by a simple, unelaborated written statement of notice. This notice must inform the faculty member: (1) of the time limit within which the faculty member may file a notice of appeal with the President requesting review by the Board of Governors, (2) that a simple written notice of appeal with a brief statement of its basis is all that is required within the 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 manner. The notice of the decision is to be conveyed to the faculty member by a method of delivery that requires a signature for delivery. The faculty member may then seek review of that decision in accordance with the procedure set out in Section 604 D of The Code of The Board of Governors of The University of North Carolina. If the Chancellor decides to recommend reappointment, that recommendation shall be processed as provided in Section 3.H. (6) of these regulations.

SECTION 5. Post-Tenure Review

A. Definition and Purpose

In accordance with Administrative Memorandum 371 and the UNCG “Policy on Post-Tenure Review,” post-tenure reviews are required of all tenured faculty members. Building on annual reviews, post-tenure reviews are cumulative evaluations of faculty performance in the areas of teaching, research and creative activity, service, and directed professional activity (optional). The purpose of post-tenure review is to promote excellence among tenured faculty by (1) recognizing and rewarding exemplary faculty performance; (2) providing for a clear plan and timetable for improvement of performance of faculty found deficient; and (3) for those whose performance remains
deficient, providing for the imposition of appropriate sanctions, which may, in the most serious cases, include a recommendation for discharge.

B. Review of Post-Tenure Review Evaluations

(1) In post-tenure review evaluations where a faculty member’s performance is found deficient and where discharge or the imposition of serious sanctions is recommended, the faculty member may request review by the Committee on Due Process, in accordance with Section 7 of these Regulations.

(2) If a faculty member seeks to grieve any other element related to a post-tenure review evaluation, the faculty member must first meet with the department head. If the matter is not resolved through this process, the faculty member must next meet with the department head’s supervisor. Requests for these meetings shall be granted and held forthwith, within five days after receiving the request if possible. If, after following these procedures, the matter is still not resolved, the faculty member may appeal to the Faculty Grievance Committee in accordance with its policies and procedures.

SECTION 6. Termination of Employment for Reasons of Financial Exigency or Program Curtailment

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 appointed to a fixed or probationary term may be terminated 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 paragraph (2) below. This determination is subject to concurrence by the President and then approval by the Board of Governors of The University of North Carolina. If the financial exigency or curtailment or elimination of program is such that the institution’s contractual obligation to a faculty member cannot be met, the employment of the faculty
member can be terminated in accordance with 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 the institution is considering a major curtailment in or elimination of a teaching, research, or public-service program, the Chancellor or Chancellor’s delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments, academic programs, or schools that might be affected and the Faculty Senate.

B. Termination Procedure

(1) Considerations in Determining Whose Employment Is to Be Terminated

In determining which faculty member's employment is to be terminated for the reasons set forth in paragraph A. (l) above, consideration shall be given to tenure status, rank, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(2) Timely Notice of Termination

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:

(a) one who has permanent tenure shall be given not less than twelve months’ notice and

(b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 3.G.

When a faculty member's employment is to be terminated because of financial exigency, the institution shall 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 immediately above.

(3) Type of Notice to Be Given
The Chancellor or Chancellor’s delegate shall send the faculty member whose employment is to be terminated a written statement of this fact by a method of delivery that requires a signature for delivery. This notice shall include a statement of the conditions requiring termination of the faculty member’s employment; a general description of the procedures followed in making the decision; a disclosure of pertinent financial or other data upon which the decision was based; a statement of the faculty member’s right, upon request, to a reconsideration of the decision by the Committee on Due Process, if the faculty member alleges that the decision to terminate the appointment was arbitrary or capricious; and a copy of this procedure on termination of employment.

(4) Termination If Reconsideration Not Requested

If, within ten days after attempted delivery of the notice required by paragraph (3) above, the faculty member makes no written request for a reconsideration hearing, the faculty member’s employment shall be terminated at the date specified in the notice given pursuant to paragraph (3) without recourse to any institutional grievance or appellate procedure.

(5) Request for Reconsideration Hearing

Within ten days after attempted delivery of the notice required by paragraph (3) to the faculty member, the faculty member may request in writing a reconsideration of the decision to terminate his or her employment if the faculty member alleges that the decision was arbitrary or capricious. The request shall be submitted to the Chancellor, shall specify the grounds upon which the faculty member contends 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 shall constitute on the faculty member’s part (a) a representation that the faculty member can prove the contention and (b) an agreement that the institution may offer in rebuttal of the contention whatever relevant data it may have.

(6) Jurisdiction of Reconsideration Committee

If the faculty member makes a timely written request for a reconsideration of the decision, the Chancellor or Chancellor’s delegate shall insure that a hearing is accorded before the Committee on Due Process. This reconsideration shall be limited solely to a determination of the contentions made in the faculty member’s request for reconsideration. The reconsideration hearing shall be held promptly, but
the committee shall accord the faculty member five days from the time it receives the faculty member’s written request for a hearing to prepare for it.

(7) Conduct of Hearing

The hearing shall be closed to the public. The faculty member and the Chancellor have the right to legal counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, and to examine all documents and other adverse demonstrative evidence. The faculty member and the committee shall have access, upon request, to documents of The University of North Carolina at Greensboro that were used in making the decision to terminate the faculty member's appointment after the decision was made that some faculty member's appointment must be terminated. Upon the faculty member's request, a transcript of the proceedings shall be provided at the institution's expense. The committee may consider only such evidence as is presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by the committee members. Except as herein provided, the conduct of the hearing shall be under the control of the committee chair.

A quorum for purposes of the hearing is a simple majority of the total membership. No one shall serve on the committee for this hearing who holds appointment in the faculty member's department, academic program, or school, who participated directly in the decision to terminate this faculty member's appointment, or who has any other substantial conflict of interest.

(8) Hearing Procedure

The hearing shall begin with the faculty member's presentation of contentions, limited to those grounds specified in the request for hearing and supported by such proof as the faculty member desires to offer. The Chancellor or Chancellor’s representative may then present, in rebuttal of the faculty member’s contentions or in general support of the decision to terminate employment, such testimonial or documentary proofs as he or she desires to offer, including his or her own testimony.

At the end of this presentation, the Committee on Due Process shall consider the matter in executive session and shall make its written recommendation to the Chancellor within ten days after its hearing concludes. The burden is on the faculty member to satisfy the committee that his or her contention is true.

(9) Procedure After Hearing
If the Committee on Due Process determines that the faculty member's contention has not been established, it shall, by simple, unelaborated statement, so notify the faculty member and the Chancellor. The faculty member may then appeal the decision to terminate his or her employment in the manner provided by Section 605 C(6) of The Code of The Board of Governors of The University of North Carolina.

If the committee determines that the faculty member's contention has been satisfactorily established, it shall notify the faculty member and the Chancellor by a written notice that may also include a recommendation for corrective action by the Chancellor.

Within ten days after receiving this recommendation, the Chancellor shall send written notice to the faculty member and the chair of the Committee on Due Process what modification, if any, will be made with respect to the original decision to terminate the faculty member's employment. If the Chancellor fails to reverse the original decision, the faculty member may appeal the termination in the manner provided by Section 605 C(6) of The Code of The Board of Governors of The University of North Carolina. If the Chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the decision is final.

C. Assistance for Faculty Members and Rights to New Positions

(1) Institutional Assistance to Employees Who Are Terminated

The institution, when requested in writing by one whose employment has been terminated, shall give the faculty member reasonable assistance in finding other employment.

(2) First Right of Refusal of New Positions

For two years after the effective termination date of a faculty member's contract for any reason specified in subsection A., the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer, sent to the faculty member's last known address, shall be made by a method of delivery that requires a signature for delivery. The faculty member shall have thirty calendar days after attempted delivery of the notice to accept the offer.

SECTION 7. Discharge or the Imposition of Serious Sanctions

A. 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, suspended, or diminished demoted 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 that term. These procedures shall not apply to nonreappointment (Section 4) or termination of employment (Section 6).

(1) incompetence, including significant, sustained unsatisfactory performance after the faculty member has been given an 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 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 action, such misconduct should be either (a) sufficiently related to a faculty member’s academic responsibilities as to disqualify the individual from effective performance of university duties, or (b) sufficiently serious as to adversely reflect on the individual’s honesty, trustworthiness or fitness to be a faculty member.

These sanctions 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 that term. These procedures shall not apply to nonreappointment (Section 4) or termination of employment (Section 6).

B. The Provost shall send the faculty member by registered mail, return receipt requested, a written statement notice of intention to discharge the faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of mail or delivery that requires a signature for delivery such as registered mail, return receipt requested. The statement shall include notice of the faculty member’s right, upon request, to both written specification of the reasons for the intended discharge and to a hearing by the faculty Committee on Due Process.

C. If, within ten fourteen calendar days\textsuperscript{14} after receiving the notice and written specifications referred to in subsection B. above, the faculty member makes no written

\textsuperscript{14} In computing any period of time, the day in which notice is received is not counted, but the last day of the period being computed is to be counted.
request for either a specification of reasons or a hearing, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.

D. If, within ten days after receiving the notice referred to in subsection B. above, the faculty member makes written request, by registered mail, return receipt requested, for a specification of reasons, the Provost shall supply such specification in writing by registered mail, return receipt requested, within ten days after receiving the request. If the faculty member makes no written request for a hearing within ten days after receiving the specification, the faculty member may be discharged without recourse to any institutional grievance or appellate procedure.

E. If the faculty member makes a timely written request for a hearing, the Provost Chancellor shall ensure that the hearing is timely accorded before the faculty Committee on Due Process. The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction. The Committee on Due Process shall accord the faculty member twenty-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, extend this time by written notice to the faculty member will ordinarily endeavor to complete the hearing within 90 calendar days except under unusual circumstance such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled.

F. The hearing shall be closed to the public unless the faculty member and the committee agree that it may be open. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, and to examine all documents and other adverse demonstrative evidence, and to make argument. A written transcript of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the institution’s expense.

G. The Provost, or designee, and/or counsel, may participate in the hearing to present evidence, testimony of witnesses and other evidence, to cross-examine witnesses, to examine all documents and other evidence, and to make argument.

H. In reaching decisions on which its written recommendations to the Chancellor shall be based, the committee shall consider only the evidence presented at 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 the evidence, the committee shall use the standard of clear and convincing evidence in determining whether the institution has

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15 To meet this deadline, faculty are encouraged to consider scheduling hearings during the evening, weekend, or other non-class time. It is strongly recommended that several days and times be established for the hearing when scheduling the first day, for the eventuality that the hearing may take two or more sessions.
met its burden of showing that permissible grounds for serious sanction exist and are the basis for recommended action. The committee shall make its written recommendations to the Chancellor within ten fourteen calendar days after its hearing concludes or after the full transcript is received, whichever is later.

I. If the Chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the Chancellor’s decision shall be final. If the Chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a 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 be addressed to the Chair of the Board. Notice of appeal shall be filed within fourteen calendar ten 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 hearings held by the faculty Committee on Due Process, but it may, in its discretion, hear such other evidence as it deems necessary. The Board of Trustees' decision shall be made within forty-five days as soon as reasonably possible 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 fourteen calendar days after receiving the trustees’ decision, file a written petition for review appeal to the Board of Governors by filing a written notice of appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery with the Board of Governors if the faculty member alleges that one or more specified provisions of The Code of The Board of Governors of The University of North Carolina have been violated. Any such petition appeal to the Board of Governors shall be transmitted through the President, and the Board shall, within forty-five days after it receives the petition, grant or deny the petition or take such other action as it deems advisable. If it grants the petition for review, the Board’s decision shall be made within forty-five days after it has notified the faculty member that it will review the petition.

J. 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 individual at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension shall be exceptional and shall be with full pay.

SECTION 8. Implementation of These Regulations

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 (with respect to all existing and all future faculty appointments) on the effective date, which shall be the date twenty-eight calendar days after the day on which these policies and regulations are approved by the President and the Board of Governors of The University of North Carolina:

(1) The removal of the rank of Instructor from Sections 3.G., i.e., from the group of probationary ranks, shall apply only with respect to those persons employed after the effective date of these regulations, as amended, and shall not modify any terms of employment for persons holding current untenured appointments made under previous forms of these regulations, except that such persons may request modifications to conform to these regulations, as amended. Any request for modifications must be initiated by the affected faculty member within ninety (90) calendar days from the effective date.

(2) All provisions hereof requiring that a department head assemble and consult with at least the tenured members of the department who are senior in rank to the faculty member under consideration shall apply only with respect to personnel recommendations initiated by the department head after the effective date.

(3) The provisions of Section 4 shall apply with respect not only to those who receive notices of nonreappointment after the effective date but also to those who are given such notices during the ninety calendar days next preceding the effective date. Instructors, Assistant Professors, and Associate Professors to whom notices of nonreappointment are given during the ninety calendar days next preceding the effective date shall have twenty calendar days after the effective date within which to initiate the review procedures provided in Section 4.

SECTION 9. Amendment

Amendments to these regulations may be initiated upon the recommendation of the Committee on Faculty Government in the same manner as prescribed in "The Constitution of the Faculty" for amendments to that document. If the recommended amendments are approved by two-thirds of the General Faculty members present and voting, they shall be sent to the Chancellor for approval. If the Chancellor approves them, the Chancellor shall send them to the Board of Trustees, which, if it approves them, shall send them to the President for final approval.
2. TABLE OF CHANGES
POLICY ON POST TENURE REVIEW

Mandated Changes from the Board of Governors
(see Policy Manual 400.3.3.1[G]

☐ Page 2 and 3 – PTR to consider only areas of work responsibility
☐ Page 2 and 3 – faculty members do not select members of their review committee.
☐ Page 2 and 3 – Department Chair must consult with PTR committee.
☐ Page 2 – Outcome must be reviewed at least one administrative level higher.
☐ Page 4 – Mentoring peers is encouraged,
☐ Page 4 - At least semi-annual meeting with chair on progress; modified duties should be considered in corrective plan.

Additional Proposed Changes

☐ Page 1 – Change name from “Policy on Post Tenure Review” to “Post Tenure Review Policy.”
☐ Page 4 – Section IV G – Clarify that the University has burden of proof and that the standard of proof is clear and convincing.
Introduction

The Faculty Welfare and Professional Development Committee has been given the task of developing the criteria for Post-Tenure Review (PTR). The purpose of this report is to provide a framework for developing the criteria to be used for evaluating performance of tenured faculty as part of the PTR process for faculty growth and development. The report is based on the guidelines adopted by the Board of Governors in the report of the University of North Carolina Committee to Study Post-Tenure Review (Administrative Memorandum #371) and was written after a review of similar documents from other universities in the UNC system. The PTR process is designed to enhance individual efforts and to relate these efforts to the goals of academic units and the University through annual and cumulative reviews.

Definition and Purpose

The definition of PTR according to the Administrative Memorandum is: “a comprehensive, formal periodic evaluation of cumulative faculty performance, the prime purpose of which is to ensure faculty development and to promote faculty vitality.”

The purpose of PTR is to:

1. Sustain and facilitate excellence among tenured faculty by recognizing, encouraging, and rewarding faculty performance.

2. Foster faculty development in the areas of teaching, research, service, and directed professional activity by evaluating all aspects of professional performance and by acknowledging progress in specific areas and identifying specific activities which can be undertaken if improvement is needed.

Policy

Post-Tenure Review is required of all tenured faculty. Building on annual reviews, PTR is a cumulative evaluation of faculty performance in the areas of teaching, research, and service. An additional category, directed professional activity, may be used by a unit as a fourth category of evaluation if appropriate (see UNCG Evaluation Guidelines for Promotions and Tenure). The cumulative review shall take place no
The Post-Tenure Review Process

Starting in the 1998-1999 academic year, each unit must institute a written annual review process if it does not currently have one and conduct cumulative reviews of some faculty. Cumulative reviews and annual reviews take place at the unit level.

I. Annual Reviews. Written annual reviews should reflect how faculty promote the goals of their unit and the mission of the University. The responsibility for developing criteria and procedures for evaluation of tenured faculty performance rests with each academic unit. The criteria must consider individual faculty profiles and special contributions as well as the faculty member’s accomplishments in the areas of teaching, research, and service. If faculty responsibilities are primarily only to one or two of these areas, post-tenure review and resulting recommendations should take this allocation of responsibilities into account. Directed professional activity may also serve as a category of evaluation. The annual review process should include:

A. The UNCG Report Form. The UNCG Report Form for University faculty must be used, but individual units are free to modify the form to fit their specific needs. Each unit must establish its own criteria for performance. Faculty members must complete the UNCG Report Form, including a written summary of objectives and accomplishments, and may include supporting materials. In cases of disagreement between the unit head and faculty member on objectives and accomplishments, the head shall provide a faculty member with a written statement of the head’s specific reasons for disagreeing with any or all of the objectives and accomplishments.

B. Significant peer review. Significant peer review is defined as involving a committee composed of three or more tenured faculty members, but the unit head shall not be a member of the committee. A peer review committee for a department or academic unit will be selected by a process agreed upon by the tenured faculty in that unit. The faculty member being reviewed will not have the option of selecting members of the peer review committee. The department chair or academic unit head must consult with the peer review committee. Post-tenure review outcome in an academic unit must be reviewed at one or more higher administration levels. The committee
is charged with conducting a cumulative review (see II. below). However, if a faculty member requests significant peer review for his or her annual review evaluation, then this request shall be granted. The composition of the committee should be determined at the unit level. The unit head (and the review committee, when applicable) must evaluate the annual report and decide into which category each faculty member is to be placed (i.e., exemplary, satisfactory, or unsatisfactory) based upon the faculty member’s overall performance in the areas of teaching, research, service, and directed professional activity (when applicable). Within the context of the annual review, the category of satisfactory may, but need not, be divided into additional evaluative sub-categories, e.g., fair, good, and very good. If the review committee’s decision is not unanimous, any dissenting member of the review committee may include a letter of dissent, to be made available to the faculty member and kept in his or her file. The evaluation process should take into account the objectives that each faculty member establishes at the beginning of the current year and any dissenting letters or faculty response letters from prior years in the current five-year cycle. Faculty members may add further documentation in support of their teaching, research, service, or directed professional activity if they so wish.

C. The end of year report. The end of year report will state whether the faculty member’s overall performance for the year is exemplary, satisfactory, or unsatisfactory and will include a written summary of the year’s achievements from the unit head and the peer review committee (when applicable) with recommendations for rewards or improvement as appropriate. Disagreements between the unit head and the peer review committee will be resolved by the dean or provost (in cases in which the dean serves as the unit head).

II. Cumulative Review. The cumulative review prepared by the unit head, dean, or provost summarizes the annual reports of a faculty member’s progression of work and occurs at least once every five years. The cumulative review, which incorporates the annual review for the year in which the cumulative review takes place, should include a summary evaluation of all aspects of the professional performance of a faculty member in the areas of teaching, research, service, and directed professional activity (when applicable). If faculty responsibilities are primarily only to one or two of these areas, post-tenure review and resulting recommendations should take this allocation of responsibilities into account. The cumulative review will categorize a faculty member’s overall professional performance as being either satisfactory or unsatisfactory. For the purposes of the cumulative review, the category of satisfactory will not be subdivided into further evaluative sub-categories. Significant peer review is a necessary part of the cumulative review process. It involves a review committee of three or more tenured faculty charged with conducting a cumulative review, but the unit head is not a member of the committee. The faculty member being reviewed will not have the option of selecting members of the review committee. The department chair or academic unit head must consult with the peer review committee. Disagreements between the unit head and the peer review committee on the content of the cumulative review report will be resolved by the dean or provost (in cases in which the dean serves as unit head). An unsatisfactory cumulative review can only occur if there have been at least two unsatisfactory annual reviews in the current PTR cycle.
If, in a given academic year, a tenured faculty member scheduled for cumulative review is recommended for promotion through the first and second levels of promotion-review, then that faculty member will be deemed to have had a satisfactory cumulative review;\(^{16}\) there is no need to do a separate cumulative review in addition to the promotion-review. Otherwise, the faculty member in question will undergo a [separate] cumulative review. However, any tenured faculty member who is promoted in the same academic year as his or her cumulative review will be deemed to have had a satisfactory cumulative review.

III. **Rewards.** Annual reviews should recognize, encourage, and reward exemplary performance by means of special recognition such as:
1. Nomination for awards
2. Merit increases
3. Research leaves
4. Revisions of work load

IV. **Unsatisfactory cumulative review.** In cases of an unsatisfactory cumulative review, the following procedures must be implemented:

A. The unit head, dean, or provost shall complete and sign a form declaring that the faculty member has an unsatisfactory cumulative review. This form documents the specific reasons why the faculty member has been given an unsatisfactory cumulative review. Each of the relevant areas of performance must be addressed. A copy of this form shall be forwarded to the faculty member, dean, and peer evaluators. The unit head must, in consultation with the dean or provost, peer evaluators, and the individual faculty member, draft a plan with specific steps, specified resources as appropriate, and a time line for reasonable improvement, allowing a maximum of three years.

B. The plan must include a written statement of the consequences should improvement not occur within the designated time line.

C. A copy of this document is provided to the faculty member and another copy placed in the faculty member’s file.

D. The use of mentoring peers is encouraged.

E. F. Progress meetings with the department chair or academic unit head must occur on at least a semi-annual basis during the specified timeline. If duties are modified as a result of a less than satisfactory rating, then the development plan should so indicate and take into account the new allocation.

G. F. If a faculty member fails to meet the expected levels of improvement in performance stated in the plan, then the unit head may sign a formal document declaring the faculty member to be professionally deficient and recommend to the Chancellor that the faculty member be discharged or subjected to other disciplinary action, as established in Chapter VI of *The Code* of the University. The only

\(^{16}\) Note that the two levels of promotion-review in question may not be the same in a non-departmentalized unit as in a departmentalized unit.
admissible grounds for such a recommendation by the unit head in this context are incompetence or neglect of duty, as consistent with Chapter VI of The Code of the University and UNCG Handbook for Faculty.

C.G. The College, the Schools, and the Library shall each create a College, School, or Library committee of tenured faculty members called the Committee on Post-Tenure Review whose charge is to review and approve plans for improvement of faculty who receive unsatisfactory cumulative reviews. Such a review will occur if and only if a faculty member appeals the initial plan. Both the faculty member and unit head may provide additional documentary evidence to the committee. Disagreements between the unit head and the Committee on Post-Tenure Review will be resolved by the dean or provost (in cases in which the dean serves as unit head).

FG. If the unit head recommends to the Chancellor that the faculty member be discharged or subjected to other disciplinary action as established in Section 7 of the Regulations on Academic Freedom, Due Process, and Tenure, [182] then the following process of review shall be initiated. First, the unit head’s recommendation shall be reviewed by the tenured faculty in that unit as of the rank specified in Section 3.G of the Regulations on Academic Freedom, Due Process, and Tenure[183]. Such a recommendation shall be further reviewed in the following order: College, School, or Library Committee on Promotions and Tenure; Dean; University Committee on Promotions and Tenure; Provost; and Chancellor. The University has the burden of proof in justifying the recommendation in question; the standard of proof to be used throughout the stages of this review is that of clear and convincing evidence. Both the faculty member and unit head may provide additional documentary evidence to the reviewing entities. The recommendations at each level of review shall be forwarded, together with all of the documentary evidence and all of the prior recommendations, to the next level of review.

Timetable

PTR is to be first implemented in the 1998-1999 academic year. This time frame will require that all faculty undergo annual review by the end of that academic year and that some faculty undergo cumulative review. Each unit will provide to the provost a list of faculty members to be reviewed. To avoid reviewing all tenured faculty at once, in the initial cumulative review year and every five years thereafter, units may decide to conduct cumulative reviews on the anniversary of the faculty member’s most recent tenure/promotion review that is divisible by five, or units may review first those tenured faculty members with the longest accrued time since the last formal evaluation for tenure or promotion. Large units should review approximately 20 percent of eligible faculty every year. This process would eliminate any undue burden on units by staggering the cumulative review cycle.
3. TABLE OF CHANGES
POLICIES AND PROCEDURES OF THE FACULTY GRIEVANCE COMMITTEE

Mandated Changes from the Board of Governors

☐ Page 1 – Add post tenure review matters to section II indicating what is grievable.

Additional Proposed Changes

☐ Page 1 – Change name from “Policies and Procedures of the Faculty Grievance Committee” to “Faculty Grievance Committee Policies and Procedures.”
POLICIES AND PROCEDURES OF THE FACULTY GRIEVANCE COMMITTEE

THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO


(Approved by the Faculty Senate, February 6, 2002)
(Amended by the Faculty Senate, October 1, 2003)
(Approved by the Board of Trustees, November 6, 2003)

Update once approved

I. Purpose

In accordance with Section 607 of The Code of the Board of Governors of The University of North Carolina, the Faculty Grievance Committee of The University of North Carolina at Greensboro shall hear, pursue adjustment through mediation, and advise with respect to the adjustment of grievances of members of the faculty. The power of the Committee shall be solely to hear representations by the persons directly involved in a grievance, to pursue voluntary adjustment by the parties through mediation, and to advise adjustment by the administration when appropriate.

II. What is Grievable

Grievances within the province of the Faculty Grievance Committee’s power shall include matters directly related to a faculty member’s employment status and institutional relationships within the University, including matters related to post-tenure review. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the Committee.

III. Filing a Grievance

Before seeking resolution through the Faculty Grievance Committee, the faculty member must first meet with the faculty member’s department/division head/chair. If the matter

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17 The faculty grievance process is a process available to current members of the faculty. A faculty member whose employment is terminated during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of the faculty member is terminated after the grievance is filed, the Chancellor may, however, in the Chancellor’s discretion, determine that it is in the best interest of the University to continue the grievance process.
is not resolved through this process, the faculty member must next meet with the dean/director. Requests for these meetings shall be granted and held forthwith, within five (5) days after receiving the request if possible.

D.B. Petition to the Grievance Committee

If, after following the above procedure, the matter is still not resolved, the faculty member may petition the Faculty Grievance Committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The faculty member shall deliver the petition to the chair of the Faculty Grievance Committee and shall deliver a copy of the petition to the respondent administrator by certified mail or by another means that provides proof of delivery.

C. Mediation

Upon receipt of a petition, the Faculty Grievance Committee will first pursue mediation if the matter in dispute is within the jurisdiction of the Committee, if it appears the dispute can be resolved through such an approach, and if the parties to the dispute express their willingness to cooperate with such an effort. Neither party is obliged to engage in mediation; it is a consensual undertaking. A decision by either party not to pursue mediation will not be held against that party in any way and no blame will attach to either party if the mediation does not produce a settlement.

The mediator’s role is limited to efforts at facilitating communication between the parties and encouraging the discovery of a mutually agreeable basis for voluntary resolution of the dispute. Mediation does not entail evidentiary hearings, findings of fact, or recommendations to responsible administrators for resolving the dispute. Attorneys for either party will not be allowed to participate in the mediation process. When mediation succeeds, the grievance is withdrawn and the parties may implement the solution to which they have agreed. Any such mediated agreement that the parties are able to negotiate will be embodied in a written agreement. Any such agreement that obligates the University must be signed by a University official with the authority to bind the University concerning the particular agreement.

Mediators may not be members of the Faculty Grievance Committee. Mediators must have completed formal mediation training substantially equivalent to that required for certification by the North Carolina Administrative Office of the Courts or have been formally trained in mediation specifically designed for use in a university setting. Mediators may be trained members of the faculty or staff, outside mediators from the community, or mediators from other campuses within the University.

No record of a failed mediation process will be produced by the mediator other than an unelaborated written statement to the Faculty Grievance Committee necessary to invoke the next step in the grievance process, i.e., that mediation was attempted but settlement was not reached. Additionally, the mediator may not be called as a witness in any case.
subsequent proceeding, nor may anything done or said by either party during a mediation process be referred to or used against a party in any subsequent proceeding.

6-5. Time limits concerning the formal resolution of grievances filed pursuant to Section 607 of The Code will be suspended for the duration of a mediation process being held pursuant to this policy.

D. Merits of Petition

If mediation is not deemed appropriate to the case or if it fails to produce a voluntary resolution, then the Faculty Grievance Committee must decide whether a hearing shall be held in response to the petition. The decision of whether or not a hearing shall be held is to be made by reference solely to the content of the grievant’s petition. For the purposes of this decision only, the Committee must assume that the facts alleged in the petition are true. The petition shall be heard only if those facts state a grievance within the Committee’s jurisdiction, as defined in Section II above, and if the facts show a violation of a right or privilege based on federal or state law, university policies or regulations, written unit or departmental policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending university employment. Dismissal is required if the petition:

1. addresses a problem that is not within the Committee’s jurisdiction (a disciplinary issue or a matter that is the responsibility of another committee, e.g., nonreappointment), or

2. fails to allege a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, university policies or regulations, written unit or departmental policies or regulations, or commonly shared understandings within the academic community about the rights, privileges and responsibilities attending university employment.

IV. Conduct of Hearing

If the Faculty Grievance Committee determines that the petitioner has presented an apparently substantial issue within the purview of its responsibility, and if all other negotiation options have been exhausted, an evidentiary hearing will be held. The hearing will be closed to the public. Any member of the Faculty Grievance Committee whose role as adjudicator would present a conflict of interest in a specific case must recuse himself or herself from participation in the Committee’s deliberations/decisions. In addition to the Committee, the grievant, and the respondent, only the following persons will be allowed to attend: witnesses or persons who have been asked to testify by either the grievant or the respondent (each witness will be present in the hearing room only during his or her individual testimony); and, in cases where the grievant has a disability that affects the grievant’s ability to present his or her case, a non-lawyer assistant. The hearing shall be tape recorded, and the recordings shall become the official record of the hearing. The Committee is to maintain a complete transcript of all evidence received. Only the evidence so compiled is to form the basis for Committee conclusions about the case and any resulting advice to the responsible administrator and the Chancellor. The transcript shall be retained for two (2) calendar years in the file under restricted access in the University Archives, and only the immediate
parties to the controversy, the responsible administrators, and the members of the University governing boards and their respective committees shall be permitted access to such materials.

The respondent will have been provided a copy of the grievant’s petition for redress no fewer than ten (10) working days prior to the hearing. The respondent and the grievant will provide each other copies of all documents to be submitted in evidence no fewer than five (5) working days prior to the hearing. A possible exception is any document submitted by the respondent containing confidential personnel information about another employee as determined by the University Attorney, consistent with federal, state, and local statutes. If the respondent presents such confidential information, then the grievant will not be privy to that information without written consent from the other employee.

At the beginning of the hearing, the chair will:

A. Introduce members of the Committee;

B. Explain the hearing procedure to the parties, including

   1. the official record of the hearing,

   2. the order of presentation,

   3. the issues of confidentiality; and

C. State the grievance.

It is understood that the spirit of the hearing shall be in the nature of an inquiry to ascertain the facts of the situation rather than as an adversarial proceeding. The hearing will be conducted by the chair of the Committee, guided by the sole purpose of providing a fair, balanced, and dispassionate hearing. The Committee shall hear the presentation by the grievant and the rebuttal and explanations of the respondent, and it shall advance such questions as are appropriate to establish the facts of the case.

The hearing will proceed in the following manner:

1. The grievant will have up to one (1) hour to present the charge, including the presentation of evidence in the form of documents and witnesses. The grievant bears the burden of proof.
2. The respondent will have the right to question the grievant and the grievant’s witnesses. The time spent questioning the grievant or the grievant’s witnesses will not be deducted from the grievant’s hour.

3. Committee members may directly question the grievant and the grievant’s witnesses.

4. The respondent will have up to one (1) hour to respond to the charge, including the presentation of evidence in the form of documents and witnesses. The respondent may testify or may elect to remain silent.

5. The grievant may question the respondent and the witnesses. The time spent questioning the respondent or the respondent’s witnesses will not be deducted from the respondent’s hour.

6. Committee members may then question the respondent and the respondent’s witnesses.

7. The grievant may submit evidence, including testimony, to rebut evidence presented by the respondent. The respondent and the Committee may question rebuttal witnesses.

8. The grievant will have up to five (5) minutes to make a final statement.

9. The respondent will have up to five (5) minutes to make a final statement.

10. The Committee chair will close the hearing and set a time for panel deliberations to begin at the earliest possible time. The chair will advise all hearing participants of the obligation of confidentiality and necessity of avoiding discussions among themselves except in regularly convened meetings.

11. The deliberations will continue until the Committee has reached a decision as to whether to make a recommendation. In coming to a decision, a majority of eligible voting members must concur. A quorum for all meetings of the Committee consists of a majority of the eligible voting members of the Committee.

12. Findings must be based upon the standard of whether the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, University policies or regulations, written unit or departmental policies or regulations, or commonly shared understandings within the academic community about the rights, privileges and responsibilities attending University employment. The burden is on the grievant to establish by a
preponderance of the evidence that the faculty member has experienced such an injury.

13. If, after reviewing the petition or hearing the matter, the Committee determines that no adjustment in favor of the grievant is appropriate, it shall so advise the faculty member and the Chancellor.

14. If, after hearing the matter, the Committee determines that an adjustment in favor of the aggrieved faculty member is appropriate, the Committee shall so advise the faculty member and the respondent administrator. The Committee’s findings, opinions, and recommendations will be written and delivered to the administrative official most directly empowered to remedy the grievance with a copy to the grievant and the respondent, normally within thirty (30) days after receipt of the request for review. Additional time may be requested by the chair of the Committee.

15. If the administrative official fails to act within thirty (30) days, the Committee’s advice will be forwarded to the Chancellor. If the grievant is not satisfied with the remedy proposed at any lower administrative level, the grievant may request a review at the next highest administrative level. The Chancellor shall base his or her decision on the recommendation of the Committee and the record from the Committee hearing. The Chancellor may consult with the Committee before making a decision. The Chancellor’s decision is the final administrative decision.

16. The Chancellor shall notify the faculty member and the respondent administrator in writing of the Chancellor’s decision. The notification shall include a notice of appeal rights, if any, and, if the decision may be appealed, it shall inform the grievant:

a. Of the time limit within which the grievant may file a petition for review by the Board of Trustees,

b. That a written notice of appeal containing a brief statement of the basis for appeal is required within the ten-day period and,

c. That, after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established.

All such notices of decision are to be conveyed to the grievant by a method which produces adequate evidence of delivery.

V. Proper Routes of Appeal

Further review may be had only in accordance with the provisions of the Board of Governors “Policy on Grievances Filed Pursuant to Section 607 of The Code,” 101.3.2. An appeal must be based upon the record of the Committee’s hearing and is permissible only
under the following condition. If neither the relevant administrative official nor the Chancellor makes an adjustment that is advised by the Committee in favor of the aggrieved faculty member, then the faculty member may appeal to the Board of Trustees. The decision of the Board of Trustees is final.

If the Committee did not advise that an adjustment in favor of the grievant is appropriate, then the decision of the Chancellor is final and may not be appealed.

The Board of Trustees may delegate to a designated Committee the authority to make procedural decisions and to make final decisions on its behalf concerning appeals of faculty grievances submitted pursuant to Section 607 of The Code.

A. Timeline for Appeals

A grievant who seeks to appeal the Chancellor’s disposition of his grievance must file written notice of appeal with the Board of Trustees by submitting such notice to the Chancellor, with adequate evidence of delivery, within 10 days after the grievant’s receipt of the Chancellor’s decision. The notice shall contain a brief statement of the basis for the appeal. If the Board agrees to consider the appeal, it will do so on a schedule established by the Chancellor, subject to any instructions received from the Board or from a Committee of the Board which has jurisdiction of the subject matter of the grievance. The board will issue its decision as expeditiously as is practical. If the grievant fails to comply with the schedule established for processing the appeal, the Board in its discretion may extend the time for compliance or it may dismiss the appeal.

B. Standard of Review

In order to prevail before the Board of Trustees, the faculty member must demonstrate that the Chancellor’s decision was clearly erroneous, that it violated applicable federal or state law or University policies or regulations, or that the process used in deciding the grievance was materially flawed.
4. TABLE OF CHANGES
APPEAL GUIDELINES FOR DESIGNATED EXEMPT EMPLOYEES (EPA)

Mandated Changes from the Board of Governors

- Page 2 – Replace references to discharge for cause with “adverse personnel action” to comply with Section 611 of The Code of the Board of Governors.

- Page 3 – update 1st paragraph to reflect that these procedures apply to grievances concerning interpretation and application of any provision of these policies other than matters covered by Section 611 of The Code of the Board of Governors.

- Page 3 – Delete references to Sections VI. and VII.

Additional Proposed Changes

- Page 1 – Change name from “Appeal Guidelines for Designated Exempt Employees (EPA)” to “Appeal Guidelines for Designated Exempt Employees (EPA Non-Faculty).”

- Page 1, 2, 3 – Delete “As noted in these policies” and quotation marks.

- “Procedures for Grievance of Section 611 of The Code of the Board of Governors” moved to come first and then followed by “Procedures for Grievances Concerning Interpretation of Application of Any Provision of These Policies Other than Matters Covered by Section 611 of The Code of the Board of Governors” to come second.
The purpose of this document is to establish procedures whereby certain designated exempt employees may secure review of employment decisions and grievances based on the following employment policies:

(A) “Policy on Employees Exempt from the State Personnel Act (EPA Non-Faculty)” of The University of North Carolina at Greensboro, adopted by the Board of Trustees, April 1981, and

(B) “Personnel Policies for Senior Academic and Administrative Officers (Tier II)” of The University of North Carolina at Greensboro, adopted by the Board of Trustees, November 16, 2000.

As noted in these Policies, "employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these Policies; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections IV.A., IV.B., or IV.C., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI. or VII. of these Policies." All petitions for the review of decisions are to be made to the EPA Non-Faculty Appeals Committee, hereinafter referred to as the Committee.

A five member appeals committee, the majority of whom will be employees in covered positions, will be appointed by the Chancellor. The Chancellor will name the chair. The committee is advisory to the Chancellor.

As noted in these Policies, "If the membership of the Committee is for any reason inappropriate in a particular case in the judgment of the Chair, the Chair may recommend some changes of membership to ensure objective and timely review in that case. The Chancellor may add or subtract members in response to this recommendation, on a temporary basis." A committee member may not participate in the review of an appeal he or she brings on his or her own behalf or in any case in which he or she has been involved.
If any covered employee has a grievance, he or she may petition the appeals committee for redress. The petition shall be written and shall set forth the nature of the grievance and against whom the grievance is directed. The committee shall decide whether the facts merit a detailed investigation. The submission of a petition shall not automatically result in a formal hearing.

It is the responsibility of the Committee to evaluate petitions, consider the evidence, and where warranted, conduct hearings and advise the Chancellor on appeals of the kind mentioned here.

As noted in these Policies, “The Committee may at any time submit policy suggestions to the Chancellor as experience dictates, toward the end of improving the fairness and effectiveness of these hearings.”
Procedures for Grievance of Section 611 of the Code of the Board of Governors

Grievance procedures concerning the interpretation and application by administrative decision of any provision of Section 611 of the Code of the Board of Governors shall be as follows:

1. Letters notifying a covered person of an adverse personnel action may come only from the senior administrative officer responsible to the Chancellor in that functional area.

2. In the case of an appeal from such adverse personnel action, the employee will have ten (10) days ("day" shall mean any day except Saturday, Sunday or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the Chair, with a copy to the Chancellor.

3. If, within ten (10) days after the employee receives the notice of an adverse personnel action, the employee makes no written statement explaining the grievance and request for review, the action may be taken without recourse to any further institutional procedure by a written letter from the senior administrative officer responsible to the Chancellor in the functional area.

4. If the employee makes a written request within ten (10) days for a hearing, the Chair of the Committee shall ensure that a hearing is accorded before the Committee. The hearing shall be based upon "the employee's written statement explaining the grievance." The Committee shall give the employee ten (10) days from the time it receives the written request for a hearing to prepare his or her defense. The Committee may, upon the employee's written request and for good cause, extend this time by written notice to the employee.

5. The hearing shall be closed to the public unless the employee and the Committee agree that it may be open. The employee shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and question witnesses, and to examine all documents and other demonstrative evidence. The Chancellor will designate the University's representative or counsel, who will participate in the hearing and who may present evidence, question witnesses, and present arguments. The Chair will secure the services of a court reporter for the hearing. A copy of the transcript of the hearing will be furnished to the grievant at the University’s expense, as soon as practicable after it is made available to the University by the court reporter. When no longer needed for appeal purposes, the University’s copy of the transcript will become a part of the grievant’s personnel file maintained in the Office of the Provost.

6. Any claim by the Committee upon the time of University Counsel should first be approved by the Chancellor.

7. In reaching decisions on which its written recommendations to the Chancellor shall be based, the Committee shall consider only such written and oral arguments presented at the hearing as the Committee may allow. The Committee shall make its written recommendations to the Chancellor within ten (10) days after its hearing concludes.

8. If the Chancellor receives and accepts a recommendation from the Committee that the adverse personnel action should be reversed, his or her decision is final. If the Chancellor either declines to accept a Committee recommendation that the adverse personnel action
should be reversed or concurs in a Committee recommendation that the original decision should stand, the employee may appeal the Chancellor's decision to the Board of Trustees in accordance with the provisions of Section 611 of *The Code of the Board of Governors of The University of North Carolina*.

9. When an employee occupying a covered position has been notified of the University's intention to discharge him or her for cause, the Chancellor may suspend his or her employment at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein; the power to suspend shall be invoked only in exceptional circumstances and such suspension shall be with full pay.
Procedures for Grievances Concerning Interpretation and Application of Any Provision of These Policies Other than Discharge for Cause Matters covered by Section 611 of The Code of the Board of Governors

Appeals invoking grievance procedures other than matters covered by Section 611 of The Code of the Board of Governors will include matters as noted in these Policies concerning the interpretation and application of any provision of these Policies; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections IV.A. (Discontinuation of appointment, with notice), IV.B. (Expiration of term appointment), or IV.C. (Termination of employment because of financial exigency or program curtailment or elimination), may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI. or VII. of these Policies.

As noted in these Policies, "the petition for review should be made in a timely fashion and addressed to the Chair of the Committee, with a copy to the Chancellor.

The petition shall explain the circumstances that led to and justify the grievance, not to exceed four pages in length. A grievance may be considered only on the basis of a prior written statement by the employee bringing the complaint. Review may be granted only when the determination is made by the Chair, or his or her delegate, that the employee filing the grievance has been unsuccessful in resolving it through discussion with the administrative officials most directly empowered to adjust the matter.

A petition for review constitutes on the employee's part: (1) a representation that he or she can support his or her contention, and (2) an agreement that the University may offer in rebuttal of his or her contention any relevant data within its possession.

If the Committee determines that the alleged violations, if proven true, would constitute violations of the provisions of Sections VI. or VII. of these Policies, or violations of the applicable notice requirements, then a hearing must be held to give the petitioner an opportunity to prove his or her allegations. If the Committee determines that the allegations, even if proven true, would not constitute a violation of applicable notice requirements or a violation of the provisions of Sections VI. or VII. of these policies, there would be no basis for proceeding with a formal hearing.

As noted in these Policies, "the hearing will be conducted as directed by the Chair of the Committee, guided by the sole purpose of providing a fair, balanced and dispassionate hearing. Prior to conducting the hearing, the Chair of the Committee is empowered to review the appeal in the manner that seems most expedient, including the delegation of responsibilities to one or more members or subcommittees of the Committee. These delegated responsibilities may include hearing representations by the persons directly involved in the grievances, by
encouraging voluntary adjustment by the employee and the department head or administrative official directly involved. Once a hearing begins, the Committee's role in encouraging voluntary adjustments normally will conclude, giving way to the formal review process.

As noted in these Policies, after a hearing, "The Committee’s findings, opinions and recommendations will be written and delivered to the Chancellor with a copy to the grievant normally within 30 days after receipt of the petition for review. Additional time may be requested by the Chair from the Chancellor as needed."

As noted in these Policies, "The Chancellor's decision upon receipt of the Committee's recommendations is final. Review thereafter may be had appealed to the Board of Trustees in accordance with the provisions of Section 609 C.611 of The Code of the Board of Governors of The University of North Carolina."
Procedures for Grievances Other than Those Covered by the Personnel Policies

The Chancellor may, at his or her discretion, ask the EPA Non-Faculty Appeals Committee to serve as a general grievance committee in instances when employees in covered positions seek the review of possible grievances that are not covered in these Policies.
5. TABLE OF CHANGES
POLICY ON EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT

Mandated Changes from the Board of Governors

☐ Page 5 – Add expiration of term appointments to list of what is grievable
☐ Page 5 – Add paragraphs as indicated in Section 611 of The Code of the Board of Governors.
☐ Page 2 – Add reference for personal malice (Board of Governors Policy 101.3 II.B)
☐ Page 6 – Refer to Policy on Discriminatory Conduct
☐ Page 7 – Reference to Policy §300.5.1
☐ Page 8 – Delete G.s. 116-143 and replace with UNC Policy 1000.2.2
☐ Page 9 – Delete reference to 128-15.1
☐ Page 9 – Delete reference to Retirement System of Teachers and State Employees

Additional Proposed Changes

☐ Page 1 – Change name from “Policy on Employees Exempt from the State Personnel Act (EPA)” to “Employees Exempt from the State Personnel Act (EPA Non-Faculty) Policies.”
POLICY ON EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT (EPA NON-FACULTY) POLICIES
THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO

http://provost.uncg.edu/documents/personnel/epapolicy.pdf

(Adopted by the Board of Trustees, April 1981)
(Amended by the Board of Trustees, 1988; February 10, 1994; March 31, 1994; April 23, 1998; September 6, 2001; November 6, 2003)

Update once approved

These policies are adopted by the Board of Trustees of the University of North Carolina at Greensboro pursuant to the Personnel Policies for Designated Employment Exempt from the State Personnel Act adopted by the Board of Governors of the University of North Carolina on February 13, 1981, and amended (under the Policy on Employees Exempt from the State Personnel Act) on April 12, 2001.

I. Scope and Applicability of Employment Covered by These Policies

A. Scope of Category

Employment positions within The University of North Carolina at Greensboro that are covered by these policies (hereinafter "covered positions") are those positions that are not subject to the State Personnel Act (General Statutes Chapter 126) and are not otherwise categorized. The following positions are otherwise categorized and are not covered by this policy:

1. Faculty positions subject to institutional tenure regulations

2. Positions within Senior Academic and Administrative Officers categories of employment subject to G.S. 116-11(4), G.S. 116-11(5), or G.S. 116-14

3. Positions within the “physicians or dentists” category under N.C.G.S. § 126-5 with faculty appointments

4. University students who are employed incident to their status as students, as in graduate teaching assistantships or work-study positions.

B. Applicability of Policies

These policies apply to all permanent covered positions.

C. Administration
The Chancellor shall be responsible for the implementation of these policies and may delegate his or her authority to other identified officers of The University of North Carolina at Greensboro as he or she deems appropriate.

II. Appointments to Covered Positions

A. Every appointment to a covered position within The University of North Carolina at Greensboro shall be made by or on behalf of the Chancellor by means of a letter of appointment that fulfills the requirements of this section.

B. Every letter of appointment to a covered position shall include the following:

1. The title of the position
2. The initial salary
3. Provision for periodic review of compensation
4. Provisions consistent with Sections II.C and II.D below, if contingencies based on availability of funding are applicable
5. The annual leave entitlement of the employee
6. Notice that the employment conferred is either for a stated definite term or is an "employment at will" subject to continuation or discontinuation at the discretion of the Chancellor
7. Notice that the employment is subject to these policies, as originally adopted and as they may be periodically revised
8. A copy of the policies shall be attached to the letter of appointment

C. When a covered position is funded in whole or substantial part from sources other than continuing state budget funds or permanent trust accounts, the letter of appointment shall state that continuation of the employee's service in that position is contingent upon the continuing availability of funds from such other sources to support that position, shall specify the source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Sections IV.A, IV.B, and IV.C; provided, that the affected employee shall be informed at the earliest possible practicable date of the occurrence of such a funding contingency.

D. 1. When an employee is to serve simultaneously in both a covered position and a position of University employment not covered by these policies, with the result

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18 Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.
that two different prescriptions may appear to obtain with respect to a particular condition of employment or a right or responsibility of the employee, one position shall be designated in writing as the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a covered position occurs subsequent to appointment to a position not covered by these policies, the letter of appointment to the covered position shall embody the required designation of base employment; conversely, if appointment to a covered position precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

2. Any funding contingency of the type referred to in Section II.C shall be set forth separately for the covered position and for the other position, since the operation of any such contingencies may be independent.

3. When an appointment to a covered position is to be accomplished by appointment to a faculty position that is intended to be nominal or honorary, or to create a faculty affiliation not entailing significant duties or compensation, the term "adjunct", or similar nomenclature, shall be used to identify the faculty appointment.

III. Evaluation of Performance

Any employee in a position covered by these regulations shall be reviewed annually by the employee’s supervisor. Each supervisor shall devise his or her own method of performance evaluation, including an evaluation form.

IV. Discontinuations of Employment in Covered Positions

A. Discontinuation of appointment, with notice or severance pay

Employment within a covered position that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion of the Chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section IV.D) shall be subject to advance timely notice of discontinuation or the payment of severance pay, in calendar days, as follows:

1. During the first year of service, not less than 30 days prior to discontinuation of employment or the payment of severance pay for 30 days

2. During the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of severance pay for 60 days

3. During the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 days
The determination of whether the employee shall receive notice of discontinuation of the appointment or severance pay shall be in the sole discretion of the Chancellor.

B. Expiration of term appointment

Employment within a covered position that is established by the letter of appointment to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be renewed or extended at the option of the employer, by written notice satisfying the requirements of Section II. If the employer intends not to renew or extend the term contract, the following pertains:

1. To an employee with a term of one year or less, no notice of intent not to renew shall be required

2. To an employee with a term of more than one year but less than four years, notice of intent not to renew shall be transmitted in writing at least 60 days prior to the expiration date of the term

3. To an employee with a term of four years or more, notice of intent not to renew shall be transmitted in writing at least 90 days prior to the expiration date of the term

Failure to provide written notice as required in subsections 2 and 3 shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the scheduled expiration date of the term.

C. Termination of employment because of financial exigency or program curtailment or elimination

Employment within a covered position that is established by the letter of appointment to be for a stated definite term may be terminated prior to expiration of the stated term in the following cases:

1. Demonstrable, bona fide, institutional financial exigency; or

2. Major curtailment or elimination of program.

"Financial exigency" is defined to mean a significant decline in financial resources of the University that compels a reduction in the institution's budget. The determination of whether a condition of financial exigency exists or whether there will be a major curtailment or an elimination of a program shall be made by the Chancellor, with advance notice to and approval by the President and the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the contractual obligation to an employee within a covered position cannot be met, the employment of the individual may be terminated, subject to the following notice requirements:

1. During the first year of service, not less than 30 days notice prior to termination
2. During the second and third years of employment, not less than 60 days notice prior to termination

3. During the fourth and all subsequent years of service, not less than 90 days notice prior to termination

D. Discharge for Cause

Any employee occupying a covered position may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section IV.A), automatic expiration of term (Section IV.B), and termination (Section IV.C). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the grievance procedures of Section V of these policies. When an employee occupying a covered position has been notified of the intention to discharge him or her for cause, the Chancellor may suspend his or her employment at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein; the power to suspend shall be invoked only in exceptional circumstances and such suspension shall be with full pay.

V. Review of Employment Decisions and Grievances

A. Employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these policies; provided, however, that grievances concerning discontinuations, expiration of term appointments, or terminations of employment with notice, pursuant to Sections IV.A, IV.B, or IV.C, may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI or VII of these policies.

B. The employee will have ten (10) days from the receipt of notice (“day” hereinafter referred to shall mean any day except Saturday, Sunday, or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the chair, with a copy to the Chancellor. Requests for all other grievance appeals should be made within a timely fashion. If the notice is not received within the specified time, then the action is final with no further recourse.

C. Covered persons may seek review of personnel actions based on allegations that:

   1. Notice

      For discontinuations, expiration of term appointment, or termination of employment with notice, such review may be sought only upon allegations of violations of
applicable notice requirements set out in policies 300.2.1 III A., B., and C. of the University Policy Manual; or

2. Equal Employment Opportunity and Protected Activity

For violations of any provision of sections V. or VI. of Policy 300.2.1 of the University Policy Manual; or

3. Discharge for Cause, Other Discipline, Policy Interpretation/Application

For discharge for cause or other disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Policy 300.2.1 IV. of the University Policy Manual,

except that such review may be sought only if the employee alleges the discharge, discipline, or policy interpretation or application was illegal or violated a policy of the Board of Governors.

D. If the employee or former employee timely files a written request for review, the chancellor shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

E. In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence which is the same as the “greater weight of the evidence.”

F. If the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor’s written decision by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt request, or by another means that provides proof of delivery, and alleges as set out in section V. c. above. The decision of the Board of Trustees is final with no further appeal.

G. A five-member appeals committee, the majority of whom will be employees in covered positions, will be appointed by the Chancellor. The Chancellor will name the chair.
committee is advisory to the Chancellor. If any employee in a covered position feels that he or she has a grievance, they may petition the appeals committee for redress. The petition shall be written and shall set forth the nature of the grievance and against whom the grievance is directed. The committee shall decide whether the facts merit a detailed investigation. The submission of a petition shall not automatically result in a formal hearing.

H. If the membership of the committee is for any reason inappropriate in a particular case in the judgment of the chair, the chair may recommend some change of membership to ensure objective and timely review in that case. The Chancellor may add or subtract members in response to this recommendation, on a temporary basis.

I. Review will be initiated by a written request explaining the grievance. The petition will be submitted to the chair, with a copy to the Chancellor. The review will be conducted as directed by the chair of the committee, guided by the sole purpose of providing a fair, balanced, and dispassionate hearing, if the committee determines there is sufficient evidence to warrant a formal hearing. If the findings of the committee result in a formal hearing, the proceedings will be held in accordance with the “Appeals Guidelines for Designated Exempt Employees (EPA Non-Faculty).”

In the case of an appeal on the basis of discharge for cause (Section IV.D), the employee will have ten (10) days (“day” hereinafter referred to shall mean any day except Saturday, Sunday, or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the chair, with a copy to the Chancellor. Requests for all other grievance appeals should be made within a timely fashion.

J. The committee’s findings, opinions, and recommendations will be written and delivered to the Chancellor with a copy to the grievant within 30 days after receipt of the petition. Additional time may be requested by the chair from the Chancellor as needed.

K. The committee may at any time submit policy suggestions to the Chancellor as experience dictates, toward the end of improving the fairness and effectiveness of these hearings. Any claim by the committee upon the time of University Counsel should first be approved by the Chancellor.

L. The Chancellor's decision upon receipt of committee recommendations is final. Review thereafter may be had in accordance with the provisions of Section 609.611 C of The Code of the Board of Governors of The University of North Carolina.

VI. Equal Employment Opportunity
It is the policy and intention of The University of North Carolina at Greensboro that there be equal employment opportunity and freedom from unlawful discrimination in all employment within The University of North Carolina at Greensboro.19 There shall be no discrimination in covered positions on the basis of race, color, creed, national origin, sex, religion, disability, age20, honorable service in the armed services of the United States, or sexual orientation21—Employment in covered positions shall be conducted in accordance with all provisions of state or federal law or regulations prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

VII. Protected Activity

Employment in covered positions shall not be adversely affected by the exercise of rights guaranteed by the First Amendment to the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in covered positions shall be subject to any limitations on political activity established by Article 5 of G.S. Chapter 126. The Board of Governors’ policies concerning political activity, Policy §300.51., et seq. ets., “Political Activities of University Employees,” as adopted on January 16, 1976, and as may be revised from time to time, shall apply to covered positions.

VIII. Holiday and Leave Entitlement

A. Holidays

Employees in positions covered by these regulations shall be subject to the same State-prescribed holidays given UNCG employees subject to the State Personnel Act.

B. Annual Leave22

1. Basic Leave Policy

The amount of annual leave to which a permanent full-time employees (1.00 FTE) in a position covered by these regulations shall be entitled to accrue is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more (.50 - .99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. The scheduling of an employee’s annual leave shall be subject to

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19 See The University’s Policy on Discriminatory Conduct for the complete equal opportunity statement.
20 Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided by state or federal law, may be applied to covered positions.
21 See The University’s Policy on Discriminatory Conduct for the complete equal opportunity statement.
22 Effective July 1, 2001.
the approval of the employee’s supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at their current rate.

The maximum number of unused days of annual leave that may be accrued and carried forward from one year\textsuperscript{23} to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.\textsuperscript{24}

2. Transfer of Accrued Annual Leave

Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see 4. Below] or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency’s approval.

Upon appointment to UNCG, an employee may request to transfer the remaining balance of any unused annual leave, subject to a maximum of 30 days, from another UNC constituent institution or State or local governmental agency. The approval of the request to transfer leave is subject to the employing department’s acceptance of the fiscal responsibility.

3. Advancement of Annual Leave

Subject to the approval by the employee’s supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the calendar year. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employee must repay to the institution the amount of the difference in leave accrued and leave taken. Repayment will be made through deductions from the employee’s final salary check.

4. Payout of Accrued Annual Leave

An employee in a position covered by these regulations who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave.\textsuperscript{25} The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. EPA employees who change in employment status to a non-leave earning position not covered by this policy shall receive a payout of accrued annual leave.

C. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave, and Special Annual Leave Bonus

\textsuperscript{23} “Year” is defined as a calendar year (January 1 – December 31).

\textsuperscript{24} In the case of an employee who has been prevented from using annual leave by his or her supervisor (due to scheduling conflicts or other job-related reasons) and, as a result, the employee has over 30 days of leave accrued, the supervisor shall decide whether to 1) allow the employee to carry over any such days, 2) allow the days to convert to sick leave (if allowable under the employees retirement program), or 3) pay out the employee for all or some portion of the unused leave.

\textsuperscript{25} When such an employee with accrued annual leave is separating from the University, he or she may be required to use all or some portion of his or her accrued leave rather than receive a full leave payout at the discretion of his or her supervisor.
Employees in positions covered by these regulations shall be subject to the same provisions concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus as may be prescribed for employees subject to the State Personnel Act. With respect to sick leave, subject to approval by the employee’s supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the calendar year.

D. Leave of absence without pay

Employees in covered positions may request leave of absence, without pay, subject to approval of such a leave by the Chancellor.

E. Educational entitlement

Employees in covered positions are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by G.S. 116-143, UNC Policy 1000.2.2.

F. Voluntary Shared Leave

Permanent employees with appointments of three-quarter or more shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

IX. Statutory and Other Rules of Employment

A. Privacy of personnel records

Employees in covered positions enjoy the protections of and are subject to the provisions of Article 7 of G.S. 126, entitled "The Privacy of State Employee Personnel Records."

B. Employment preference for veterans

Employees in covered positions enjoy the protections of and are subject to the provisions of G.S. 128-15 and 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

C. Employment of related persons

Employees in covered positions are subject to the policy concerning employment of related persons as adopted by the Board of Governors on April 13, 1973, and as it may be revised from time to time.

D. Retirement
Employees in covered positions may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes ("Retirement System of Teachers and State Employees").

X. Effective Date

The effective date of these policies shall be September 1, 1981. The policies may be revised from time to time, with subsequent changes to selected portions of the policies effective on the dates indicated herein.
Mandated Changes from the Board of Governors

☐ Page 3 – Delete reference to 1100.3.1[G]

☐ Page 5 – Add sentence that pay shall not be extended beyond the expiration of the employee’s term appointment while an appeal is pending.

☐ Page 5 – Add expiration of term appointments to list of what is grievable.

☐ Page 5-7 – Add paragraphs as indicated in Section 611. Some paragraphs have been moved to or are already covered by the Appeal Guidelines for Designated Exempt Employees (EPA).

☐ Page 7 – Reference the University’s Policy on Discriminatory Conduct.

☐ Page 9 – Delete reference to N.C.G.S. §116-143 and replace with reference to Policy 1000.2

☐ Page 9 – Delete reference to 128-15.1

☐ Page 9 – Delete reference to “Retirement System of Teachers and State Employees.”
These policies are adopted by the Board of Trustees of the University of North Carolina at Greensboro pursuant to the Personnel Policies for Senior Academic and Administrative Officers amended by the Board of Governors of the University of North Carolina on November 13, 1998, to recognize two separate categories of administrative employment.

Identification of Senior Academic and Administrative Officers (Tier I and Tier II)

A. Tier I Senior Academic and Administrative Officers of The University of North Carolina (Tier I senior officers) are subject to the provisions of Section II of the Board of Governors’ policy on Senior Academic and Administrative Officers. These persons include: the President [N.C.G.S. 116-14(a)]; the vice presidents, associate vice presidents, assistant vice presidents, and other members of the President’s professional staff designated by the Board of Governors on recommendation of the President [N.C.G.S. 116-14(b)]; the chancellors of the constituent institution [N.C.G.S. 116-11(4)]; the vice chancellors, provosts, and deans of the constituent institutions, and the directors of major administrative, educational, research, and public services activities of the constituent institutions designated by the Board of Governors [N.C.G.S. 116-11(5)].

B. Tier II Senior Academic and Administrative Officers of The University of North Carolina (Tier II Senior Officers) are subject to the provisions of Section III of the Board of Governors’ policy on Senior Academic and Administrative Officers. These persons include: (1) members of the President’s professional staff other than those identified in paragraph A above (N.C.G.S. 116-14(b)); and (2) associate and assistant vice chancellors; associate and assistant deans; and other administrative positions within the constituent institutions, other than those identified in paragraph A above, that have been designated by the President.[N.C.G.S. 116-11(5)].

Board of Governors Policy on Senior Officers
The duties and responsibilities of the President of The University of North Carolina and the chancellors of each constituent institution, and of their respective senior staff members, and their relationships to one another, to the Board of Governors, to the Boards of Trustees, and to all other officers and agencies within and without the University are set forth in Chapter Five of *The Code of the Board of Governors of The University of North Carolina*. To complement the provisions of Chapter Five and further to clarify these duties, responsibilities, and relationships, the Board of Governors adopted regulations for Senior Academic and Administrative Officers.

*Campus-Based Policy on Tier II Senior Officers*

The Board of Governors requires each constituent institution to specify additional policies related to various respects of the Tier II personnel classification. Accordingly, in addition to the Board of Governors’ Policy on Senior Academic and Administrative Officers, the following policies apply specifically to Tier II senior officers at UNCG.

I. Scope and Applicability of Employment

A. Scope of Category

Employment positions within The University of North Carolina at Greensboro that are covered by these regulations are those defined in paragraph B. above. This category includes the following positions:

1. Associate and assistant provosts and vice chancellors;

2. Associate and assistant deans; and

3. Other administrative positions within the University that have been designated by the President and approved by the Board of Governors.26

B. Applicability of Regulations

These regulations apply to all Tier II Senior Academic and Administrative Officers, as defined in Section I.A. above.

C. Administration

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26 Other officers include (a) members of the Chancellor’s professional staff; (b) those responsible for the administrative direction of separately designated divisions or departments of institutional activity commonly associated with institutions of higher education; (c) those positions whose primary responsibility in to attract external funds for and/or market the University; and (d) other officers holding positions characterized by active, substantial independence of administrative authority and discretion in areas such as program planning and design and allocation of resources.
The Chancellor shall be responsible for the implementation of these regulations and may delegate his or her authority to other identified officers of The University of North Carolina at Greensboro as he or she deems appropriate.

II. Appointments

A. All Tier II senior academic and administrative officers as defined in Section I.A. above, are employed in their administrative positions pursuant to these regulations. The authority to make appointments and determine salaries for these positions is delegated by the Board of Governors to the Chancellor and the Board of Trustees. Every appointment within the University covered by these regulations shall be made by the Chancellor, or the Chancellor’s delegate, by means of a letter of appointment that fulfills the requirements of this section.

B. Every letter of appointment to a position covered by these regulations shall include:

1. the title of the position;

2. the initial salary;

3. provision for periodic review and compensation;

4. provision consistent with Sections II.C. and II.D. below, if contingencies based on availability of funding are applicable;

5. the annual leave entitlement of the employee;

6. except as provided in subparagraph (9) below, notice that the employment conferred is either for a stated definite term or is an “employment at will” subject to continuation or discontinuation at the discretion of the Chancellor;

7. notice that the employment is subject to these regulations as originally adopted and as they may be periodically revised;

8. a copy of these policies shall be attached to the letter of appointment; and

9. contracts or letters of appointment of Directors of Athletics may be for a term of years and are governed by Policy 1100.3 and Guidance 1100.3.1[C].

C. When a position covered by these regulations is funded in whole or substantial part from sources other than continuing State budget funds or permanent trust accounts, the letter of appointment shall state the continuation of the employee’s service in that position is contingent upon the continuing availability of funds from such other sources to support that position, shall specify the

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27 Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.
source of such funds, and shall state that the effect of such contingency may apply without the
additional notice otherwise required by Sections IV.A., IV.B., and IV.C.; provided, that the
affected employee shall be informed at the earliest practicable date of the occurrence of such a
funding contingency.

D. 1. When an employee is to serve simultaneously in both a position covered by these regulations
and a position of University employment not covered by these regulations, with the result
that two different prescriptions may appear to obtain with respect to a particular condition of
employment or a right or responsibility of the employee, one position shall be designated the
base position to determine the conditions of employment and the rights and responsibilities
of the employee. If appointment to a position covered by these regulations occurs
subsequent to an appointment to a position not covered by these regulations, the letter of
appointment to the position covered by these regulations shall embody the required
designation of base employment; conversely, if appointment to a position covered by these
regulations precedes appointment to the other category of University employment, the letter
of appointment or contract establishing the second employment shall embody the required
designation of base employment. In either case, the designation of base employment shall
specifically describe the different rights, duties, and compensation for each position and the
relationship, if any, between the two positions.

2. Any funding contingency of the type referred to in Section II.C. shall be set forth
separately for the position covered by these regulations and for the other position, since
the operation of any such contingencies may be independent.

3. When an appointment to a position covered by these regulations is to be accompanied by
appointment to a faculty position that is intended to be nominal or honorary, or to create
a faculty affiliation not entailing significant duties or compensation, the term “adjunct,”
or similar nomenclature, shall be used to identify the faculty appointment.

III. Evaluation of Performance

Any employee in a position covered by these regulations shall be reviewed annually by the
employee’s supervisor. Each supervisor shall devise his or her own method of performance
evaluation, including an evaluation form.

IV. Discontinuation of Employment

A. Discontinuation of appointment, with notice or severance pay

Employment within a position covered by these regulations that is established by the
letter of appointment to be an employment at will is subject to discontinuation at any
time at the discretion of the Chancellor; provided, that such a discontinuation (as
distinguished from discharge for cause, Section IV.D.) shall be subject to advance timely
notice of discontinuation or the payment of severance pay, in calendar days, as follows:
1. during the first year of service, not less than 30 days notice prior to discontinuation of employment or the payment of severance pay for 30 days;

2. during the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of severance pay for 60 days; and

3. during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 days.

The Chancellor may provide the employee with a combination of notice and severance pay that totals the respective required number of days. The determination of whether the employee shall receive notice of discontinuance of the appointment or severance pay or a combination of the two shall be in the sole discretion of the Chancellor.

B. Expiration of term appointment

Employment within a position covered by these regulations that is established by the letter of appointment dated prior to December 1, 2004 to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be extended at the option of the employer on an appointment at will basis, by written notice satisfying the requirements of Section II. If the employer intends not to extend the employment, the following pertains:

1. for an employee with a term of one year or less, no notice of intent not to extend shall be required;

2. for an employee with a term of more than one year but less than four years, notices of intent not to extend shall be transmitted in writing at least 60 days prior to this expiration date of the term;

3. for an employee with a term of four years or more, notice of intent not to extend shall be transmitted in writing at least 90 days prior to the expiration date of the term.

Failure to provide written notices as required in subsections 2 and 3 shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the date the notice is given to the employee.

C. Termination of employment because of financial exigency or program curtailment or elimination

Employment within a position covered by these regulations that is established by the letter of appointment to be for a stated definite term may be terminated prior to expiration of the stated term because of (a) demonstrable, bona fide institutional
financial exigency or (b) major curtailment or elimination of a program. “Financial exigency” is defined to mean a significant decline in financial resources of the University that compels a reduction in the institution’s budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or an elimination of a program shall be made by the Chancellor, with advance notice to and approval by the President and the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the contractual obligation to an employee within a position covered by these regulations cannot be met, the employment of the individual may be terminated, subject to the following notice requirements:

1. during the first year of service, not less than 30 days notice prior to termination;

2. during the second and third years of service, not less than 60 days notice prior to termination; and

3. during the fourth and all subsequent years of service, not less than 90 days notice prior to termination.

D. Discharge for Cause

Any employee occupying a position covered by these regulations may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section IV.A.), automatic expiration of term (Section IV.B.), and termination (Section IV.C.). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the grievance procedures of Section V of these regulations. When an employee occupying a position covered by these regulations has been notified of the intention to discharge for cause, the Chancellor may suspend the employment at any time and continue the suspension until a final institutional decision concerning discharge has been reached by the procedures prescribed herein; such suspension during this time period shall be with full pay.

However, in no case shall pay be extended beyond the expiration of the employee’s term of appointment while an appeal is pending. If the final institutional decision is to discharge the employee, then the employee may be discharged without further pay without regard to whether there is an appeal to the Board of Governors in accordance with Section 609C of The Code.

V. Review of Employment Decisions and Grievances
Employees in positions covered by these regulations may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these regulations; provided, however, that grievances concerning discontinuations, **expiration of term appointments**, or terminations of employment with notice, pursuant to Sections IV.A., IV.B., and IV.C., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Sections VI. or VII. of these regulations.

The employee will have ten (10) days from the receipt of the notice (“day” hereinafter referred to shall mean any day except Saturday, Sunday, or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the chair, with a copy to the Chancellor. Requests for all other grievance appeals should be made within a timely fashion. If the notice is not received within the specified time, then the action is final with no further recourse.

Covered persons may see review of personnel actions based on allegations that:

A. **Notice**

   For discontinuations, expiration of term appointments, or terminations of employment with notice such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.1.1. III.B.1., 2., and 3. of the University Policy Manual.

B. **Equal Opportunity and Protected Activity**

   For violation of any provision of subsections II.D., or E. of Policy 300.1.1 of the University Policy Manual.

C. **Discharge for Cause, Other Discipline, Policy Interpretation/Application**

   For discharge for cause or other disciplinary action or for interpretation and application of a policy provision, all pursuant to and limited by policy 300.2.1 IV. of the University Policy Manual.

   except that such review may be sought only if the employee alleges the discharge, discipline or policy interpretation or application was illegal or violated a policy of the Board of Governors.
If the employee or former employee timely files a written request for review, the chancellor shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence which is the same as the “greater weight of the evidence.

If the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor’s written decision, by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in subsection V.a. above. The decision of the Board of Trustees is final with no further appeal.

A five-member appeals committee, the majority of whom will be employees in covered positions, will be appointed by the Chancellor. The Chancellor will name the chair. The committee is advisory to the Chancellor. If any Tier II Senior Academic and Administrative Officer has a grievance, he or she may petition the appeals committee for redress. The petition shall be written and shall set forth the nature of the grievance and against whom the grievance is directed. The committee shall decide whether the facts merit a detailed investigation. The submission of a petition shall not automatically result in a formal hearing.

If the membership of the committee is for any reason inappropriate in a particular case in the judgment of the chair, the chair may recommend some change of membership to ensure objective and timely review in that case. The Chancellor may add or subtract members in response to this recommendation, on a temporary basis.

Review will be initiated by a written request explaining the grievance. The petition will be submitted to the chair, with a copy to the Chancellor. The review will be conducted as directed by the chair of the committee, guided by the sole purpose of providing a fair, balanced, and dispassionate hearing. If the committee determines there is sufficient evidence to warrant a formal hearing, if the findings of the committee result in a formal hearing, the proceedings will be held in accordance with the “Appeal Guidelines for Designated Exempt Employees (EPA).”
In the case of an appeal on the basis of discharge for cause (Section IV.D.), the employee will have ten (10) days ("day" hereinafter referred to shall mean any day except Saturday, Sunday, or an institutional holiday; the day in which the notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the chair, with a copy to the Chancellor. Requests for all other grievance appeals should be made within a timely fashion.

The committee’s findings, opinions, and recommendations will be written and delivered to the Chancellor with a copy to the grievant within thirty (30) days after receipt of the petition. Additional time may be requested by the chair from the Chancellor as needed.

The committee may at any time submit policy suggestions to the Chancellor as experience dictates, toward the end of improving the fairness and effectiveness of these hearings. Any claim by the committee upon the time of University Counsel should first be approved by the Chancellor.

The Chancellor’s decision upon receipt of committee recommendations is final. Review thereafter may be had in accordance with the provisions of Section 609 C of The Code of the Board of Governors of The University of North Carolina.

VI. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina at Greensboro that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University.28 There shall be no discrimination in positions covered by these regulations on the basis of race, color, creed, national origin, sex, religion, disability, age29, honorable service in the armed forces of the United States, or sexual orientation.30 Employment in positions covered by these regulations shall be conducted in accordance with all provisions of state or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

VII. Political Activity

Employment in positions covered by these regulations shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by these regulations shall be subject to any limitations on political activity.

28 See The University's Policy on Discriminatory Conduct for the complete equal employment opportunity statement.
29 Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to positions covered by these regulations.
30 See The University's Policy on Discriminatory Conduct for the complete equal employment opportunity statement.
established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors’ policy, “Political Activities of University Employees,” as adopted on January 16, 1976, and as it may be revised from time to time, shall apply to positions covered by these regulations.

VIII. Holidays and Leave Entitlement

D. Holidays

Employees in positions covered by these regulations shall be subject to the same State-prescribed holidays given UNCG employees subject to the State Personnel Act.

E. Annual Leave

2. Basic Leave Policy

The amount of annual leave to which a permanent full-time employees (1.00 FTE) in a position covered by these regulations shall be entitled to accrue is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more (.50 - .99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. The scheduling of an employee’s annual leave shall be subject to the approval of the employee’s supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at their current rate.

The maximum number of unused days of annual leave that may be accrued and carried forward from one year to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.

5. Transfer of Accrued Annual Leave

Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see 4. Below] or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency’s approval.

31 Effective July 1, 2001.
32 “Year” is defined as a calendar year (January 1 – December 31).
33 In the case of an employee who has been prevented from using annual leave by his or her supervisor (due to scheduling conflicts or other job-related reasons) and, as a result, the employee has over 30 days of leave accrued, the supervisor shall decide whether to 1) allow the employee to carry over any such days, 2) allow the days to convert to sick leave (if allowable under the employees retirement program), or 3) pay out the employee for all or some portion of the unused leave.
Upon appointment to UNCG, an employee may request to transfer the remaining balance of any unused annual leave, subject to a maximum of 30 days, from another UNC constituent institution or State or local governmental agency. The approval of the request to transfer leave is subject to the employing department’s acceptance of the fiscal responsibility.

6. Advancement of Annual Leave

Subject to the approval by the employee’s supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the calendar year. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employee must repay to the institution the amount of the difference in leave accrued and leave taken. Repayment will be made through deductions from the employee’s final salary check.

7. Payout of Accrued Annual Leave

An employee in a position covered by these regulations who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave. The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. Tier II senior officers who change in employment status to a non-leave earning position not covered by this policy shall receive a payout of accrued annual leave.

F. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave, and Special Annual Leave Bonus

Employees in positions covered by these regulations shall be subject to the same provisions concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus as may be prescribed for employees subject to the State Personnel Act. With respect to sick leave, subject to approval by the employee’s supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the calendar year.

G. Leave of Absence Without Pay

Employees in positions covered by these regulations may request a leave of absence without pay, subject to approval of such leave by the Chancellor.

H. Educational Entitlement

Employees in positions covered by the regulations are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by

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34 When such an employee with accrued annual leave is separating from the University, he or she may be required to use all or some portion of his or her accrued leave rather than receive a full leave payout at the discretion of his or her supervisor.
I. Voluntary Shared Leave

Employees in positions covered by these regulations shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

IX. Statutory and Other Rules of Employment

A. Privacy of Personnel Records

Employees in positions covered by these regulations enjoy the protections of and are subject to the provisions of Article 7 of N.C.G.S. 126, entitled “The Privacy of State Employee Personnel Records.”

B. Employment Preference for Veterans

Employees in positions covered by these regulations enjoy the protections of and are subject to the provisions of N.C.G.S. §§ 128-15 and 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

C. Employment of related persons

Employees in positions covered by these regulations are subject to the policy concerning employment of related persons as adopted by the Board of Governors on April 13, 1972, and as it may be revised from time to time.

D. Retirement

Employees in positions covered by these regulations may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes (“Retirement System of Teachers and State Employees”).

X. Effective Date

The effective date of these regulations shall be November 13, 1998. The policies may be revised from time to time, with subsequent changes to selected portions of the policies effective on the dates indicated herein.
• educational entitlement, change reference to statute to policy on employee tuition waiver

• veteran employment preference, delete reference to GS 128-15.1

• retirement, delete reference to Retirement System of Teachers and State employees

Policy Manual 400.3.3.1[G] Post-Tenure Review

• annual reviews may be considered, but additional assessment required

• PTR to consider only areas of work responsibility

• committee selected by faculty-agreed-upon process in department; faculty members do not select members of their review committee; department chair must consult with PTR committee; outcome must be reviewed at least one administrative level higher

• PTR may provide additional recognition; negative review must include statement of primary responsibilities and specific deficiencies; faculty response shared with next higher administrative level

• mentoring peers encouraged; at least semi-annual meetings with chair on progress; modified duties should be considered in corrective plan

FYI—Campus Action Not Required

Code 301D Personnel and Tenure Committee
reference to Code “609C” was changed to Code “611”

Code 301F Public Affairs Committee
reference to “non budget legislative” was changed to “policy”
MEMORANDUM

DATE: March 10, 2008

TO: Chief Academic Officers

FROM: Harold L. Martin

RE: Changes to Code 600 and Related Policies/Guidelines on Performance Review of Tenured Faculty

In November 2006, a system-wide committee of university representatives was appointed to review sections of The Code of the University of North Carolina that addresses various faculty and EPA discharge and appeal processes - generally encompassing Section 600 in Chapter VI of The Code. The committee's responsibility was to make recommendations for ways to strengthen and streamline these processes. In early 2008, the final recommendations of the committee were approved by the Board of Governors following extensive discussion and review by the Chief Academic Officers, Campus Legal Counsels, and the Faculty Assembly.

Attached please find copies of the approved changes to The Code and related policies. Also attached is a "Checklist of Policy Changes to Comply with Changes to February 2008 Code 600 and Related Policies." Please review these Code changes with your legal counsel, make the necessary amendments to your Faculty Promotion and Tenure policies to comply with these changes, finalize the campus-level approvals of your policies, and submit them to us no later than October 1, 2008.

Also attached are the "Guidelines on Performance Review of Tenured Faculty." The Board of Governors adopted the recommendations in the report of the University of North Carolina Committee to Study Post-Tenure Review at its meeting on May 16, 1997. A copy of that report is available at General Administration.

Post-tenure review is defined in the report as "a comprehensive, formal, periodic evaluation of cumulative faculty performance, the prime purpose of which is to ensure faculty development and to promote faculty vitality" (p. 8).

The report asserts that review of the performance of tenured faculty in the University shall be "to support and encourage excellence among tenured faculty by:

1. recognizing and rewarding exemplary faculty performance;
2. providing for a clear plan and timetable for improvement of performance of faculty found deficient; and

3. for those whose performance remains deficient, providing for the imposition of appropriate sanctions, which may, in the most serious cases, include a recommendation for discharge."

The report also provides broad principles for carrying out such reviews but leaves room for each constituent institution to develop the details of its own process. In keeping with Section 602 of The Code, institutional policies and procedures will be approved by the Board of Governors and should be included in all appropriate documents of the constituent institutions.

Constituent institutions shall review their policies and procedures for implementing post tenure review and revise such policies and procedures as necessary to conform with the attached amended guidelines. Proposed revised policies must be submitted to General Administration for approval no later than **October 1, 2008**. Implementation of revised policies will be effective upon approval by the Senior Vice President for Academic Affairs.

Please contact Charles Waldrup at (919) 962-4551 or me should you have any questions.

Thank you.

HLM/la
Attachments (3)

copy: Erskine Bowles
Laura Luger
Charles Waldrup
Chancellors
Legal Counsels
Faculty Senate Chairs
CHAPTER 1 - ESTABLISHMENT, INCORPORATION AND COMPOSITION OF THE UNIVERSITY OF NORTH CAROLINA

SECTION 100. CONSTITUTIONAL ESTABLISHMENT.

The General Assembly shall maintain a public system of higher education, comprising the University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of the University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of the University of North Carolina and the other public institutions of higher education. [North Carolina Constitution, Art. IX, Sec. 8]

SECTION 101. INCORPORATION AND CORPORATE POWERS.

The Board of Governors of the University of North Carolina shall be known and distinguished by the name of "the University of North Carolina" and shall continue as a body politic and corporate and by that name shall have perpetual succession and a common seal. It shall be able and capable in law to take, demand, receive, and possess all moneys, goods, and chattels that shall be given for the use of the University, and to apply the same according to the will of the donors; and by gift, purchase, or devise to receive, possess, enjoy, and retain forever any and all real and personal estate and funds, of whatsoever kind, nature, or quality the same may be, in special trust and confidence that the same, and the profits thereof, shall be applied to and for the use and purpose of endowing the University, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the University, or according to the terms of donation.

The corporation shall be able and capable in law to bargain, sell, grant, alien or dispose of; and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire when the condition of the grant to it or the will of the devisor does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions, and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue. [See G.S. 116-3]

SECTION 102. COMPOSITION OF THE UNIVERSITY.

The University of North Carolina shall constitute a single, multi-campus university composed of the following constituent institutions:

Appalachian State University,
East Carolina University,
Elizabeth City State University,
Fayetteville State University,
North Carolina Agricultural and Technical State University,
North Carolina Central University,
North Carolina School of the Arts,
North Carolina School of Science and Mathematics,
North Carolina State University at Raleigh,
The University of North Carolina at Asheville,
The University of North Carolina at Chapel Hill,
The University of North Carolina at Charlotte,
The University of North Carolina at Greensboro,
The University of North Carolina at Pembroke,
The University of North Carolina at Wilmington,
Western Carolina University, and
Winston-Salem State University.

SECTION 103. EQUALITY OF OPPORTUNITY IN THE UNIVERSITY.

Admission to, employment by, and promotion in the University of North Carolina and all of its constituent institutions shall be on the basis of merit, and there shall be no discrimination against any person on the basis of race, color, creed, religion, sex, national origin, age, or disability or veteran status.

Deleted: because of the person's honorable service in the armed forces of the United States
Policy 101.3.1

Changes apply to requests for review/appeals of all decisions not to reappoint made on or after January 1, 2009.

Adopted 03/21/03
Amended 06/18/03
Amended 06/02/08

Effective Date: The June 2003 version of this policy applies to appeals of all decisions not to reappoint made on or after January 1, 2004

Review of Nonreappointment Decisions
under Section 604 of The Code


Within the University, important faculty personnel decisions are based on evaluations of performance rendered by a candidate's immediate colleagues and supervisors, who are in the best position to make such judgments. These assessments are not the product of mechanically applied checklists, criteria or formulas; there is no simple litmus test for outstanding teaching, research or service. Rather, these decisions must reflect careful exercises of discretion, in which the faculty colleagues draw on their own academic knowledge, experience and perceptions to evaluate the candidate's qualifications and performance. Unavoidably and appropriately, such exercises to some extent are subjective and imprecise. Thus, the academic review process seeks to obtain the collective good faith judgment of the candidate's colleagues and responsible university administrators, as the basis for decisions about advancement and reward within the academic community. Provided that these conclusions are based on considerations that are relevant to the candidate's performance and the candidate's promise to contribute to the good of the institution, they are entitled to great deference and weight.

The purpose of reviewing decisions not to reappoint is to determine whether the decision not to reappoint was materially flawed, in violation of applicable laws, policies, standards, or procedures. It is not to second-guess professional judgments based on permissible considerations. The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that The Code provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint. The purpose of review by the Board of Governors is to assure (1) that the campus-based process for making the decision was not materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy.
II. Campus based decision

A. Basis for Review. A decision not to reappoint a faculty member may be made for any reason that is not an impermissible reason. The three impermissible reasons for a decision not to reappoint a faculty member, as stated in Section 604B of The Code, are, “(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 status, or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice.” A faculty member who asserts that the procedure for determining whether to reappoint the faculty member was materially flawed or that the decision was based on an impermissible reason may file a request for review from that decision in accordance with the procedure established by the constituent institution.

B. Definition of “personal malice”: As used in The Code, the term “personal malice” means dislike, animosity, ill-will or hatred based on personal characteristics, traits or circumstances of an individual that are not relevant to valid University decision making. For example, personnel decisions based on negative reactions to an employee’s anatomical features, marital status or social acquaintances are intrinsically suspect. If reappointment is withheld because of personal characteristics that cannot be shown to impinge on job performance, a wrong likely has been committed. On the other hand, if personal characteristics can be shown to impede a faculty member’s capacity to relate constructively to his or her peers, in a necessarily collegial environment, withholding advancement may be warranted. For example, the undisputed record evidence might establish that the responsible department chair declined to recommend a probationary faculty member for reappointment with tenure because of the faculty member’s “unpleasant personality and negative attitude.” Disposition of such a case requires a determination of whether the personality and attitude impeded the faculty member’s job performance. While the terms “ill-will,” “dislike,” “hatred” and “malevolence” may connote different degrees of unfitness, such distinctions make no difference in applying the fundamental rationale of the prohibition. Any significant degree of negative feeling toward a candidate based on irrelevant personal factors, regardless of the intensity of that feeling, is an improper basis for making decisions.

C. Role of the faculty committee: The first responsibility for resolving a faculty member’s claim of an improper decision not to reappoint is through the established campus process, which, if sufficient allegations are made, includes the opportunity for a formal hearing before a duly constituted faculty committee. Such faculty committees are responsible for receiving relevant evidence, making findings of fact, and providing advice to the chancellor on the merits of the faculty member’s allegations. The role of the faculty committee is to create a clear, permanent record of the evidence presented at the hearing and to advise the chancellor whether or not the faculty member has demonstrated, by a preponderance of the evidence, that the
decision not to reappoint the faculty member was materially procedurally flawed or was based in significant part on an impermissible reason. The chancellor has final administrative responsibility for deciding the issue, with the assistance of the faculty committee.

i. Because hearings in matters of non-reappointments can present complex and difficult questions of fact, policy, and law, and because of the central role of the faculty committee hearing in gathering and preserving the evidence upon which most subsequent decisions related to the matter will be based, it is important for the President and the chancellors to assure that faculty committee members, as well as relevant administrators and aggrieved faculty members, have access to appropriate training materials and guidance to enable them to perform their functions well.

ii. The faculty council or senate of each constituent institution should consider whether to alter election procedures for the faculty committee so as to extend the length of service of appropriately trained committee chairs, for example to four or five years, in order to assure that each hearing has a skilled person to manage it.

iii. Each constituent institution must decide whether to allow faculty members to have the assistance of an attorney or other advisor at the hearing and, if so, whether the advisor is permitted actively to participate in the hearing. The Board of Governors discourages constituent institutions from allowing attorneys actively to participate during the hearing. If, however, an attorney will be permitted actively to participate during the hearing on behalf of the faculty member, then the campus should provide legal counsel for the respondent administrator.

D. Preservation of evidence: It is essential that all testimony and other evidence received by a faculty committee be preserved in a form that will permit its later review by the parties to the proceeding, the chancellor, and the Board of Governors. Both the chancellor, in making the final campus decision, and the Board of Governors, in responding to requests for appellate review, must have access to a complete record of the evidence received at the hearing. While the conclusions and recommendations of the faculty committee are entitled to great deference, the chancellor is responsible for determining whether the evidence in the record supports the disposition that has been recommended by the faculty committee. Similarly, the Board of Governors, when considering an appeal from a chancellor's decision, must be able to determine whether the available evidence supports the chancellor's decision.

The Board of Governors recommends that a professional court reporter, or a similarly reliable means, be used to enable the production of a verbatim written transcript of the hearing and properly to maintain a record of the documents received by the committee. 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 staffs, are permitted access to such materials.

E. The Chancellor's Decision: The chancellor must base his or her decision on a thorough review of (i) the record evidence from the hearing and (ii) the report of the faculty hearing committee. While the chancellor should give appropriate deference to the advice of the faculty committee, the final campus-based decision is the chancellor's. If the chancellor is considering taking an action that is inconsistent with the recommendation of the hearing committee, the Board of Governors encourages the chancellor to communicate or consult with the hearing committee, either in person or in writing, regarding the chancellor's concerns before making a decision. The chancellor shall notify the faculty member and relevant administrators of the chancellor's decision in writing.

F. Notice of Appeal Rights: A faculty member who has adequate grounds for appeal may appeal the chancellor's decision not to reappoint the faculty member to the Board of Governors. The chancellor's notice to the faculty member of the decision concerning the faculty member's case must inform the faculty member: (1) of the time limit within which the faculty member may file a notice of appeal with the President requesting review by the Board of Governors, (2) that a simple written notice of appeal with a brief statement of its basis is all that is required within the 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 manner. The notice of the decision is to be conveyed to the faculty member by a method which produces adequate evidence of delivery.

G. To insure full understanding by all constituencies of the campus, the informational document regularly published by the institution containing faculty information (e.g., the faculty handbook) must include a summary statement of the time limits for appeal established by this policy and any other relevant time limits established by board of trustees' policy.

III. Appeals to the Board of Governors

A. Schedule: If the Board agrees to consider the appeal, it will do so on a schedule established by the President, subject to any instructions received from the committee or sub-committee of the Board which has jurisdiction of the subject matter of the appeal. If the faculty member fails to comply with the schedule established for perfecting and processing the appeal, the Board in its discretion may extend the period for complying with the schedule or it may dismiss the appeal. The Board of Governors will issue its decision as expeditiously as is practical.

B. Review by the Board of Governors: Under The Code, primary reliance is placed on the campus decision-making apparatus; an appeal to the Board of Governors is intended only to determine if the campus-based process or decision had material
procedural errors, was clearly erroneous, or was contrary to controlling law or policy. The Board of Governors will exercise jurisdiction under Section 604D of The Code in a manner that assures that primary focus will be on the integrity of campus procedures. Three kinds of assignments of error may be raised on appeal to the Board of Governors:

1. **Procedural flaws.** A faculty member may allege on appeal that the hearing conducted by the responsible faculty committee or the process followed by the chancellor, in reviewing the recommendation of the faculty committee, did not comport with institutional requirements. Examples of procedural flaws could be that the committee was not an "elected, standing committee of the faculty" in contravention of institutional rules; that identified members of the committee had demonstrably conflicting interests which precluded, or could have precluded, their objective and fair assessment of the evidence; or that the committee improperly excluded relevant evidence that arguably would have established the faculty member's contentions. The Board normally will grant requests to review contentions that the Review procedures followed by the campus in a particular case did not comport with University requirements that materially affected the credibility, reliability and fairness of such inquiries, thereby depriving the faculty member of a valid opportunity to establish his or her contentions. If a faculty member demonstrates that, because of a material procedural flaw, he or she did not receive a fair hearing or fair review by the chancellor, a remedy on appeal normally will be granted. Typically, that would consist of remanding the case for a new, properly conducted hearing or review.

2. **Sufficiency of the evidence.** A faculty member may allege on appeal that the evidence available to the decision maker, taken as a whole, established that the decision not to reappoint was based on an impermissible reason, and that the campus review committee or the chancellor clearly erred in deciding otherwise. A clearly erroneous decision is one that a reasonable person could not have reached, based on the available evidence taken as a whole and the relevant controlling laws or policies. To demonstrate that a decision was clearly erroneous, the faculty member must demonstrate that a reasonable person, viewing the evidence as a whole, could not have reached the conclusion that the decision maker reached. Such an appeal constitutes a request that the Board of Governors review the entire record of evidence generated by the faculty hearing committee (as augmented through any supplemental inquiries conducted by the chancellor) to determine whether reasonable persons could have arrived at the conclusion in question. The issue is not whether the Board of Governors would have evaluated the evidence the same way and reached the same conclusion as did the faculty committee or the chancellor; rather, the question is whether the decision reached was a reasonable one, in light of the available evidence. The Board will not routinely grant requests to review questions about the sufficiency of the evidence.
evidence to sustain the conclusion reached below. However, the Board may entertain such appeals when the history of the case reveals a difference, with respect to ultimate conclusions of fact, between the responsible faculty hearing committee and the chancellor.

3. **Interpretation of applicable law or policy.** A faculty member may allege on appeal that, in disposing of the request for review, controlling law or University policy was disregarded, misinterpreted, or misapplied to the facts of the case. The Board will grant requests to review University policy or legal issues implicated by a particular decision when the question appears to require intervention by the Board to clarify the definition, interpretation or application of such law or policies.

The first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, of the faculty member'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 set out in this policy. If not, the Board may dismiss the appeal without further proceedings.

If the faculty member has made allegations that are sufficient to invoke the jurisdiction of the Board of Governors, and if the Board finds material errors in the campus decision, the case may be remanded to the campus for a new or supplemental review inquiry. The remedy available on appeal is never an award by the Board of Governors of the conferral of tenure, reappointment or promotion, absent a positive recommendation from the constituent institution.

**IV. Regulations and guidelines**

The President may issue appropriate regulations and guidelines for effective implementation of this policy.

**Effective Date:** The June 2003 version of this policy applies to reviews of all decisions not to reappoint made on or after January 1, 2004.
Process for Review of Non-Reappointments

1. Faculty Appeals Non-Reappointment
2. Faculty Committee Determination
3. Recommendation to Chancellor
4. Chancellor Consults with Faculty
5. Chancellor Makes Decision
6. Appeal Terminates
7. Faculty Satisfied?
8. Appeal to Board of Governors (P & I)
9. Board of Governors Decides Appeal
10. Remand to Campus with Instructions
11. Affirms Campus Decision?
12. Appeal Terminates
UNC Policy 300.1.1.

Note: Changes in subsection III.B.4. and section III.C. shall become effective for personnel actions taken on and after January 1, 2009. All other changes are effective upon approval.

Adopted 11/14/86
Amended 10/12/90
Amended 02/18/94
Amended 04/23/95
Amended 11/08/96
Amended 07/11/97
Amended 11/13/98
Amended 09/10/99
Amended 08/11/00
Amended 04/12/01
Amended 06/08/01
Amended 11/11/02
Amended 11/08/02
Amended 3/21/03
Amended 10/10/03
Amended 11/12/04
Amended 7/1/07
Amended 09/03/08

SENIOR ACADEMIC AND ADMINISTRATIVE OFFICERS

The duties and responsibilities of the President and the chancellors, and of their respective senior staff members, and their relationships to one another, to the Board of Governors, to the Boards of Trustees, and to all other officers and agencies within and without the University are set forth in Chapter Five of The Code of The University of North Carolina. To complement the provisions of Chapter Five and further to clarify these duties, responsibilities, and relationships, the following regulations are adopted by the Board of Governors:

I. Definition of "Senior Academic and Administrative Officers"

A. Senior officers of the University of North Carolina who are subject to the provisions of Section II of this policy are: the President [N.C.G.S. 116-14(a)]; the vice presidents, associate vice presidents, assistant vice presidents, and other members of the President's professional staff designated by the Board of Governors on recommendation of the President [N.C.G.S. 116-14(b)]; the chancellors of the constituent institutions [N.C.G.S. 116-11(4)]; the vice chancellors, provosts, and deans[1] of the constituent institutions, and the directors of major administrative, educational, research and public services activities of the constituent institutions designated by the Board of Governors [N.C.G.S. 116-11(5)].

B. Other senior officers of the University of North Carolina who are subject to the provisions of Section III of this policy are: (1) members of the President's
II. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.A. above, Shall Be Subject to the Following Regulations.

A. Appointments and Discontinuation of Appointments

1. All senior officers as defined in Section I.A. above, are employed in their administrative positions pursuant to this policy. Except with regard to the appointment of the President and the Chancellors, no contract or other writing (except for The Code) may vary these terms, nor may any oral agreement modify these provisions. The appointments of these senior officers are subject to the approval of the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors.[3] Such officers do not have tenure in their administrative positions. Except for the President and the Chancellors, they serve at the discretion of their employer and are not appointed to serve for specified periods of time. “Employer” in this context means, respectively, the official or entity designated in paragraphs (a) through (d) below. The continuance of these administrators in office therefore is at all times subject to determination by the appropriate authority, as follows:

(a) The President’s continuance in office is determined by the Board of Governors.

(b) The continuance in office of members of the President’s professional staff is determined by the President.

(c) The continuance in office of the chancellor of a constituent institution is determined by the Board of Governors, which may act to terminate such an appointment upon its own initiative or upon recommendation of the President. The Board of Governors in all instances shall consult the appropriate chair of the Board of Trustees prior to terminating the appointment of a chancellor. The President may place a chancellor on temporary leave, with or without pay, if the President has reason to believe that illness, injury, misconduct, neglect of duty, or other circumstances may interfere with the chancellor’s performance of the duties of the position. Before placing a chancellor on temporary leave, the President shall consult with the Chairman of the Board of Governors, the chair of the Committee on Personnel and Tenure, and the appropriate chair of the Board of Trustees.

(d) The continuance in office of vice chancellors, provosts, deans, and directors of major educational, research and public services
activities of the constituent institutions shall be determined by
the chancellor of the institution.

(e) Notwithstanding the provisions of (b) and (d) above, the Board of
Governors, in accordance with the provisions of Section 501B(6)
of The Code, reserves the right to initiate action to terminate
appointment of those officers when it deems such action to be
necessary in the best interests of the University.

2. Senior officers of a constituent institution are subject to the direction and
control of the chancellor and serve at the chancellor's discretion. They are
employees at will; thus, the chancellor may not purport to confer on any such
officer a period of employment of fixed duration or otherwise confer any
property interest in such employment. However, such an officer may be
appointed to a period of employment not to exceed a specified number of
years, so long as the instrument accomplishing such an appointment states
clearly that the incumbent officer is subject to removal at any time, during
that period, at the option of the chancellor.

3. Tenure status as a member of the faculty of a constituent institution, held
concurrently by any senior officer of the University is separate and distinct
from the administrative office, and such tenure status is governed by the
provisions of Chapter Six of The Code and by the tenure policies of the
relevant constituent institution. Those tenure policies have no bearing upon
and do not govern the administrative appointments covered by this policy.

4. Appointment of Chancellors
(a) The appointment of chancellors shall be made by the Board of
Governors upon the recommendation of the President, in accordance
with N.C.G.S § 116-114.
(b) The Board of Governors may approve a contract with a chancellor
as recommended by the President. The contract may specify the
chancellor's term of employment, salary, benefits, and other terms
based on deferred or supplemental compensation; provisions for the
termination of the chancellor's employment; and any other terms
recommended by the President.
(c) In all other regards, the employment of chancellors is subject to The
Code, the Policies of the Board of Governors, and the North Carolina
General Statutes.
(d) Except as specifically otherwise provided in the contract, and except
as provided in § II.A.1(c) of this policy, after the Board of Governors
has approved a contract with a chancellor, it will be the sole
responsibility of the President to implement the terms of the contract.

B. Compensation

The compensation of senior officers shall be set by the Board of Governors or a
Board of Trustees delegated such authority by the Board of Governors.
No chancellor and no senior academic and administrative officer may be paid, in addition to his or her salary as established pursuant to the foregoing requirements, for any services rendered to any institution-related foundation, endowment, or other entity that was established by officers of the University, that is controlled by the University, or that is tax exempt based on being a support organization for the University.

C. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University, as set out in Section 103 of The Code. Employment in positions covered by this policy shall be conducted in accordance with all provisions of State or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

D. Political Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution, provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §§300.5 et seq., as they may be revised from time to time, shall apply to positions covered by this policy.

E. Holiday and Leave Entitlement

1. Holidays

A senior officer shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

2. Annual Leave

A senior officer shall be entitled to 26 work days of annual leave each year. (6) The maximum number of unused days of annual leave that may be accrued and carried forward from one year to the next shall be 30 work days. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year. A senior officer who has accrued such unused annual leave as of the date of disestablishment of employment shall be paid for such unused annual leave, subject to a maximum of 30 days.

Subject to institutional policy and approval by the employee's supervisor, a senior officer may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period.
3. **Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave, and Special Annual Leave Bonus**

A senior officer shall be entitled to such sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However, with respect to sick leave, subject to institutional policy and approval by the employee’s supervisor, a senior officer may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

4. **Miscellaneous Leaves of Absence**

A senior officer who desires a leave of absence for an interval of 90 days or less must obtain the approval of the President, who shall report all such arrangements to the Board of Governors. A leave of absence for a period exceeding 90 days shall require the approval of the Board of Governors.

5. **Voluntary Shared Leave**

A senior officer shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

F. **Educational Entitlement**

A senior officer is entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by UNC Policy, N.C.G.S. §116-141G.

G. **Statutory and Other Rules of Employment**

1. **Privacy of Personnel Records**

A senior officer enjoys the protections of and is subject to the provisions of Article 7 of N.C.G.S. 126, entitled “The Privacy of State Employee Personnel Records.”

2. **Employment Preference for Veterans**

A senior officer enjoys the protections of and is subject to the provisions of N.C.G.S. §§ 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

3. **Employment of Related Persons**

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A senior officer is subject to the policy concerning employment of related persons, Policy §300.4.2, as it may be revised from time to time.

II. Retirement

A senior officer may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

III. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.B. above, Shall Be Subject to the Following Regulations.

A. Appointments

1. All senior academic and administrative officers as defined in Section I.B. above, are employed in their administrative positions pursuant to this policy. The authority to make appointments and determine salaries for positions within Section I.B. (1) is exercised by the Board of Governors, on recommendation of the President, or a Board of Trustees delegated such authority by the Board of Governors; for positions within Section I.B. (2), such authority is delegated by the Board of Governors to the chancellors and the respective Boards of Trustees of the constituent institutions.

2. Every appointment within a constituent institution covered by this policy shall be made by the chancellor, or the chancellor’s delegate, by means of a letter of appointment that fulfills the requirements of this Section III.

3. Every letter of appointment to a position covered by this policy shall include:

   (a) the title of the position;

   (b) the initial salary;

   (c) provision for periodic review of compensation;\footnote{Provision for periodic review of compensation.}

   (d) provision consistent with Sections III.A.4. and III.A.5. below, if contingencies based on availability of funding are applicable;

   (e) the annual leave entitlement of the employee;

   (f) except as provided in subparagraph (b) below, notice that the employment conferred is an "employment at will" subject to continuation or discontinuation at the discretion, respectively, of the President or of the chancellor; and

   (g) notice that the employment is subject to this policy as originally adopted and as it may be periodically revised from time to time,
and a copy of the policies shall be attached to the letter of appointment.

(b) Contracts or letters of appointment of Directors of Athletics may be for a term of years and are governed by Policy 1100.3.

4. When a position covered by this policy is funded in whole or substantial part from sources other than continuing State budget funds or permanent trust accounts, the letter of appointment shall state that continuation of the employee’s service in that position is contingent upon the continuing availability of funds from such other sources to support that position, shall specify the source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Sections III.B.1., III.B.2., and III.B.3.; provided, that the affected employee shall be informed at the earliest practicable date of the occurrence of such a funding contingency.

5. When an employee is to serve simultaneously in both a position covered by this policy and a position of University employment not covered by this policy, with the result that two different prescriptions may appear to obtain with respect to a particular condition of employment or a right or responsibility of the employee, one position shall be designated the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a position covered by this policy occurs subsequent to an appointment to a position not covered by this policy, the letter of appointment to the position covered by this policy shall embody the required designation of base employment; conversely, if appointment to a position covered by this policy precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

Any funding contingency of the type referred to in Section III.A.4. shall be set forth separately for the position covered by this policy and for the other position, since the operation of any such contingencies may be independent.

When an appointment to a position covered by this policy is to be accompanied by appointment to a faculty position that is intended to be nominal or honorary, or to create a faculty affiliation not entailing significant duties or compensation, the term “adjunct,” or similar nomenclature, shall be used to identify the faculty appointment.

B. Discontinuation of Employment

1. Discontinuation of appointment, with notice or severance pay
Employment within a position covered by section III of this policy that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion, respectively, of the President or of the chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section III.B.4.) shall be subject to advance timely notice of discontinuation or the payment of severance pay, in calendar days, as follows:

(a) during the first year of service, not less than 30 days notice prior to discontinuation of employment or the payment of severance pay for 30 days;

(b) during the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of severance pay for 60 days; and

(c) during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 calendar days.

The chancellor or the president may provide the employee with a combination of notice and severance pay that totals the respective required number of days. The determination of whether the employee shall receive notice of discontinuance of the appointment or severance pay or a combination of the two shall be in the sole discretion of the respective chancellor or the president.

2. Expiration of term appointment

Employment within a position covered by this policy that is established by the letter of appointment dated prior to December 1, 2004 to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be extended at the option of the employer on an employment at will basis, by written notice satisfying the requirements of Section III.A. If the employer intends not to extend the employment, (1) with respect to a term of one year or less, no notice of intent not to extend shall be required; (2) with respect to a term of more than one year but less than four years, notices of intent not to extend shall be transmitted in writing at least 60 days prior to this expiration date of the term; (3) with respect to a term of four years or more, notice of intent not to extend shall be transmitted in writing at least 90 days prior to the expiration date of the term. Failure to provide written notices as required in subsections (2) and (3) above shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the date the notice is given to the employee.

3. Termination of employment because of financial exigency or program curtailment or elimination
Employment within a position covered by this policy that is established by the letter of appointment to be for a stated definite term may be terminated prior to expiration of the stated term because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a program. "Financial exigency" is defined to mean a significant decline in financial resources of the University that compels a reduction in the university's or the institution's budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or an elimination of a program shall be made, respectively, by the President or by the chancellor, with advance notice to and approval by the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the contractual obligation to an employee within a position covered by this policy cannot be met, the employment of the individual may be terminated, subject to the following notice requirements:

(a) during the first year of service, not less than 30 days notice prior to termination;

(b) during the second and third years of employment, not less than 60 days notice prior to termination; and

(c) during the fourth and all subsequent years of service, not less than 90 days notice prior to termination.

4. Discharge for Cause

Any employee occupying a position covered by this policy may be discharged for cause. Discharge for cause is to be distinguished from disqualification with notice (Section III.B.1.), automatic expiration of term (Section III.B.2.), and termination (Section III.B.3.). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the procedures of Section III.C. of this policy. When an employee occupying a position covered by this policy has been notified of the intention to discharge for cause, the President or chancellor, as applicable, may suspend the employment at any time and continue the suspension until a presidential or chancellor decision concerning discharge has been reached; such suspension during this period shall be with full pay. If the final presidential or chancellor decision is to discharge the employee, then the employee may be discharged without further pay without regard to whether there is an appeal to a Board of Trustees or the Board of Governors in accordance with Section 611 of The Code. No provision of this Policy 300.1.1 shall be interpreted to extend an employee's right to pay beyond the expiration of the employee's term of appointment while an appeal is pending under this Policy.
C. Review

1. General Administration: and each constituent institution respectively shall adopt and publicize procedures applicable to relevant cohorts of employees, under which covered employees may secure review of decisions concerning discharge for cause or other disciplinary action, or grievance concerning the interpretation and application of any provision of this policy; provided, however, that such reviews concerning discontinuations, expiration of term appointments, or terminations of employment with notice, pursuant to Sections III.B.1, III.B.2., and III.B.3., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section III.D. or III.E. of this policy.

2. Decisions reached pursuant to such review procedures concerning the discontinuation, expiration of term appointment, termination, or discharge for cause may be appealed in accordance with the provisions of Section 611 of The Code.

D. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University as set out in Section 103 of The Code.

Employment in positions covered by this policy shall be conducted in accordance with all provisions of state or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

E. Protected Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §300.5.1., et seq., as they may be revised from time to time, shall apply to positions covered by those policies.

F. Holiday and Leave Entitlement

1. Holidays

Employees in positions covered by this policy shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.
2. Annual Leave[9]
   
   (a) Basic Leave Policy
   
   The amount of annual leave to which a permanent full-time employee (1.00 FTE) in a position covered by this policy shall be entitled to accrue is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more (.50 - .99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. An employing institution shall define a year as either “fiscal year” (July 1 - June 30) or “calendar year” (January 1 - December 31). (Note: Employing institutions that have previously defined a year as “contract year” may continue to do so.) The scheduling of an employee's annual leave shall be subject to the approval of the employee's supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at the current rate.

   The maximum number of unused days of annual leave that may be carried forward from one year to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.

   (b) Transfer of Accrued Annual Leave
   
   An employing institution must establish campus-wide uniform guidelines regarding the transfer of accrued annual leave from a UNC constituent institution or State or local governmental agency whose leave is currently transferable in accordance with the policy prescribed for employees subject to the State Personnel Act [See State Personnel Manual, Section 5-1]. Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see (d) below] or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency’s approval.

   (c) Advancement of Annual Leave
Subject to institutional policy and approval by the employee’s supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employing institution must determine the amount of leave that the employee must repay to the institution and make deductions from the employee’s final salary check accordingly.

(d) Payout of Accrued Annual Leave

An employee in a position covered by this policy who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave. The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. Each institution shall establish guidelines for payout of leave if a change in employment status occurs and such employee is no longer covered by this policy.

3. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave and Special Annual Leave Bonus

Employees in positions covered by this policy shall be subject to the same policies concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However with respect to sick leave, subject to institutional policy and approval by the employee’s supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

4. Leave of Absence Without Pay

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Employees in positions covered by this policy may request a leave of absence without pay, subject to approval of such leave by the President or by the chancellor, as applicable.

5. Voluntary Shared Leave

Employees in positions covered by this policy shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

G. Educational Entitlement

Employees in positions covered by this policy are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by UNCP Policy 1000.2.2.

H. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

Employees in positions covered by this policy enjoy the protections of and are subject to the provisions of Article 7 of N.C.G.S. 126, entitled "The Privacy of State Employee Personnel Records."

2. Employment Preference for Veterans

Employees in positions covered by this policy enjoy the protections of and are subject to the provisions of N.C.G.S. §128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

3. Employment of Related Persons

Employees in positions covered by this policy are subject to the policy concerning employment of related persons. Policy §100.4.2 as it may be revised from time to time.

I. Retirement

Employees in positions covered by this policy may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

[1] Deans at the North Carolina School of Science and Mathematics fall within Section 1.B. of this Policy.
[2] Other officers include (a) members of the chancellor’s professional staff; (b) those responsible for the administrative direction of separately designated divisions or departments of institutional activity commonly associated with institutions of higher education; (c) those positions whose primary responsibility is to attract external funds for and/or market the University; and, (d) other officers holding positions characterized by active, continuing involvement in formulating, interpreting, and implementing institutional policy and exercising substantial independence of administrative authority and discretion in areas such as program planning and design and allocation of resources.

[3] Pursuant to NCGS §116-1(13), and notwithstanding The Code or any other Board of Governors policy, the Board of Governors has delegated certain authorities to the President of the University. See Policy 200-A, Delegation Authority to the President of the University, adopted 11/13/06.


[5] Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or federal law, may be applied to positions covered by this policy.

[6] For the purposes of determining leave under this policy, “year” shall be defined by the employing institution as either a “fiscal year” (July 1 – June 30) or a “calendar year” (January 1 – December 31). Institutions currently defining a “year” as a “contract year” may continue to do so.

[7] Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

[8] Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to positions covered by this policy.

UNC Policy 300.2.1.

Note. Changes in subsection III D. and section IV. shall become effective for personnel actions taken on and after January 1, 2009. All other changes are effective upon approval.

Adopted 02/13/81
Amended 09/14/84
Amended 05/08/87
Amended by AM 254
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Amended 03/21/03
Amended 06/08/08

EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT

I. Scope and Applicability of Employment Covered by These Policies

A. Scope of category

Employment positions with constituent institutions of the University that are covered by these policies (hereinafter "covered positions") are those positions that are not subject to the State Personnel Act (N.C.G.S. Chapter 126) and are not otherwise categorized. This category does not include:

1. faculty positions subject to institutional tenure regulations;
2. positions within administrative categories of employment subject to N.C.G.S. §116-11(4), N.C.G.S. §116-11(5), or N.C.G.S. §116-14;
3. positions within the "physicians or dentists" category under N.C.G.S. §126-5 with faculty appointments; and
4. University students who are employed incident to their status as students, as in graduate teaching assistantships or work-study positions. Those areas of institutional activity (as identified in the Uniform Chart of Accounts) that may include covered positions are:

Instruction
Organized Research
Agricultural Research
Agricultural Extension Service
Public Service
Academic Support
Student Services
Student Health Service Physicians (without faculty appointments)
Institutional Support
Area Health Education Centers
Library

B. Applicability of Policies
These policies apply to all permanent covered positions.

II. Appointments to Covered Positions

A. Every appointment to a covered position within a constituent institution shall be made by the chancellor by means of a letter of appointment that fulfills the requirements of this Section II.[3]

B. Every letter of appointment to a covered position shall include: (1) the title of the position; (2) the initial salary; (3) provision for periodic review of compensation[6]; (4) provision consistent with Sections II.C and II.D, below, if contingencies based on availability of funding are applicable; (5) the annual leave entitlement of the employee; (6) notice that the employment conferred is either for a stated definite term or is an “employment at will” subject to continuation of discontinuation at the discretion of the chancellor; and (7) notice that the employment is subject to these policies (viz., institutional policies adopted pursuant to Section IX of these policies), as originally adopted and as they may be periodically revised from time to time, and a copy of the institutional policies shall be attached to the letter of appointment.

C. When a covered position is funded in whole or substantial part from sources other than continuing State budget funds or permanent trust accounts, the letter of appointment shall state that continuation of the employee’s service in that position is contingent upon the continuing availability of funds from such other sources to support such a position, shall specify the source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Section III.A., III.B., and III.C.; provided, that the affected employee shall be informed at the earliest practicable date of the occurrence of such a funding contingency.

D. 1. When an employee is to serve simultaneously in both a covered position and a position of University employment not covered by these policies, with the result that two different prescriptions may appear to obtain with respect to a particular condition of employment or a right or responsibility of the employee, one position shall be designated the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a covered position occurs subsequent to appointment to a position not covered by these policies, the letter of appointment to the covered position shall embody the required designation of base employment; conversely, if appointment to a covered position precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base
employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

2. Any funding contingency of the type referred to in Section III.C. shall be set forth separately for the covered position and for the other position, since the operation of any such contingencies may be independent.

3. When an appointment to a covered position is to be accompanied by appointment to a faculty position that is intended to be nominal or honorary, or to create a faculty affiliation not entailing significant duties or compensation, the term "adjunct," or similar nomenclature, shall be used to identify the faculty appointment.

III. Discontinuations of Employment in Covered Positions

A. Discontinuation of appointment with notice or severance pay

Employment within a covered position that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion of the chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section III.D.) shall be subject to advance timely notice of discontinuation or the payment of severance pay, in calendar days, as follows: (1) during the first year of service, not less than 30 days notice prior to discontinuation of employment or the payment of severance pay for 30 days; (2) during the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of severance pay for 60 days; and (3) during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 days.

The determination of whether the employee shall receive notice of discontinuation of the appointment or severance pay shall be in the sole discretion of the respective chancellor or the president.

B. Expiration of term appointment

Employment within a covered position that is established by the letter of appointment to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be renewed or extended at the option of the employer, by written notice satisfying the requirements of Section II. If the employer intends to not renew or extend the term contract, (1) with respect to a term of one year or less, no notice of intent not to renew shall be required; (2) with respect to a term of more than one year but less than four years, notice of intent not to renew shall be transmitted in writing at least 60 days prior to the expiration date of the term; (3) with respect to a term of four years or more, notice of intent not to renew shall be transmitted in writing at least 90 days prior to the expiration date of the term. Failure to provide written notice as required in subsections (2) and (3) shall result in the automatic extension of
employment for a period, respectively, of either 60 days or 90 days, beyond
the scheduled expiration date of the term.

C. Termination of employment because of financial exigency or program
curtailment or elimination

Employment within a covered position that is established by the letter of
appointment to be for a stated definite term may be terminated prior to expiration
of the stated term because of (1) demonstrable, bona fide institutional financial
exigency or (2) major curtailment or elimination of a program. "Financial
exigency" is defined to mean a significant decline in financial resources of the
University that compels a reduction in the institution's budget. The determination
of whether a condition of financial exigency exists or whether there shall be a
major curtailment or an elimination of a program shall be made by the
chancellor, with advance notice to and approval by the President and the Board
of Governors. If the financial exigency or curtailment or elimination of a
program is such that the contractual obligation to an employee within a covered
position cannot be met, the employment of the individual may be terminated,
subject to the following notice requirements; (1) during the first year of service,
not less than 30 days notice prior to termination; (2) during the second and third
years of employment, not less than 60 days notice prior to termination; and (3)
during the fourth and all subsequent years of service, not less than 90 days notice
prior to termination.

D. Discharge for cause

Any employee occupying a covered position may be discharged for stated cause.
Discharge for cause is to be distinguished from discontinuance with notice
(Section III.A.), automatic expiration of term (Section III.B.) and termination
(Section III.C.). Stated causes for discharge shall include, but not necessarily be
limited to, incompetence, unsatisfactory performance, neglect of duty, or
misconduct that interferes with the capacity of the employee to perform
effectively the requirements of his or her employment. Discharge for cause is to
be preceded by written notice of intent to discharge and is subject to invocation
by the affected employee of the review procedures of Section IV. of this
policy. When an employee occupying a covered position has been notified of
the intention to discharge him or her for cause, the president or chancellor may
suspend the employment at any time and continue the suspension until the
president or chancellor, as applicable, makes a decision concerning discharge.
Any suspension shall be with full pay. If the final presidential or chancellor
decision is to discharge the employee, then the employee may be discharged
without further pay without regard to whether there is an appeal to a Board of
Trustees or the Board of Governors in accordance with Section 611 of The Code.
No provision of this Policy 300.2.1 shall be interpreted to extend an employee’s
right to pay beyond the expiration of the employee’s term of appointment while
an appeal is pending under this Policy.

IV. Reviews

Deleted: Review of Employment
Deleted: Decisions and Grievances
A. Each constituent institution and General Administration shall adopt and publicize procedures under which employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or review concerning the interpretation and application of any provision of this policy, provided, however, that reviews concerning discontinuations, expiration of term appointments, or terminations of employment with notice, pursuant to Sections III.A., III.B., or III.C., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section V. or VI. of these policies.

B. Decisions reached pursuant to such review procedures concerning the discontinuation, expiration of term appointment, or termination of employment may be had in accordance with the provisions of Section 61J of The Code.

V. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there shall be equal employment opportunity and freedom from unlawful discrimination in all employment within the University, as set out in Section 103 of The Code. Employment in covered positions shall be conducted in accordance with all provisions of state or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

VI. Protected Activity

Employment in covered positions shall not be adversely affected by the exercise of rights guaranteed by the First Amendment to the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in covered positions shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy 300.5.1, et seq., as they may be revised from time to time, shall apply to positions covered by these policies.

VII. Holiday and Leave Entitlement

A. Holidays

Employees in covered positions shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

B. Annual Leave

1. Basic Leave Policy

The amount of annual leave to which a permanent full-time employee (1.00 FTE) in a position covered by these regulations shall be entitled is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more.
.99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. An employing institution shall define a year as either “fiscal year” (July 1 - June 30) or “calendar year” (January 1 - December 31). (Note: Employing institutions that have previously defined a year as “contract year” may continue to do so.) The scheduling of an employee’s annual leave shall be subject to the approval of the employee’s supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at the current rate.

The maximum number of unused days of annual leave that may be carried forward from one year to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.

2. Transfer of Accrued Annual Leave

An employing institution must establish campus-wide uniform guidelines regarding the transfer of accrued annual leave from a UNC constituent institution or State or local governmental agency whose leave is currently transferable in accordance with the policy prescribed for employees subject to the State Personnel Act (See State Personnel Manual, Section 5-1). Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave (see (4) below) or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency’s approval.

3. Advancement of Annual Leave

Subject to institutional policy and approval by the employee’s supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employing institution must determine the amount of leave that the employee must repay to the institution and make deductions from the employee’s final salary check accordingly.

4. Payout of Accrued Annual Leave
An employee in a position covered by these regulations who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave. The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. Each institution shall establish guidelines for payout of leave if a change in employment status occurs and such employee is no longer covered by this policy.

C. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, and Community Service Leave, and Special Annual Leave Bonus

Employees in positions covered by these regulations shall be subject to the same policies concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However, with respect to sick leave, subject to institutional policy and approval by the employee’s supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

D. Leave of Absence Without Pay

Employees in positions covered by these regulations may request a leave of absence without pay, subject to approval of such leave by the President or by the chancellor, as applicable.

E. Voluntary Shared Leave

Employees in positions covered by these regulations shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

F. Educational Entitlement
Employees in covered positions are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by UNC Policy 1000.2.2.

VIII. Statutory and Other Rules of Employment

A. Privacy of personnel records

Employees in covered positions enjoy the protections of and are subject to the provisions of Article 7 of N.C.G.S. §126 entitled "The Privacy of State Employee Personnel Records."

B. Employment preference for veterans

Employees in covered positions enjoy the protections of and are subject to the provisions of N.C.G.S. §§ 128-15, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

C. Employment of related persons

Employees in covered positions are subject to the policy concerning employment of related persons as adopted by the Board of Governors on April 13, 1973, and as it may be revised from time to time.

D. Retirement

Employees in covered positions may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

IX. Implementation

The Board of Trustees of each constituent institution shall adopt for the institution personnel policies for covered positions within the institution that are consistent with all provisions of these policies. Any proposed provision in an institutional policy statement that in any manner adds to or modifies the provisions of these policies must be submitted for review and approved by the President prior to its adoption and implementation.

X. Effective Date

The effective date of institutional policies adopted pursuant to Section IX shall be September 1, 1981.
the General Administration to the President of the University. See Policy 200.6, Delegation Authority to the President of the University, adopted 11/13/06.

Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to covered positions.

Effective July 1, 2001.
SECTION 301. THE STANDING COMMITTEES' JURISDICTION.

301 A. The standing committees of the Board of Governors shall be: the Committee on Budget and Finance; the Committee on Educational Planning, Policies, and Programs; the Committee on Personnel and Tenure; the Committee on University Governance, the Committee on Public Affairs, and the Audit Committee.

301 B. The Committee on Budget and Finance shall consist of seven voting members. The committee shall advise and consult with the president concerning budget policy and preparation. The committee shall consider the budget proposed by the president and, upon its approval, shall submit the budget to the Board of Governors for final action. The committee shall make recommendations to the board for the allocation of funds appropriated to the board. It shall also advise and assist the president, and submit recommendations to the board, with respect to real property transactions, investments, endowments, and other fiscal and property matters in accordance with valuation limits established in board policy and within the jurisdiction of the Board of Governors.

301 C. The Committee on Educational Planning, Policies, and Programs shall consist of nine voting members. It shall receive the advice and recommendations of the president and make recommendations to the board in all areas pertaining to the development of a coordinated system of higher education in North Carolina, including: (a) the definition of mission and assignment of functions of each constituent institution; (b) the review of requests for the initiation of new degree programs and recommendations for the termination of existing programs; (c) the provision of supportive services, facilities, and other resources for the instructional, research, and public-service programs of the constituent institutions; (d) the review of policies affecting educational programs and academic affairs; (e) matters concerning the involvement of students in the University and in university life; (f) review of matters concerning health affairs in the University; and (g) review of matters concerning the utilization of information technology in furtherance of the University’s mission. The committee shall also advise and assist the president and the board in maintaining close liaison with the State Board of Education, the State Board of Community Colleges, and the private colleges and universities, including the review of all requests for state aid to the private institutions. It shall further recommend to the board procedures and standards for the licensing of non-public educational institutions.

301 D. The Committee on Personnel and Tenure shall consist of seven voting members. Upon recommendation of the president, it shall review and make recommendations to the board with respect to the appointment and compensation of all vice chancellors, senior academic and administrative officers, and persons with permanent tenure. Notwithstanding the provision above, the committee shall not review or recommend the appointment and compensation of vice chancellors, senior academic and administrative officers, and persons with permanent tenure for those campuses delegated the authority to appoint and set compensation for such employees so long as the boards of trustees act consistently with the policy and compensation ranges established by the Board of Governors. Further, the committee shall advise and assist the president in the review and
evaluation of tenure policies and regulations which the president shall periodically conduct, and it shall review all appeals from faculty members of the constituent institutions which involve an institution's decision to not to reappoint a faculty member, to deny tenure, to discharge a tenured faculty member, or to impose a serious sanction pursuant to the provisions of Chapter VI of this Code. It shall also review all appeals from non-faculty employees of the University who are exempt from the State Personnel Act pursuant to Section 611 of this Code.

301 E. The Committee on University Governance shall consist of seven voting members. It shall keep under continuous review the application and interpretation of The Code of the University of North Carolina and all delegations of authority under that code, and it shall make such recommendations to the Board of Governors for the amending of The Code or delegations of authority as may seem appropriate for the effective and efficient operation of the University of North Carolina and its constituent institutions. The committee shall make nominations to the Board of Governors for elections to the boards of trustees of the constituent institutions. The committee shall receive all requests from students of the constituent institutions for appellate review by the Board of Governors pursuant to Section 502 D(3) of this Code.

301 F. The Committee on Public Affairs shall consist of a number of voting members to be determined by the chair of the board. A voting member serving on this committee shall also serve on one or more other standing committees. The Committee on Public Affairs shall assist the President in maintaining a positive relationship with the Governor, the North Carolina General Assembly, the United States Congress, and other governmental entities which affect the ability of the University to carry out its mission. The committee will review all state and federal policy priorities of the University.

301 G. The Audit Committee shall consist of a number of voting members to be determined by the chair of the board. A voting member serving on this committee shall also serve on one or more other standing committees. The Audit Committee shall develop and maintain a system wide code of ethics, review annual and other audit reports of the constituent institutions and affiliated entities of the University, review a summary of the internal audit plans and work of the audit committees of the constituent institutions, review annual financial audit reports and management letters on University associated entities, meet with the State Auditor annually, and take such other actions as are necessary or appropriate to assure the integrity of the finances of the University.
CHAPTER VI - ACADEMIC FREEDOM AND TENURE

Note: The three footnotes below concerning the January 2004 version of those subsections shall be effective upon approval. All other changes shall become effective for personnel actions taken on and after January 1, 2009.

SECTION 600. FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY.

(1) The University of North Carolina is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of these purposes. The University therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.

(2) The University and each constituent institution shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.

(3) Faculty and students of the University of North Carolina shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

SECTION 601. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY.

(1) It is the policy of the University of North Carolina to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of the constituent institutions. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the University and their position as men and women of learning. They should not represent themselves, without authorization, as spokespersons for the University of North Carolina or any of its constituent institutions.

(2) The University and its constituent institutions shall not penalize or discipline members of its faculties because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

SECTION 602. ACADEMIC TENURE.

(1) To promote and protect the academic freedom of its faculty, the board of trustees of each constituent institution shall adopt policies and regulations governing
academic tenure. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president. The chancellor shall review the constituent institution's tenure policies periodically, but at least every five years, and shall report to the president whether or not amendments or revisions are appropriate. The chancellor shall involve the faculty in this review.

(2) In all instances, the tenure conferred on a faculty member is held with reference to employment by a constituent institution, rather than to employment by the University of North Carolina.

(3) The tenure policies and regulations of each constituent institution shall prescribe the procedures by which decisions concerning appointment, reappointment, promotion, and the conferral of permanent tenure shall be made. The length of terms of appointment that do not carry permanent tenure and those faculty ranks or titles whose holders shall be eligible for permanent tenure shall be prescribed. The institutional policies and regulations also shall prescribe the intervals at which the review of candidates for reappointment and promotion, including the conferral of permanent tenure, shall occur. The tenure policies and regulations of each institution, which shall include the complete text of Chapter VI of The Code, shall be published by the institution and distributed to its faculty members.

(4) The tenure policies and regulations of each institution shall set forth the general considerations upon which appointment, reappointment, promotion, and permanent tenure are to be recommended. The institutional regulations shall provide that these considerations shall include an assessment of at least the following: the faculty member’s demonstrated professional competence, the faculty member’s potential for future contribution, and institutional needs and resources.

(5) The institutional policies and regulations shall specify that permanent tenure may be conferred only by action of the president and the Board of Governors, or by such other agencies or officers as may be delegated such authority by the Board of Governors.

(6) Institutional tenure policies and regulations shall distinguish among the following:

(a) the nonreappointment (or nonrenewal) of a faculty member at the expiration of a specified term of service;

(b) the discharge from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before that term expires only for reasons of (i) incompetence, (ii) neglect of duty, or (iii) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, as specified in Code Section 603;
(c) the termination of employment for reasons of institutional financial exigency or major curtailment or elimination of a teaching, research, or public-service program of a faculty member who has permanent tenure, or of a faculty member who has been appointed to a specified term of service before that term expires; and

(d) retirement.

(7) Institutional tenure policies and regulations shall provide that the appointment, reappointment, or promotion 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 the continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon the continuing availability of such funds. The institutional tenure policies and regulations may make one or more of the following exceptions to the foregoing contingency requirement:

(a) That such a contingency shall not be included in a promotion to a higher rank if, before the effective date of that promotion, the faculty member held permanent tenure and no such condition is attached to the tenure.

(b) That such a contingency shall not be attached to the faculty member's contract if the faculty member held permanent tenure in that institution on July 1, 1975, and the contract was not contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

(c) That such a contingency may be waived for health affairs faculties because of the unusual dependence of programs in the health professions on income from sources such as clinical receipts.

If a faculty member's appointment is terminated because of the nonavailability of these funds, the institution will make every reasonable effort to give the same notice as set forth in Section 605 B (1). This notice shall include the pertinent data upon which the termination is based.

(8) The tenure policies and regulations of each institution shall be subject to approval by the president. The president periodically shall review and re-evaluate these policies and regulations and report findings and recommendations, if any, to the Committee on Personnel and Tenure and through the committee to the Board of Governors.

*Pursuant to NCGS §116-11(13), and notwithstanding The Code or any other Board of Governors policy, the Board of Governors delegates certain authorities to the President of the University. See Policy 200.6, Delegation Authority to the President of the University, adopted 11/13/06.
Because of the unique character and mission of the North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, the requirement that the institution adopt tenure policies will be satisfied if those institutions by an employment system based on renewable contracts, which system need not provide for the traditional faculty ranks. Wherever the phrase "tenure policies and regulations" is used in this chapter, it shall mean, for the School of the Arts and for the School of Science and Mathematics, the faculty employment policies of those schools. Wherever the phrase "tenured faculty" is used in this chapter and in the Policies of the Board of Governors, it shall mean, for those schools, a faculty member holding a fixed-term contract.

See Footnote 7 on previous page.

SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY.

604 A. Notice of Reappointment or Nonreappointment.

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

(a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires;

(b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and

(c) after two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.

(2) Notice of reappointment or nonreappointment shall be written. If the decision is not to reappoint, then failure to give timely notice of nonreappointment will oblige the chancellor thereafter to offer a terminal appointment of one academic year.

604 B. Impermissible Reasons for Nonreappointment.

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, or other forms of discrimination prohibited under policies adopted by...
campus Boards of Trustees, or (c) personal malice. For purposes 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 Policy 101.3.1 II.B for details.

604 C. Repealed.

604 D. Review of Non-Reappointment Decisions.

(1) Campus Based Review. Subject to limitations contained in this Code and the Policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenured track faculty member may seek review of the decision of the constituent institution not to reappoint the faculty member. Such procedures shall be at a minimum provide for the following:

(a) A reasonable time of no less than 14 calendar days within which after receiving the notice of non-reappointment, the faculty member may request review of the decision by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by campus tenure policies, the non-reappointment is final without recourse to any further review by faculty committees, the institution, or the Board of Governors.

(b) If the faculty member files a request for review in a timely fashion, the chancellor shall ensure a process is in place so that a hearing is timely accorded before an elected standing committee of the institution’s faculty.

(c) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The faculty member shall have the burden of proof. In evaluating the evidence the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence.)

(d) The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that The Code provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.

(2) Appeal to the Board of Governors. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal by filing a written notice of appeal with the Board of Governors, by submitting such notice to the President, by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member’s receipt of the chancellor’s decision. The notice must contain a brief statement of the basis for the appeal. The purpose of appeal to the Board of Governors is to assure
(1) that the campus-based process for reviewing the decision was not materially flawed, so as to raise questions about whether the faculty member’s contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy. \(^{12}\)

\(^{11}\) Prior to January 1, 2004 Section 604A read as follows:

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

(a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days’ notice before the employment contract expires;

(b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days’ notice before the employment contract expires; and

(c) after two or more years of continuous service at the institution, the faculty member shall be given not less than twelve months’ notice before the employment contract expires.

(2) Notice of reappointment or nonreappointment shall be written. If the decision is not to reappoint, then failure to give timely notice of nonreappointment will oblige the chancellor thereafter to offer a terminal appointment of one academic year.

\(^{12}\) See Policy 101.31 for additional information.

SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution 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 605 C(1), subject to the concurrence by the President and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution’s contractual obligation to a faculty member may not be met, the
employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.

605 B. Timely Notice of Termination.

(1) 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:

(a) one who has permanent tenure shall be given not less than 12 months' notice;

and

(b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

(2) 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 Section 605 B(1).

(3) 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 605 A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be made by a method of delivery that requires a signature for delivery, and the faculty member will be given 30 calendar days after attempted delivery of the notice to accept or reject the offer.

605 C. Institutional Procedures.\textsuperscript{12,1}

The institution shall establish regulations governing termination procedures. These regulations shall include provisions incorporating the following requirements:

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

\textsuperscript{12,1}
(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

Prior to January 1, 2000 605C read as below:

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor’s delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining whether a faculty member’s employment is to be terminated for reasons set forth in Section 605, the chancellor shall give consideration to tenure status, years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) The faculty member may appeal the reconsideration decision in the manner provided by Section 561 (CC).
SECTION 607. FACULTY GRIEVANCE COMMITTEE FOR CONSTITUENT INSTITUTIONS.\[33\]

(1) The chancellor of each constituent institution shall provide for the establishment of a faculty grievance committee. The faculty grievance committee shall be elected by the faculty with members elected from each professorial rank. No officer of administration shall serve on the committee. For purposes of this section, "officer of administration" shall be deemed to include department chairs and department heads.

(2) The committee shall be authorized to hear and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the persons directly involved in a grievance, to facilitate voluntary adjustment by the parties, and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the chancellor only after the dean, department head, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.

(3) "Grievances" within the province of the committee's power shall include matters directly related to a faculty member's employment status and institutional relationships within the constituent institution, including matters related to post-tenure review. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.

(4) If any faculty member has a grievance, the faculty member may petition the faculty grievance committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition.

(5) If, before this section is established, the faculty of an institution has adopted a faculty grievance procedure that in its judgment is adequate to its needs, it may retain that procedure in place of the one specified above.

(6) If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent
institution. The decision of the board of trustees is final.

12 Prior to January 1, 2004 Section 607 read as below:

(1) The chancellor of each constituent institution shall provide for the establishment of a faculty grievance committee. The faculty grievance committee shall be elected by the faculty with members elected from each professorial rank. No officer of administration shall serve on the committee. For purposes of this section, “officer of administration” shall be deemed to include department chairs and department heads.

(2) The committee shall be authorized to hear, mediate, and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the persons directly involved in a grievance, to mediate voluntary adjustment by agreement, and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the chancellor only after the dean, department head, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.

(3) “Grievances” within the province of the committee's power shall include matters directly related to a faculty member’s employment status and institutional relationships within the constituent institution. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.

(4) If any faculty member has a grievance, the faculty member may petition the faculty grievance committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition.

(5) If before this section is established, the faculty of an institution has adopted a faculty grievance procedure that in its judgment is adequate to its needs, it may retain that procedure in place of the one specified above. [This section became effective July 1, 1973.]

SECTION 608. STUDENTS' RIGHTS AND RESPONSIBILITIES.

(1) The University of North Carolina affirms that the first goal of each constituent institution is to educate the students admitted to its programs. The freedom of students to learn is an integral and necessary part of the academic freedom to which the University and its constituent institutions are dedicated. Each constituent institution shall provide, within allotted functions and available resources, opportunity for its students to derive educational benefits through developing their intellectual capabilities, encouraging their increased wisdom and understanding, and enhancing their knowledge and experience applicable to the effective discharge of civic, professional, and social responsibilities. No constituent institution shall abridge either the freedom of students engaged in the responsible pursuit of knowledge or their right to fair and impartial evaluation of their academic performance.
(2) All students shall be responsible for conducting themselves in a manner that helps to enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.

(3) In applying regulations in the area of student discipline, each constituent institution shall adhere to the requirements of due process as set forth in Section 502 D(3) of this Code.

SECTION 609. APPELLATE JURISDICTION OF THE BOARD OF GOVERNORS.

609 A. Discretionary Review.

Nothing contained in Chapter VI, or any other chapter of the Code, shall be construed to limit the right of the Board of Governors to make such inquiry and review into personnel actions as it may from time to time deem appropriate.

609 B. Hearings.

The Board of Governors may in its sole discretion conduct hearings. Any hearing, whether before the full board or a designated standing or special committee of the board, shall be limited to such matters as the Board of Governors shall deem appropriate.

609 C. Repealed.

609 D. Transmission of Appeals

All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.

SECTION 610. RIGHTS OF SPECIAL FACULTY MEMBERS.

(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, artists-in-residence, writers-in-residence or other special categories are regarded as "special faculty members" for purposes of the University Code. Special faculty members may be paid or unpaid.

(2) Special faculty members who are paid shall be appointed for a specified term of service, as set out in writing in the letter of appointment. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires.
(3) Special faculty members who are not paid may be appointed for a specified term of service or at will. Their pay and appointment status should be set out in the letter of appointment.

(4) During the term of their employment, special faculty members are entitled to seek recourse under Section 607 of the University Code (relating to faculty grievances).

(5) Special faculty members, whether paid or unpaid, are not covered by Section 604 of the University Code, and that section does not accord them rights to additional review of a decision by a constituent institution not to grant a new appointment at the end of a specified fixed term.

SECTION 611. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT (EPA).

(1) Review Processes. Certain non-faculty employees, as described in sub-section (1)(b) below, who are exempt from the State Personnel Act, may seek review under procedures provided for by this section in the event that the employee is discontinued, terminated, or discharged from employment, suffers other adverse personnel action, or is not appointed following the end of a term appointment. Each constituent institution shall develop procedures applicable to employees of the constituent institution, and General Administration shall develop procedures applicable to those of its employees who are covered by this section. Such procedures shall, at a minimum, provide for the following:

(a) A reasonable time within which a covered employee or former employee may file a request for review, after receiving notice of a personnel action covered by this section. If a covered person does not timely file a written request for review, then the personnel action is final without recourse to any institutional review, appeal or grievance procedure.

(b) Covered persons may seek review of personnel actions based on allegations that:

(i) Notice

(A) For Senior Academic and Administration Officers defined only in UNC Policy 300.1.1.1.B., for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.1.1, III.B.1., 2., and 3. of the University Policy Manual; and

(B) For other employees exempt from the State Personnel Act, as described only in UNC Policy 300.2.1, for discontinuations,
expiration of term appointments, or terminations of employment
with notice, such review may be sought only upon allegations of
violations of applicable notice requirements set out in policies
300.2.1 III, A, B, and C of the University Policy Manual; or
(ii) Equal Employment Opportunity and Protected Activity

(A) For the Senior Academic and Administrative Officers defined
in sub-section (i) above, for violations of any provision of sub-
sections III.D, or E of Policy 300.1.1 of the University Policy
Manual, and

(B) For the other employees exempt from the State Personnel Act
defined directly above in sub-section (i), for violations of any
provision of sections V, or VI of Policy 300.2.1, of the University
Policy Manual; or

(iii) Discharge for Cause, Other Discipline, Policy
Interpretation/Application

(A) For the Senior Academic and Administrative Officers defined
in sub-section (i) above, for discharge for cause or other
disciplinary action, or for interpretation and application of a policy
provision, all pursuant to and limited by policy 300.1.1 III.C. of the
University Policy Manual, and

(B) For the other employees exempt from the State Personnel Act
defined above in sub-section (i), for discharge for cause or other
disciplinary action, or for interpretation and application of a policy
provision, all pursuant to and limited by policy 300.2.1 IV. of the
University Policy Manual,

except that for both groups such review may be sought only if the
employee alleges the discharge, discipline, or policy interpretation or
application was illegal or violated a policy of the Board of Governors.

(e) If the employee or former employee timely files a written request for review,
the president (as to an employee of General Administration) or chancellor (as to
an employee of a constituent institution), as appropriate, shall be named, the committee shall
consider only the evidence presented at the hearing and such written or oral
arguments as the committee, in its discretion, may allow. The employee or
former employee has the burden of proof. In evaluating the evidence, the
committee shall use the standard of preponderance of the evidence (which is the
same as the “greater weight of the evidence.”)

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(2) Appeal to the Board of Trustees or Board of Governors.

(a) For employees of a constituent institution, if the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor's written decision, by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Trustees is final with no further appeal.

(b) For employees of General Administration, if the president concurs in a recommendation of the committee that is favorable to the employee, the president's decision shall be final. If the president either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the president's written decision, by filing with the president for transmission to the Board of Governors a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Governors is final with no further appeal.
CHAPTER VI - ACADEMIC FREEDOM AND TENURE

Note: All changes shall become effective for personnel actions taken on and after January 1, 2009.

SECTION 603. DUE PROCESS BEFORE DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS.

(1) 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 from employment, suspended, or demoted in rank only for reasons of:

(a) Incompetence, including significant sustained unsatisfactory performance after the faculty member has been given an opportunity to remedy such performance and fails to do so within a reasonable time.

(b) Neglect of duty, including sustained failure to meet assigned classes or to perform other significant faculty professional obligations; or

(c) 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 action, 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 as to adversely reflect on the individual's honesty, trustworthiness or fitness to be a faculty member.

These actions may be imposed only in accordance with the procedures prescribed in this section. For purposes of this Code, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. These procedures shall not apply to nonreappointment (Section 604) or termination of employment (Section 605).

(2) The chief academic officer of the institution, however titled, shall send the faculty member a written notice of intention to discharge the faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of mail or delivery that requires a signature for delivery. The statement shall include notice of the faculty member's right, upon request, to a hearing by an elected standing faculty committee on hearings.

(3) If, within 14 calendar days, after receiving the notice and written specifications referred to in paragraph (2) above, the faculty member makes no written
request for a hearing, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.

(4) Repealed.

(5) If the faculty member makes a timely written request for a hearing, the chancellor shall ensure a process is in place so that the hearing is timely accorded before an elected standing committee of the institution’s faculty. The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction. The hearing committee shall accord the faculty member 20 calendar days from the time it receives the faculty member’s written request for a hearing to prepare a defense. The hearing committee may, upon the faculty member’s written request and for good cause, extend this time by written notice to the faculty member. The hearing 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 hearing committee cannot be assembled.  

(6) The hearing shall be closed to the public unless the faculty member and the hearing committee agree that it may be open. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, to examine all documents and other adverse demonstrative evidence, and to make argument. A written transcript of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the institution’s expense.

(7) The chief academic officer, or designee, and/or counsel, may participate in the hearing to present testimony of witnesses and other evidence, to cross-examine witnesses, to examine all documents and other evidence, and to make argument.

(8) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at 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 the 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. The committee shall make its written recommendations to the chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later.

(9) If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a 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 be addressed to the
chair of the board. Notice of appeal shall be filed within 14 calendar 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
doing 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
hearings held by the faculty hearing committee, but it may, in its discretion, hear such
other evidence as it deems necessary. The board of trustees' decision shall be made as
soon as reasonably possible 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 days after receiving the trustees' decision, by filing a written
notice of appeal, by certified mail, return receipt requested, or by another means that
provides proof of delivery, with the Board of Governors if the faculty member alleges
that one or more specified provisions of the Code of the University of North Carolina
have been violated. Any such appeal to the Board of Governors shall be transmitted
through the president.

(10) 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 individual at any time until a final decision concerning discharge has been
reached by the procedures prescribed herein. Suspension shall be exceptional and shall
be with full pay.

\[\text{Deleted: ten}\]

\[\text{Deleted: within 45 days}\]

\[\text{Deleted: ten}\]

\[\text{Deleted: petition for review}\]

\[\text{Deleted: petition}\]

\[\text{Deleted: and the board shall, within 45 days, grant or deny the petition or take
such other action as it deems advisable. If it grants the petition for review, the
board's decision shall be made within 45 days after it has notified the faculty
member that it will review the petition}\]

\[\text{Deleted: and continue the suspension}\]

\[\text{Deleted: 10 Retirement for reason of
disability shall be in accordance with North Carolina statutes and regulations governing
retirement for faculty who are members of the state retirement system. A faculty member
who is not a member of the state retirement system and who is mentally or physically
disabled, but refuses to retire, may be discharged because of that disability only in
accordance with the procedures of this section}\]

\[\text{Deleted: 1}\]

\[\text{Deleted: Wherever it is used in this}\
chapter, except where calendar day is
specified, the word "day" shall mean
any day except Saturday, Sunday or an
institutional holiday.}\]
Guidelines on Performance Review of Tenured Faculty

Background

At its meeting on May 16, 1997, the Board of Governors adopted the recommendations in the report of the University of North Carolina Committee to Study Post-Tenure Review. A copy of that report is available at General Administration. Post-tenure review is defined in the report as "a comprehensive, formal, periodic evaluation of cumulative faculty performance, the prime purpose of which is to ensure faculty development and to promote faculty vitality" (p. 8).

The report asserts that review of the performance of tenured faculty in the University shall be "to support and encourage excellence among tenured faculty by:

1. recognizing and rewarding exemplary faculty performance,
2. providing for a clear plan and timetable for improvement of performance of faculty found deficient, and
3. for those whose performance remains deficient, providing for the imposition of appropriate sanctions, which may, in the most serious cases, include a recommendation for discharge" (p. 12).

The report also provides broad principles for carrying out such reviews but leaves room for each institution to develop the details of its own process following the release of guidelines by General Administration. In keeping with Section 602 of The Code, the Board of Trustees of each constituent institution shall adopt the policies and regulations governing performance reviews of tenured faculty. Institutional policies and procedures will also be approved pursuant to Policy 400.3.3 and should be included in all appropriate documents of the constituent institutions.

The report further specifies that "developing a system of post-tenure review will require reexamination of the effectiveness of current faculty personnel policies as well as planning and program review policies" (p. 13). Initiation of these performance reviews in the University of North Carolina provides constituent institutions with an opportunity to create a policy that examines individual faculty contributions to departmental, school/college, and university goals as well as to the academic programs in which faculty teach. Thoughtful attention to the ways in which post-tenure review can promote faculty vitality across their careers will assure that such reviews lead to increased effectiveness within the university.
Guidelines to assist in formulating institutional policy concerning performance reviews of tenured faculty are set out below. Guidelines adopted in June 1997 were used by constituent institutions to develop their post-tenure review policies. Revision of the guidelines was deemed necessary because of the substantial discrepancies in post-tenure review outcomes noted among constituent institutions over a period of years. A review of constituent institution policies identified practices at some institutions that constrained the rigorous application of post-tenure review as intended by the Board of Governors.

Guidelines

The following guidelines shall be observed in developing institutional policies and procedures for post-tenure review:

1. Institutions shall develop policies and procedures for implementing post-tenure review, and revise them as necessary to conform with the following amended guidelines. Proposed revised policies must be submitted to General Administration for approval no later than October 1, 2008. Implementation of revised policies will be effective upon approval pursuant to Policy 460.3.3.

2. Institutional policy statements shall show the relationship between the annual performance review of tenured faculty and the post-tenure review. Annual performance reviews, however, are not a substitute for the "comprehensive, periodic, cumulative review" required by the Board of Governors. The post-tenure review process can be informed by annual reviews but must involve an additional assessment as described in these guidelines.

3. Institutional reviews shall provide for the evaluation of all aspects of the professional performance of faculty whose primary responsibilities are teaching, and/or research, and/or service. If faculty responsibilities are primarily only to one or two of these areas, post-tenure review and resulting recommendations should take this allocation of responsibilities into account.

4. Institutional policies shall assure that faculty performance will be examined relative to the mission of the institution, college, and program.

5. Institutional policies shall assure that each tenured faculty member undergoes a cumulative review no less frequently than every five years. (Note: a review undertaken to grant tenure or to decide on promotion qualifies as such a cumulative review.)

6. Institutional policies shall explicitly involve peers in the review process. A peer review committee for a department or academic unit will be selected by a process agreed upon by the tenured faculty in that unit. The faculty member being reviewed will not have the option of selecting members of the peer review committee. The department chair or academic unit head must consult with the peer review committee. Post-tenure review outcomes in an academic unit must be reviewed at one or more higher administrative levels.
7. Institutional policies shall assure that there is written feedback to the faculty member being reviewed as well as a mechanism for faculty response to the evaluation. As intended by the Board of Governors, this feedback should include recognition for exemplary performance. Because performance rewards are often part of the annual review process, the post-tenure review may provide additional support for this form of recognition. A negative review must include a statement of the faculty member's primary responsibilities and specific descriptions of shortcomings as they relate to the faculty member's assigned duties. Faculty response to a negative review will also be shared at the next highest administrative level.

8. Institutional policies shall be in compliance with the criteria and procedures for due process and for discharge or other disciplinary action established in Chapter VI of The Code of the University.

9. Institutional policies shall require individual development or career plans for all faculty receiving less than satisfactory ratings in the cumulative review. These plans must include specific steps designed to lead to improvement, a specified time line in which improvement is expected to occur, and a clear statement of consequences should improvement not occur within the designated time line. The use of mentoring peers is encouraged, and progress meetings with the department chair or academic unit head must occur on at least a semi-annual basis during the specified timeline. If duties are modified as a result of a less than satisfactory rating, then the development plan should so indicate and take into account the new allocation of responsibilities.

10. As policies are developed, institutions shall consider resource implications of a meaningful performance review system, identifying in advance the sources of support for the process and its outcomes.

Approved.

Erskine B. Bowles, President

2008
CHECKLIST OF POLICY CHANGES
TO COMPLY WITH CHANGES OF FEBRUARY 2008
TO CODE 600 AND RELATED POLICIES

[changes concerning appeals/grievances currently to become effective Jan 1, 2009]

Code 103 (General Non-Discrimination Statement)
change discrimination language concerning armed forces to “veteran status”

Code 602 (Academic Tenure in general)
As to general language about campus policies, delete suspension and add “from employment” after “discharge”; add “only” prior to reasons, and number the reasons for discharge, and link them to “as specified in Code Section 603
As to retirement, delete “for physical or mental disability”

Code 603 (Discharge/Sanctions—expected approval at March 2008 BOG)
- insert reference to suspension (or suspended) and to demoted, or “serious sanction imposed,” whenever policy mentions discharge
- add examples of 3 grounds for sanctions
- have written specification of reasons included in notice of intention to sanction, and delete separate section on written specifications
- 14 calendar day appeal right
- Chancellor is responsible for ensuring a process in place for a timely hearing
- 30 calendar days for faculty member to prepare for hearing
- committee endeavors to complete the hearing within 90 calendar days
- faculty member may make argument
- CAO may have designee participate, may present witnesses and other evidence, examine documents
- campus has burden of proof, standard is “clear and convincing”
• committee recommendation to Chancellor within 14 calendar days after hearing or receipt of transcript
• retain BOT in appeal process
• 14 calendar day appeal right from Chancellor decision
• BOT decision as soon as reasonably possible
• 14 calendar day appeal right to BOG, supplement information concerning the notice of delivery
• delete references to BOG time frames on appeals
• insert may “reassign the individual to other duties or” prior to suspension pending hearing
• delete footnote referring to retirement for disability
• delete footnote explaining “day”
• insert footnote encouraging scheduling flexibility for hearing

Code 604 (Reappointment)

add “for Tenure Track Faculty” to title

604B—If not in campus policy on reappointment, add “color,” “creed,” “veteran’s status,” and any other form of discrimination barred by campus BOT

add short definition of “malice” and refer to policy that contains lengthy explanation of malice

604C delete paragraph on special faculty

604D provides more details on minimum for campus hearing:
• at least 14 calendar days to request faculty hearing
• Chancellor is responsible for seeing that a system is in place that provides a timely hearing;
• committee only considers evidence from hearing and arguments by the parties
• faculty member has the burden of proof by preponderance of the evidence (greater weight)
• purpose of review is to determine if decision was made on impermissible reasons under the Code and whether material deviation occurred in procedures so as to cast doubt on the decision
• add paragraph about when Chancellor’s decision is final, describe appeal rights to BOG, including 14 calendar day appeal period, brief statement of basis of appeal; brief statement of purpose of BOG review

**Code 605 (Termination)**

delete sentence at end of the policy if it duplicates sentence at the beginning of policy

**Code 606 (Retirement)**

delete reference to “Retirement System of Teachers and State Employees”

**Code 607 (Grievance)**

as to what is grievable, insert phrase “including matters related to post-tenure review”

**Code 609 (BOG Appellate Jurisdiction)**

delete reference to EPA non-faculty appeals

**Code 610 (NEW Rights of Special Faculty Members)**

• definition of “special faculty members”
• those paid are appointed for set term; appointment ends at end of period, no further notice of not receiving new term
• those not paid may be appointed to a fixed term or at will, per letter of appointment
• entitled to pursue grievances during term of employment
• not covered by non-reappointment policy

**Code 611 (NEW EPA Non-Faculty Appeals)**

Minimum appeal process described in some detail:
• policy applies to discontinued, terminated, discharged, other adverse action, not appointed at end of term
• reasonable time to file appeal for a review
• appeals based on lack of notice: for SAAO IIs and EPA non-faculty appeal concerning alleged violation of notice requirement
• appeals based on EEO violations and protected (political) activity: for violations of policy
• appeal concerning discharges for cause or other discipline, and policy interpretation/application: for SAAO IIs and EPA non-faculty appeal concerning violations of BOG policy or of law
• Chancellor to assure campus process for timely hearing by hearing committee
• committee recommendation based on only evidence presented and arguments of parties
• employee has burden of proof by preponderance (or greater weight) of the evidence
• appeal to BOT, including when Chancellor’s decision is final, employee appeal within 14 calendar days, brief statement of basis of appeal, no appeal from BOT

Policy 101.3.1 (non-reappointment)
substitute “veteran’s status” and add any additional discrimination barred by BOT policy
consider whether to alter election process for faculty hearing committees to achieve longer terms of service
delete section concerning time limit for appeals

Policy 300.1.1 (SAAOs)
• SAAO I and II, EEO section, may want to refer to campus general non-discrimination policy rather than set out protected classes in this policy
• SAAO I and II, educational entitlement, change reference to statute to policy on employee tuition waiver
• SAAO I and II, veteran employment preference, delete reference to GS 128-15.1
• SAAO I and II, retirement, delete reference to Retirement System of Teachers and State employees
• appointments of SAAO IIs, delete “Guidance 1100.3.1[G]
• no extension beyond date of original term appointment
• be sure to add “expiration of term appointments” under review section

Policy 300.2.1 (EPA Non-Faculty)
• discharge for cause: add that after Chancellor’s decision, discharge is without pay even if appeal is before BOT and no extension beyond date of original term appointment
• be sure to add “expiration of term appointments” under review section
• protected activity, make reference to political activity policy clearer