

AGENDA
University Affairs Committee
November 21, 2024

- I. Approval of Minutes – September 26, 2024 Action

- II. Policy Items Action
 - A. Performance Review of Tenured Faculty Policy (Post Tenure Review)
 - B. Unit Academic Program Review Policy
 - C. Faculty Appellate Provisions Policy (Implementing Processes for Sections 603, 604, 605, 607 of *The Code*)

- III. Conferral of Degrees Action

- IV. Closed Session



Meeting of the Board of Trustees
University Affairs Committee
November 21, 2024

AGENDA ITEM

- I. Approval of Minutes – September 26, 2024 Dave Fussell
Committee Chair

Situation: Approval of the minutes from the University Affairs Committee September 26, 2024, is required.

Background:

Assessment:

Action: This item requires a vote by the committee.

**Minutes from the University Affairs Committee
September 26, 2024 – Main Campus Student Center and Online Meeting**

The University Affairs Committee of the ECU Board of Trustees met in person on Thursday, September 26, 2024.

Committee members present:

Dave Fussell (chair); Jeffrey Roberts (vice chair); Tom Furr; Anderson Ward; Vince Smith; Vanessa Workman; Jim Segrave

Other Board members present:

Board Chair Jason Poole, Cassie Burt, Van Isley, Carl Rogers, Scott Shook

Trustee Dave Fussell, Chair of the Committee, convened the meeting at 2:05PM. Chairman Fussell read the conflict-of-interest provisions as required by the State Government Ethics Act and asked if anyone would like to declare or report an actual or perceived conflict. None were reported.

Chairman Fussell called role and a quorum was established.

I. Approval of Minutes

Chairman Fussell asked for the approval of the minutes of the April 11, 2024 meeting of the University Affairs Committee. Trustee Furr motioned and received a second. All were in favor.

Action Item

The minutes of the April 11, 2024 joint committee meeting were approved with no changes.

II. Operational Metrics

Board members were encouraged to reach out to Provost Coger with any questions about the updated operational metrics available in board materials.

Chair Poole noted the increase of graduate transfer students, which Provost Coger attributed to concerted effort and collaboration between the graduate school and colleges.

Trustee Furr requested an update on enrollment numbers for the Fall 2024 semester. Dr. Coger discussed challenges with comparison to system peers in light of the variables affecting the landscape (state and nationwide) and described coordinated efforts across the university to address key areas, like approaching the out-of-state cap, addressing the ‘leaky pipeline,’ and building ECU’s reputation. Chair Fussell concluded the discussion by reinforcing the importance of brand building, marketing, and sharing ECU’s successes.

**Minutes from the University Affairs Committee
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III. ECU’s Prioritization of Key Student Success Goals

Provost Cogger briefly introduced the two informational topics for the afternoon. To begin, Provost Cogger and Vice Chancellor Frye spoke to the committee about the Student Success agenda and related goals.

Dr. Frye set the stage for the discussion by describing matriculation trends and the ways in which external trends are challenging the UNC System and ECU. He described ECU’s Student Success Ecosystem and the fact that ECU’s strategies are interconnected, recalling in particular Chancellor Rogers’ comments at University Day in late August. Dr. Frye then shared with the committee data related to student persistence year one to year two.

After questions related to persistence and graduation rates at ECU and amongst our peers, Provost Cogger called on Dr. Ying Zhou (IPAR) to share some additional information with board members related to graduation rate data and trends (considering pandemic student cohorts, etc.). The conversation moved on to the ways in which enrollment shifts affect the funding model, and how recurring vs. non-recurring dollars can (or cannot) address gaps created by decreased enrollment. Dr. Cogger offered to share more data and information with the board.

IV. Leveraging the Power of AI

Provost Cogger transitioned to the second informational item for the committee by asking Chief Innovation and Engagement Officer Sharon Paynter to join her in leading a discussion showcasing the AI landscape at ECU. Faculty and student guests shared their firsthand experiences and insights into AI integration.

The small panel was comprised of two faculty members and two students who are using AI in their research and/or careers. Dr. Todd Finley out of the College of Education and his student, Emily, and Dr. Ciprian Popoviciu from the College of Engineering and Technology (Technology Systems) and his former student Colby, talked about AI as a tool in their respective fields.

Dr. Finley took the committee through several real-time Chat GPT examples, describing the capacity for things that traditionally took hours or days to be done in seconds with AI. While sharing prompt examples to show the Committee the breadth and depth of AI capability, he touched on the public perception of AI, and the challenge of how trustworthy AI can be considered. Dr. Finley concluded by noting that ECU shapes student success in the College of Education by expecting every graduate to be both human centered and tech informed.

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Dr. Popoviciu opened his commentary by describing how impactful his participation on the Purple and Gold Bus Tour was, by really engaging him with the region and helping to demonstrate how important ECU is to the region. He went on to describe a platform (Crag) he and his former student and now friend Colby created to assist in managing data in practical ways throughout the region, and how the work ultimately inspires current students to be excited about innovation with AI. Colby went on to further describe how the application works.

The panel closed by giving Emily an opportunity to share her how her thoughts as a student regarding AI changed over time, culminating into the ways she now uses AI in her profession as a teacher as well as personally. She stressed the importance of teaching students how to engage with AI so as to use the resource intentionally and responsibly. Trustee Ward asked the panel how they might approach the negative stigma associated with AI. Emily discussed engaging conversationally with AI to help come up with your own organic thoughts and ideas toward a certain topic.

VI. Closed Session

Trustee Ward made a motion that the committee go into closed session to consider personnel related matters. Motion was seconded. All in favor.

At 3:04 the Committee went into closed session.

Chairman Fussell turned it over to Provost Coger to present one item to the Committee for consideration.

Tenure Recommendation

Provost Coger presented the tenure recommendation for Dr. Tanya Christ in the College of Education. The committee approved the conferral of tenure and forwarded the item to the full board consent agenda. In addition, Provost Coger informed the Committee of the availability of updated reports on Distinguished Professorships at ECU.

The committee returned from closed session at 3:06PM.

With no further business before the committee, they were adjourned at 3:06PM.

Respectfully submitted,
Madeleine Bade Griffith, Office of the Provost



AGENDA ITEM

II. A. New Policy: Performance Review of Tenured Faculty (Post-Tenure Review)..... Dr. Chris Buddo
Interim Provost & Senior Vice Chancellor
for Academic Affairs

Situation: UNC Policy 400.3.3, Performance Review of Tenured Faculty (Post-Tenure Review [“PTR”]), was adopted in January 2024 and effective for the 2024-2025 Academic Year. UNC Policy 400.3.3.1[R], Regulation on Performance Review of Tenured Faculty (Post-Tenure Review), was adopted March 2024 and requires that PTR policies must be approved by campus Boards of Trustees.

Background: To date, information related to PTR has existed in the ECU Faculty Manual. Based on requirements set forth in UNC Policy 400.3.3 and 400.3.3.1[R], this new Policy is proposed for Board consideration, in compliance with UNC Policy and the Board of Trustees’ authority over personnel policies at ECU. Associated with this Policy are also (1) the Regulation on Performance Reviews of Tenured Faculty of ECU (Post-Tenure Review) and (2) related procedures in the ECU Faculty Manual, Part IX. Section 2., Performance Review of Tenured Faculty.

Assessment: The Board of Trustees will consider this new policy, Performance Review of Tenured Faculty (Post-Tenure Review).

Action: This item requires a vote by the committee, with a vote by the full Board of Trustees through the consent agenda.

Title **Performance Review of Tenured Faculty (Post-Tenure Review)**

PRR Classification # (**POL_____ leave #blank. To be done by Legal**)

Authority: Board of Trustees

History: [New/Upon ECU Board of Trustees Approval.]

Related Policies:

[UNC Policy 400.3.3 Performance Review of Tenured Faculty \(Post-Tenure Review\)](#)

[UNC Policy 400.3.3.1\[R\] Regulation on the Performance Review of Tenured Faculty \(Post-Tenure Review\)](#)

Additional References:

[ECU Faculty Manual Part IX. Section 2. Performance Review of Tenured Faculty](#)

[ECU Regulation on Performance Reviews of Tenured Faculty of ECU \(Post-Tenure Review\)](#)

Contact for Info:

Office of the Provost

1. **Purpose.** The post-tenure review process is a cumulative, holistic, and comprehensive periodic evaluation of tenured faculty performance designed to:
 - 1.1. Assist faculty members in meeting university performance expectations;
 - 1.2. Recognize and reward exemplary performance when faculty members exceed expectations;
 - 1.3. Provide for a clear plan and timetable for improvement of performance when faculty do not meet expectations; and
 - 1.4. Provide for the imposition of appropriate sanctions, consistent with Chapter VI of The Code of the University, when faculty members do not meet the goals established in a faculty success plan.

2. **Definitions.** The following terms, as defined below, shall be utilized by East Carolina University in the Performance Review of Tenured Faculty (Post-Tenure Review) process.
 - 2.1. Exceeds Expectations: The faculty member consistently and considerably surpasses established goals in the faculty member's annual and long-term work plans.
 - 2.2. Meets Expectations: The faculty member consistently achieves and may occasionally surpass established goals in the faculty member's annual and long-term work plans.

- 2.3. Does Not Meet Expectations: The faculty member does not consistently achieve established goals in the faculty member's annual and long-term work plans.
- 2.4. Faculty Success Plan: A formative strategy that includes specific steps designed to lead to a faculty member's improved performance in achieving established goals in the faculty member's annual and long-term work plans. This plan shall include a specified timeline in which improvement is expected to occur and a clear statement of consequences should improvement not occur within the designated timeline.

3. **Requirements for Academic Unit Post-Tenure Review Guidelines**

- 3.1 Pursuant to the Chancellor's authorization, academic units must adopt and maintain guidelines or procedures for the performance review of tenured faculty members consistent with this policy, UNC Policy 400.3.3, as well as with the mission of the institution.
- 3.2 Performance Reviews for Tenured Faculty (Post-Tenure Reviews) must evaluate all aspects of the professional performance of tenured faculty members, whose primary responsibilities are teaching, research/creative activity, and service. These evaluations must be based on the faculty member's long-term work plan and considering the allocation of a faculty member's responsibilities in each category.
 - 3.2.1 Administrative Duties. If a faculty member is assigned to other duties (e.g. department chair) for .50 FTE or more, or is occupying a leave-earning position, that faculty member must not be required to undergo Post-Tenure Review until having completed a five-year cycle following the reassignment.
- 3.3 For each tenured faculty member, a post-tenure review must take place at least every five years. A review undertaken as part of the process for conferring tenure or recommending a faculty member for promotion qualifies as a cumulative performance review; the next post-tenure review shall occur five years after the date of the conferral of tenure or promotion regardless of the date of any preceding review.
- 3.4 All participants in the post-tenure review must consider the faculty member's annual evaluations and any faculty success plans that were required in the time period under review.
- 3.5 Each Unit must publish and make accessible to faculty members any refinement to the definitions of the evaluation categories (exceeds expectations, meets expectations, does not meet expectations). Such refinements shall be consistent with this policy and guidance provided by the ECU Faculty Manual.
- 3.6 Faculty members must conduct a self-evaluation to be used in the post-tenure review.
- 3.7 Faculty peers must be included in the post-tenure review process.
- 3.8 The post-tenure review process must include written feedback to the faculty member being reviewed as well as a mechanism for faculty response to the evaluation.

- 3.9 Both the department chair/school director and the dean are required to conduct an evaluative review in the post-tenure review process.
- 3.10 The University shall recognize and reward faculty who receive a post-tenure review evaluation of Exceeds Expectations.
- 3.11 Each Unit must require a faculty success plan for each faculty member who does not meet expectations in the post-tenure review. These faculty success plans shall include specific steps designed to lead to improvement, a specified timeline consistent with UNC Policy 400.3.3.1[R], Regulation on Performance Review of Tenured Faculty (Post-Tenure Review), in which improvement is expected to occur, and a clear statement of consequences should improvement not occur within the designated timeline.
- 3.12 Post-Tenure regulation, procedures or guidelines shall not abrogate, in any way, the criteria and procedures for disciplinary action or faculty employment rights established in Chapter VI of *The Code*.

4. Compliance, Reviews, and Updates of Policies and Procedures

- 4.1. **Effective Date.** The requirements of this policy and associated regulations or procedures shall be effective with the 2024-2025 academic year and upon the approval of the Chancellor, or designee, and ECU Board of Trustees.
- 4.2. **Reporting.** Department chairs/school directors, through their deans, must certify compliance with all aspects of the post-tenure review process and with UNC policy and regulations to the Provost and Senior Vice Chancellor for Academic Affairs. The Provost and Senior Vice Chancellor for Academic Affairs, in turn, must certify, via annual report to the UNC System Office, that all aspects of the post-tenure review process are in compliance with UNC policy and regulations.
- 4.3. **Review and Reporting of Changes.** ECU shall review and, as needed, update this (Performance Review of Tenured Faculty of ECU-Post-Tenure Review) Policy at least every 5 years and submit a copy of that review and any changes made to the UNC System Office and President.
- 4.4. **Requirements of Federal and State Laws.** The foregoing policy is meant to supplement the related sections from the UNC Code and Policy Manual. It does not purpose to supplant or modify, those statutory enactments which may govern or relate to the subject matter of this policy.
- 4.5. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted by the Chancellor and consistent with UNC Policy 400.3.3. including, Procedures and Guidelines for Performance Reviews of Tenured Faculty of ECU (Post-Tenure Review), which can be found in the ECU Faculty Manual. All regulations and procedures implemented under this policy must be submitted to the UNC System Office and approved by the president.

5. Training.

- 5.1 All participants in the Performance Review of Tenured Faculty (Post-Tenure Review) processes at ECU must complete the training provided by the UNC System for all tenured faculty, post-tenure review evaluators, including peer review committee members, department chairs/school directors, and deans.

Title: Regulation on Performance Reviews of Tenured Faculty of ECU (Post-Tenure Review)

PRR Classification # (REG #____. To be done by Legal)

Authority: **The Chancellor**

History:

Related Policies:

[UNC Policy 400.3.3 Performance Review of Tenured Faculty \(Post-Tenure Review\)](#)

[UNC Policy 400.3.3.1\[R\] Regulation on the Performance Review of Tenured Faculty \(Post-Tenure Review\)](#)

[ECU POL# TBD Performance Review of Tenured Faculty of East Carolina University \(Post-Tenure Review\)](#)

Additional References:

[ECU Faculty Manual Part IX. Section 2. Performance Review of Tenured Faculty](#)

Contact for Info: [Office of the Provost](#)

1. Introduction:

Described in this Regulation are the requirements necessary to develop procedures concerning performance reviews of tenured faculty to insure the continuation of the rigorous application of post-tenure review as intended by ECU's Board of Trustees and the Policy on Post Tenure Review and the Board of Governors in UNC Policy 400.3.

2. Purpose: The Post Tenure Review process is designed to:

- 2.1. Assist faculty members in meeting university performance expectations;
- 2.2. Recognize and reward exemplary faculty performance when faculty members exceed expectations;
- 2.3. Provide for a clear plan and timetable for improvement of performance when faculty do not meet expectations; and
- 2.4. Provide for the imposition of appropriate sanctions, consistent with Chapter VI of *The Code of the University*, when faculty members do not meet the goals established in a faculty success plan.

3. Establishment of Procedures and Guidelines for Post Tenure Review

- 3.1. The ECU Faculty Manual shall contain post-tenure review procedures and guidelines that are consistent with this Regulation.
- 3.2. All procedures and guidelines developed in accordance with this Regulation shall be subject to review and approval of the Chancellor.
- 3.3. Pursuant to the requirements of UNC Policy 400.3.3. all procedures implemented under this Regulation must be submitted to the UNC System Office and approved by the president.
- 3.4. All procedures and guidelines shall be reviewed, and as needed, updated at least every three years.

4. Procedures and Guidelines for Post Tenure Review

4.1. The Post-Tenure Review of each tenured faculty member shall take place at least every five years.

4.2. Expectations for Post Tenure Review:

4.2.1. All participants in the post-tenure review shall consider the faculty member's annual evaluations and any faculty success plans required in the time period under review.

4.2.2. The review shall include faculty self-evaluation, involve peers in the review process, assure written feedback as well as a mechanism for faculty response to the evaluation, and

4.2.3. Shall require a faculty success plan for any faculty member whose performance review results in "does not meet expectations" in any area.

4.3. In addition to the requirements provided by ECU's Policy on Post Tenure Review, the following requirements shall be observed in the development or revision institutional procedures and guidelines for post-tenure review:

4.3.1. The standard for the performance review of tenured faculty member performance is whether they discharge conscientiously and with professional competence the duties associated with their position.

4.3.2. All procedures and guidelines implemented under this regulation shall be created with the presumption of competence on the part of each tenured faculty member.

4.3.3. The performance review for a faculty member must reflect the nature of the individual's field or work and must conform to fair and reasonable expectations as recognized by faculty peers in the individual's academic unit.

4.3.4. The performance review must be conducted in a manner free of arbitrary, capricious, or discriminatory elements and must follow the procedures delineated in the subsections below.

5. Certifications

5.1. The department chairs/academic unit heads, through their deans, shall certify compliance with all aspects of the post-tenure review process and with UNC policy and guidelines to the Provost.

5.2. The Provost, as the University's chief academic officer, shall certify via annual report that all aspects of the post-tenure review process are in compliance with UNC Policy 400.3. and any associated regulations.

6. Record Keeping Requirements

6.1. Units are required by law to maintain all documentation of their efforts to implement the PTR policy. The unit head will ensure that all post-tenure review documentation (i.e. submission by the faculty member, all written assessments, the faculty member's response (if any, and other documents related to the review) is placed in the faculty member's personnel file, which is confidential and not open for inspection except as provided by state law and shall be maintained pursuant to the University's record retention schedule.

EAST CAROLINA UNIVERSITY FACULTY MANUAL

PART IX

Appointment, Tenure, Promotion, and Advancement
Policies and Procedures
and
Performance Review of Tenured Faculty

PART IX – APPOINTMENT, TENURE, PROMOTION, AND ADVANCEMENT POLICIES AND PROCEDURES AND PERFORMANCE REVIEW OF TENURED FACULTY

SECTION II

Performance Review of Tenured Faculty of East Carolina University
(Revised 9-24)

- I. Preamble
- II. Description of Policy
 - A. Timing
 - B. Performance Standards for the Review
 - C. Peer Review Committee (PRC)
 - D. Review Process
 - E. Rewards
 - F. Faculty Success Plan
 - G. Subsequent Evaluation
 - H. Training
- III. Forms:
 - A. Faculty 5-Year Comprehensive Work Plan [Guidelines for Faculty 5-Year Plan](#) (link provides all forms)
 - B. Faculty Self-Assessment
 - C. Report on Performance Review of Tenured Faculty

I. Preamble

On May 16, 1997, the Board of Governors mandated the review of performance of tenured faculty in the University of North Carolina system. The June 24, 1997, Administrative Memorandum #371 from the General Administration of the UNC System required each constituent institution 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. On January 25, 2024, the UNC Board of Governors adopted the policy “Performance Review of Tenured Faculty (Post-Tenure Review)” (The UNC Policy Manual 400.3.3). On March 3, 2024 the UNC Board of Governors adopted its Regulation on Performance Review of Tenured Faculty (Post-Tenure Review).

The performance review of tenured faculty is a cumulative, comprehensive periodic evaluation of tenured faculty, and has the purpose of supporting and encouraging excellence among tenured faculty.

UNC Policy 400.3.3 is designed to assist faculty members in meeting university performance expectations; recognize and reward exemplary faculty performance when faculty members exceed expectations; provide for a clear plan and timetable for improvement of performance when faculty do not meet expectations; and provide for the imposition of appropriate sanctions, consistent with Chapter VI of *The Code* of the University, when faculty members do not meet the goals established in a faculty success plan. The policy directs individual institutions to adopt and maintain policies consistent with the mission of the institution, college, and department/program. These policies shall be reviewed and as needed, updated at least every three years.

The post-tenure review of each tenured faculty member shall take place at least every five years. All participants in the post-tenure review shall consider the faculty member's annual evaluations and any faculty success plans that were required in the time period under review. The review shall include faculty self-evaluation, involve peers in the review process, assure written feedback as well as a mechanism for faculty response to the evaluation, and require a faculty success plan for any faculty member whose performance review results in "does not meet expectations" in the overall rating.

East Carolina University's Policy for the Performance Review of Tenured Faculty is consistent with University of North Carolina Policy 400.3.3 and is consistent with the *East Carolina University Faculty Manual* and "The Code of the Board of Governors of the University of North Carolina" (hereafter *The Code*). In the event of any inconsistency between the terms of this policy, the *ECU Faculty Manual* or *The Code*, the provisions of *The Code* and the UNC Policy Manual shall control. This policy does not create a process for the reevaluation or revalidation of tenured status. The standard for the performance review of tenured faculty member performance is whether they discharge conscientiously and with professional competence the duties associated with their position. Furthermore, the policy is created with the presumption of competence on the part of each tenured faculty member. The performance review for a faculty member must reflect the nature of the individual's field or work and must conform to fair and reasonable expectations as recognized by faculty peers in the individual's academic unit. The performance review must be conducted in a manner free of arbitrary, capricious, or discriminatory elements and must follow the procedures delineated in the subsections below.

II. Description of Policy

A. Timing

For each tenured faculty member, a post-tenure review shall take place at least every five years. A review undertaken as part of the process for conferring tenure or recommending a faculty member for promotion qualifies as a cumulative performance review; the next post-tenure review shall occur five years after the date of the conferral of tenure or promotion regardless of the date of any preceding review. For permanently tenured full-time faculty members who have received University approved leaves of absence, the expectations for the review period will be adjusted accordingly and reflected in the individual's five-year work plan. If a tenured faculty member is reassigned to administrative duties (e.g., department chair) for .50 FTE or more, or is occupying a leave-earning position (e.g., SAAO), that faculty member shall not be required to undergo post-tenure review until having completed a five-year cycle following the reassignment.

B. Performance Standards for the Review

Units shall establish in their unit codes post-tenure review standards of "exceeds expectations," "meets expectations" or "does not meet expectations". The following terms shall be utilized when establishing the unit standards:

- a. Exceeds expectations: The faculty member consistently exceeds established goals in the faculty member's annual and long-term work plans.
- b. Meets expectations: The faculty member consistently achieves and may occasionally exceed established goals in the faculty member's annual and long-term work plans.
- c. Does not meet expectations: The faculty member does not consistently meet established goals in the faculty member's annual and long-term work plans.

All the unit standards developed under ECU's policy must be consistent with the provisions of Part VIII, Section I.I (subsections C and D) of the *ECU Faculty Manual*, the unit's code provisions, and the primacy of instruction within the UNC system institutions. The unit standards should be consistent

with the mission and applicable strategic goals of the institution, college, school, department/program. Expectations at the time of the conferral of permanent tenure for individual faculty members should be considered when reviewing the faculty member's performance in teaching, research/creative activity, service, patient care and related clinical responsibilities, and other duties, including contributions to the departmental, college/school, and university goals, contributions to the academic programs in which the faculty member teaches, and any other professional activities bearing on the faculty member's performance of their duties during the period under review.

C. Peer Review Committee (PRC)

The unit administrator will notify the chair of the Personnel Committee that post-tenure review is needed. The chair of the Personnel Committee will convene a meeting of the Tenure Committee to elect the Peer Review Committee members.

The Tenure Committee will elect a minimum of three faculty members and one alternate from the permanently tenured voting faculty (*ECU Faculty Manual*, Part IX, Section I (IV.). Voting Faculty Member) not holding administrative status to serve on the Peer Review Committee. The alternate shall serve when a member is unable to serve. The faculty member being reviewed shall not have the option of selecting members of the Peer Review Committee. Members of the Peer Review Committee shall serve for one academic year.

After the election, the chair of the Personnel Committee will call a meeting of the Peer Review Committee. If the chair of the Personnel Committee is not a member of the Peer Review Committee, the chair shall not be able to participate and shall only be responsible for calling the meeting of the Peer Review Committee and ensuring the election of a chair from among its membership. In such cases where the Chair of the unit Personnel Committee is ineligible to participate, they shall not attend any meetings of the committee except to facilitate the election of the chair as noted above.

If the unit's tenured faculty includes no other expert in the specific field of research/creative activity of the faculty member under review, at the candidate's request, the tenured faculty may establish a process for selecting external faculty experts to provide a review of the candidate's research/creative activity work. The external expert shall be a tenured faculty member and, if available, from a UNC constituent institution.

When a unit is unable to elect three permanently tenured voting faculty members not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured voting faculty members not holding administrative status from other units to increase the committee's membership to three members and one alternate. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term voting faculty of the unit. The list forwarded to the next higher administrator by the appropriate faculty will contain at least twice the number of tenured faculty members required to complete the membership of the committee. Before voting on the list to be forwarded to the next higher administrator, the voting faculty will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

D. Review Process

Performance Review of Tenured Faculty shall cover all aspects of the faculty member's professional performance. The review will consider the faculty member's annual reports and annual evaluations (*ECU Faculty Manual*, Part VIII, Section I (III.). Evaluations), annual and long-term work plans, and

any faculty success plans that were required in the time period under review. Annual evaluations are not determinative of the post-tenure review outcome, but faculty members should not receive a “does not meet expectations” post-tenure review evaluation unless their failure to meet performance expectations has been communicated through the annual evaluation process. Should a subsequent academic unit administrator disagree with the annual reviews and annual reports of an individual faculty member composed before the term of office of the incumbent administrator, the administrator shall not dismiss, alter, or argue against the body and conclusions of the earlier annual reviews and reports.

The review shall be based on a comprehensive assessment of the faculty member’s teaching, research, service, and other duties, including contributions to the departmental college/school and university goals, contributions to the academic programs in which the faculty member teaches, and any other professional activities bearing on the faculty member’s performance of their duties during the period under review.

At the beginning of the post-tenure review cycle, using Form A below, the faculty member in collaboration with the unit administrator shall develop a five-year comprehensive work plan. A faculty member, in consultation with their unit administrator, is allowed to modify the five-year-plan annually, as they deem appropriate based upon changes in institutional, departmental, or personal circumstances. This plan should indicate milestones aligned with annual performance evaluations.

At the conclusion of the five-year period, the faculty shall write a self-assessment using the Faculty Self-Assessment form found in Additional Resources below.

The faculty member shall forward to the Peer Review Committee their self-assessment, annual reports, annual evaluations, the faculty member’s annual and 5-year comprehensive work plan (past and future), any faculty success plans that were required for the period under review, a copy of the faculty member’s current curriculum vitae, and any other material the faculty member wants to provide to the Peer Review Committee in support of their professional performance over the review period.

The Peer Review Committee, using the attached Form, shall prepare a brief, written rationale for assessment in each relevant category (teaching, research/creative activity, service, other as included in the unit code) and an overall assessment of performance of the faculty member under review. The review shall include ratings that summarize the faculty member’s performance in each category of responsibility as “exceeds expectations”, “meets expectations” or “does not meet expectations” and shall conclude with an overall ranking. Any performance review that indicates the faculty member does not meet expectations in any category shall include a statement of the faculty member’s primary responsibilities and specific descriptions of shortcomings as they related to the faculty member’s assigned duties.

The Peer Review Committee using Form C below shall provide a copy of their performance review to the faculty member. The faculty member may provide a written response within 14 calendar days of receiving the review.

The performance review, the materials submitted by the faculty member, and any written response from the faculty member shall be forwarded to the unit administrator. The unit administrator shall consult with the Peer Review Committee before rendering their own evaluation. Potential

disagreements between the Peer Review Committee and the unit administrator shall be addressed during this consultation.

After the consultation and using the Form C below, the unit administrator shall provide a separate, written evaluation of the faculty member. That evaluation shall explicitly state points of concurrence or points of variation from the Peer Review Committee. Any recommendation for a faculty success plan or for recognition of performance that exceeds expectations shall be accompanied by a specific rationale for that recommendation.

The unit administrator shall provide a copy of their evaluation to the faculty member and the Peer Review Committee. The faculty member may provide a written response within 14 calendar days of receiving the reports. If the faculty member under review disagrees with the evaluation, the response shall offer evidence in support of a different assessment. The response shall become part of the permanent record of the post-tenure review moving forward and a copy of the faculty member's response will be provided to the Peer Review Committee and unit administrator.

The dean shall be provided the unit's Performance Standards for Review, the materials submitted by the faculty member, the Peer Review Committee's report, the unit administrator's report and any written response(s) from the faculty member. The dean shall discuss any potential non-concurrence with the Peer Review Committee before preparing their own performance review report.

The dean shall prepare their own performance review report which shall consist of a narrative evaluation of the overall performance of the candidate that takes into consideration the faculty member's annual workplans during each of the years being reviewed. This evaluation shall conclude with an overall ranking that categorizes each faculty member's performance as "meets," "exceeds," or "does not meet" expectations. 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.

The dean shall forward their report to the faculty member, the unit administrator and the Peer Review Committee. A faculty member may provide the dean with a written response within 14 calendar days of receiving their college performance review. A copy of the faculty member's response will be provided to the unit administrator and the Peer Review Committee. A faculty member's response will be forwarded to the Provost, along with the complete performance review materials to be included in the personnel file.

A faculty member whose review results in an overall rating of "exceeds expectations" or "meets expectations" shall be considered to have completed the post-tenure review process. A faculty member whose review results in "does not meet expectations" shall be subject to a faculty success plan in accordance with this policy. Other than relief available through an institutional grievance process, the dean's rating is the final rating.

After the review is complete, the dean shall forward their report and any faculty member's response to the Provost, who is responsible for ensuring the integrity of the review process. The Provost will annually certify to the UNC President or their designee that all aspects of the review process are in compliance with UNC Policy 400.3.3.

E. Rewards and Recognition

Faculty receiving a post-tenure performance rating “exceeds expectations” shall be recognized and rewarded, which may include, but is not limited to, nomination or recognition for awards, merit salary increases, research leaves, and/or revisions of workload.

F. Faculty Success Plan

A faculty member whose performance does not meet expectations shall be subject to formal success plan. Faculty success plans shall be formative, developed in collaboration with the faculty member, and include specific steps designed to lead to improvement. The success plan shall be proposed by the Peer Review Committee, the unit administrator, and in consultation with the dean. The success plan must: (a) identify specific shortcomings as they relate to the faculty member’s performance of their assigned duties; (b) state any modification of duties due to a less than satisfactory rating and take into account the new allocation of responsibilities; (c) ensure that changes to duties are not punitive, but instead address ways to support the institution to better leverage the faculty member’s expertise and abilities and improve their performance in any areas deemed deficient; (d) include specific steps designed to lead to a faculty member’s improved performance; (e) specify resources necessary to support the success plan, (f) specify reasonable timelines; (g) schedule and require written records of progress meetings between the faculty member, the unit administrator and the chair of the Peer Review Committee at regular intervals no less frequently than twice each academic year; and (h) state the consequences for the faculty member should improvement not occur within the designated timeline. The use of mentoring peers is encouraged.

The description of specific steps designed to lead to improvement shall state guidelines, present criteria by which the faculty member could monitor their progress, and identify the source of any institutional commitments, if required. The success plan is a commitment by the faculty member, with support provided by the Peer Review Committee, and the unit administrator to improve the faculty member’s performance. Adequate resources shall be provided to support the success plan. The success plan shall be consistent with the faculty member’s academic freedom (as defined by the *ECU Faculty Manual*, Part V), shall be self-directed by the faculty member, and shall be sufficiently flexible to allow for subsequent amendment, if necessary. Such amendment will follow the same process as the development of the original plan. If the unit administrator, Peer Review Committee, and faculty member cannot agree on a formal success plan, each party’s draft of a plan will be forwarded to the next higher administrator, who will make the final decision on the contents and implementation of the success plan.

The faculty member’s progress related to the success plan shall be reviewed in a meeting that occurs at least twice each academic year with the Peer Review Committee and the unit administrator. The unit administrator shall provide a written evaluation of progress to the faculty member. If the unit administrator, the Peer Review Committee, and the faculty member cannot agree on the faculty member’s progress, the next higher administration will meet with the relevant parties and make a final determination. A copy of this evaluation will be provided to the faculty member and placed in the faculty member’s personnel file.

G. Subsequent Evaluation

If the unit administrator and the Peer Review Committee determine that the faculty member’s cumulative performance exceeds or meets expectations within the term of the success plan, the unit administrator shall report the results of the performance review in writing to the faculty member and place a copy of the written evaluation in the faculty member’s personnel file. In this case, the faculty member will return to the regular schedule of post-tenure review.

Every effort will be made to support a faculty member whose performance falls below expectations and allow them a meaningful opportunity to improve. However, nothing in this policy should be construed as a guarantee of employment for the duration of a success plan should the faculty member engage in misconduct or neglect of duty as defined by Chapter 603 of *The Code*. If the faculty member's cumulative performance level remains below expectations after the specified timelines, the unit administrator may recommend that serious sanctions be imposed as governed by Chapter VI of *The Code* of the Board of Governors of the University of North Carolina.

*With respect to personnel matters relating to Performance Review, academic units are defined as departments described in the codes of operation of professional schools, the departments in the College of Arts and Sciences, professional schools without departments, Academic Library Services, Health Sciences Library, and any other units in which faculty appointments are made. In the College of Arts and Sciences and in professional schools whose unit codes describe departmental structures, departmental chairs are the unit administrators. In schools that do not have departments described in their unit codes, the dean of the school is the unit administrator.

H. Training

All parties involved in the Performance Review of Tenured Faculty evaluations, including Peer Review Committee members, department chairs, unit administrators, and deans, shall complete performance review training provided by the UNC System.

III. Form: Faculty 5-Year Plan [Guidelines for Faculty 5-Year Plan](#) (link provides both forms)

There are three forms associated with this Policy: the *Faculty 5-Year Plan*, the *Faculty Self-Assessment*, and the *Report on Performance Review of Tenured Faculty*.

Faculty 5-Year Comprehensive Work Plan East Carolina University

Name: _____

College/School _____

Department/School _____

Date: _____

Responsibilities and Mutual Expectations

(Most faculty members will have responsibilities in three or more of these, but in all cases the anticipated weights in the areas of responsibility must be consistent with those outlined in the department's unit code)

_____% Teaching.

Use the most general descriptions reasonable for the code unit. Some departments want to include course numbers and semesters in which they will be taught and possibly number of advisees. Other departments want to use a more general description as given in this example.

_____% Research/Creative Activity.

If appropriate specify other forms of products to document scholarship productivity. Use the most general descriptions reasonable for the code unit.

____ % Service to the Profession and the University.

____ % _____ (as specified in the unit code).

Use the most general descriptions reasonable for the code unit and ensure that the category is consistent with the unit code. For example, clinical service directorships may fall under other specific duties.

PERFORMANCE STANDARDS

Following the procedures outlined in Part IX, Section II of the ECU Faculty Manual, meet and strive to exceed the performance standards contained for the Department of Discipline XYZ in the Unit Code.

SUMMARY OF CHANGES

Tenured: August xx, xxxx under the then-current *ECU Faculty Manual* and the then-current *Department of XYZ Unit code*.

Original 5-Year Plan Effective August xx, 20xx
Amended 5-Year Plan Effective August xx, 20xx

_____	_____
Faculty Member Signature	Date
_____	_____
Unit Administrator Signature	Date

Add additional lines, as needed, for signatures and dates when changes are made

Responsibilities changed to responsibilities as described above on August xx, 20xx

B. Faculty Self-Assessment

Faculty Self-Assessment
East Carolina University

Name: _____

College/School: _____

Department/School: _____

Date: _____

In no more than two pages, the faculty member shall develop a summative review of their responsibilities during the period under review and shall identify future strategies to meet or strive to exceed the performance standards contained for the Department of XYZ in the unit code.

C. Report on Performance Review of Tenured Faculty

Performance Review of Tenured Faculty
East Carolina University

Faculty member: _____

College/School: _____

Department/School: _____

Date: _____

I. Narrative Evaluation of most recent 5 years of faculty performance:

II. Summary Performance Review Evaluation indicate meets, does not meet, or exceeds expectations in each category (other categories may be added as documented on the unit code):

_____ Teaching

_____ Research/Creative Activity

_____ Service

_____ Overall

Signature: _____ Date: _____

Chair of Committee, unit administrator, dean, as appropriate

Signature:

Unit administrator, dean as appropriate

_____ Agree

_____ Disagree

Dean:

_____ Agree

_____ Disagree

Faculty Member

Date

(Note: faculty member signature acknowledges neither agreement nor disagreement with the report.)

Faculty Senate Resolution #98-13, April 1998

Faculty Senate Resolution #98-29, November 1998

Interpretation I98-10 made to Section II., October 1998

Faculty Senate Resolution #08-42, August 2010 (UNC General Administration)

Faculty Senate Resolution #09-33, August 2010 (UNC General Administration)

Faculty Senate Resolution #15-28, October 2015 (UNC General Administration)

Faculty Senate Resolution #24-37, September 2024

Faculty Senate Resolution #24-54, June 2024

AGENDA ITEM

II. B. Unit Academic Program Review Policy Dr. Chris Buddo
Interim Provost & Senior Vice Chancellor
for Academic Affairs

Situation: UNC Policy 400.1, Policy on Academic Program Planning, was adopted in May 2024 and requires that campus Academic Program Review policies must be approved by campus Boards of Trustees and sent to the UNC System Office by January 1, 2025.

Background: Based on the update to UNC Policy, a campus workgroup was tasked with updating the existing university Regulation based on requirements set forth in UNC Policy 400.1 and 400.1.1[R]. Campus stakeholders considered the proposed draft, including a period for public comment, and a final for Board consideration has been proposed. Because of the UNC System requirement for BOT approval, the existing campus-level Regulation will switch to a Policy under the authority of the BOT.

Assessment: The Board of Trustees will consider the updates to Regulation 02.07.05, Unit Academic Program Review, and note especially its transition from Regulation to Policy under their authority.

Action: This item requires a vote by the committee, with a vote by the full Board of Trustees through the consent agenda.

Title: Unit Academic Program Review

PRR Classification # **(REG #02.07.05)** – switching to POLICY upon BOT approval

Authority: Board of Trustees

History: As regulation instated November 2008, revised June 2010; June 2011; June 2012;
revised as Policy _____

Related Policies:

[The Code and UNC Policy Manual 400.1 Policy on Academic Program Planning](#) (specifically, Section V. Review and Evaluation of Existing Academic Programs),
[The Code and UNC Policy Manual 400.1.1\[R\] Regulation for Academic Program Planning and Evaluation](#),

Additional References:

[ECU Faculty Manual, Part VI, Section VII. Curriculum Procedures and Academic Program Development](#).

Contact for Info: Director of Institutional Assessment (252) 328-9496

The ECU Academic Program Review Procedures are and must remain consistent with [The Code and UNC Policy Manual 400.1 Policy on Academic Program Planning](#) (specifically, Section V. Review and Evaluation of Existing Academic Programs), [The Code and UNC Policy Manual 400.1.1\[R\] Regulation for Academic Program Planning and Evaluation](#), [ECU University Policy Manual REG02.07.05 Unit Academic Program Review](#), and [ECU Faculty Manual, Part VI, Section VII. Curriculum Procedures and Academic Program Development](#). In the event of any inconsistency between the terms of this policy, the *Faculty Manual* or *The Code* and the *UNC Policy Manual*, the provisions of *The Code* and *UNC Policy Manual* shall control.

1. Executive Summary

As an essential component of East Carolina University's institutional effectiveness process, the primary goal of Academic Program Review (APR) is to improve and maintain the quality and rigor of both undergraduate and graduate education at East Carolina University (ECU). Program review offers a way of achieving that goal by acknowledging strengths, identifying areas of growth, and providing guidance to improve individual programs. Ongoing student learning outcomes assessment informs APR and supports institutional effectiveness and institutional accreditation.

[UNC System Policy 400.1, Policy on Academic Program Planning](#) establishes a minimum seven-year review cycle and faculty's role in shared governance regarding the development and review of the curriculum. APR is a form of program evaluation supported by the Division of Academic Affairs.

The **review** process is comprised of five major components:

1. Self-Study prepared by unit
2. Review, report, and recommendations by an External Review Committee (ERC)
3. Program Response Report developed by the unit and reviewed by college leadership and an Educational Policies and Planning Committee (EPPC) representative
4. Approval of the Program Response Report by EPPC and Faculty Senate
5. Progress Report submitted three years after the approval of the Program Response Report

All undergraduate and graduate programs are subject to the seven-year review process, although it is recognized that some programs at ECU hold specialized program or college specific accreditation separate from University-wide accreditation. In these instances, the specialized accreditation review process, in addition to an evaluation of the six components listed below, will substitute for the ECU APR process. In lieu of a full self-study report, specialized accredited programs will submit a supplemental report covering items a to f below, which is due within one year after the program's onsite visit or affirmation of accreditation. Permission must be requested from the UNC System President by the Chancellor if a specialized accreditation cycle is longer than seven years.

All academic programs shall evaluate:

- a. Current and projected student demand, as measured by enrollments in the majors and degrees produced;
- b. Current and projected workforce demand, as measured by projected job growth and existing data on student employment outcomes;
- c. Student outcomes, including persistence, graduation, time to degree, and, when possible, post-graduation success;
- d. Program costs and productivity, including research, scholarship, and creative activity and student credit hours produced compared to the number and cost of faculty and staff;
- e. The contribution of the program to professions that are critical to the health, educational attainment, and quality of life of North Carolinians; and
- f. Any other considerations identified by the chancellor or by the President.

2. Primary Responsibility for ECU APR Process:

All reviews of non-specialized accredited programs will be conducted under the direction of the Division of Academic Affairs, managed by Institutional Planning, Assessment and Research (IPAR) and in cooperation with unit faculty and college dean. All programs in a department or school will be reviewed simultaneously. The roles of each participating unit are described below:

2.1. The Director of Institutional Assessment (DIA) will function as the coordinator for the review process and will oversee all aspects of the review process.

2.2. The APR project manager will facilitate the review process by working with administrators, faculty, and staff.

2.2. IPAR will provide standard data resources. Some additional data may be provided by the dean's office, unit administrator/faculty, or existing external data sources.

2.3. Program faculty will participate in the planning of the review, including providing a list of potential reviewers and participants who will meet with the ERC.

2.4. The ERC will include one internal reviewer and two external reviewers. The membership of the ERC will be dependent upon the levels (undergraduate and/or graduate), size, and complexity of the programs. The membership of the ERC will be decided jointly by the Internal Review Committee (IRC) comprised of the college dean, graduate school dean (if graduate programs are included in the review), the DIA, and an EPPC representative.

2.5. The Division of Academic Affairs, within a budget and under such expenditure rules as are established in advance of the review, will provide funds for expenses and stipends.

2.6. All academic programs will be reviewed on a predetermined, staggered seven-year cycle, except when extenuating circumstances necessitate a change in the schedule. A seven-year program review schedule, which is approved by the provost, is posted on the IPAR website.

3. Academic Program Review Self-Study Components for ECU APR Process:

3.1 Program self-studies must address the following areas:

3.1.1 Program Purpose

3.1.2 Enrollment, Degrees, and Student Success

3.1.3 Curriculum, Learning Outcomes and Student Satisfaction

3.1.4 Strength of Faculty (including faculty bio-sketches): Teaching, Research and Scholarship

3.1.4.1 Program faculty's contribution to the General Education Program or other academic programs outside of the department/school housing the programs under review should be included here.

3.1.5 Regional Transformation: Economic Development and Public Service

3.1.6 Resources

3.1.7 Other Operational or Programmatic Outcomes

As stated in UNC Policy 400.1, based on the results of an APR, the Chancellor or designee can take action to expand, contract, or eliminate an academic program. The Program Response and Program Progress Reports will serve as evaluation markers to determine progress on ERC recommendations and to inform any actions determined by the Chancellor. If the Chancellor decides to contract or eliminate an academic program, the faculty will have at least fourteen (14) calendar days and up to sixty (60) calendar days, not to include the summer session, to respond to the Chancellor's decision.

IPAR prepares summary reports for all academic programs reviewed in an academic year, submits those summary reports to the Board of Trustees for review, and then submits them to the University of North Carolina System President as required by UNC Policy 400.1.

This policy should be reviewed every 7-10 years.



AGENDA ITEM

II. C. New Policy: Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of *The Code*) Dr. Chris Buddo
Interim Provost & Senior Vice Chancellor
for Academic Affairs

Situation: UNC Policy Chapter VI, Academic Freedom and Tenure, was amended January 2024. East Carolina University shall interpret and apply the provisions of Chapter VI of *The Code*, Academic Freedom and Tenure, including, but not limited to Sections 603, 604, 605 and 607, in accordance with the Regulations adopted by the President.

Background: To date, information related to Faculty Appellate Provisions has existed in the ECU Faculty Manual. Based on requirements set forth in UNC Policy Chapter VI, this new Policy is proposed for Board consideration, in compliance with UNC Policy and the Board of Trustees' authority over personnel policies at ECU. Associated with this Policy is also the Regulation on Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605 and 607 of *The Code*).

Assessment: The Board of Trustees will consider this new policy, Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of *The Code*).

Action: This item requires a vote by the committee, with a vote by the full Board of Trustees through the consent agenda.

Policy	POL.INSERT ASSIGNED NUMBER
Title	Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of <i>The Code</i>)
Category	Personnel
Subcategory	
Authority	Board of Trustees
History	Approved: INSERT DATE
Contact	Provost and Senior Vice Chancellor for Academic Affairs
Related Policies	<p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-Chapter VI-Sections 603, 604, 605, 607, and 609</p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1 Policy on Regulations and Guidelines Implementing Chapter VI of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.1[R]-Regulation on Disciplinary Discharge, Suspension, or Demotion Under Section 603 of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.2[R]-Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion Under Section 604 of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.3[R]-Regulation on Grievances Filed Pursuant to Section 607 of <i>The Code</i></p>
Additional References	<p>Chapter 100.1-<i>The Code</i> and Policies of the University of North Carolina-Appendix 1-Delegations of Duty and Authority to the Boards of Trustees</p> <p>NC General Statutes, Chapter 126, Article 7</p>

1. Introduction

1.1. East Carolina University shall interpret and apply the provisions of Chapter VI of *The Code*, Academic Freedom and Tenure, including, but not limited to Sections 603, 604, 605 and 607, in accordance with the Regulations adopted by the President. In accordance with Section 502 of Chapter V of *The Code*, the Chancellor shall exercise complete executive authority over the institution and define the scope of authority of faculty the senate and its committees. This policy sets forth the process by which the appropriate faculty panel makes recommendations to the Chancellor regarding faculty appellate matters. The appropriate faculty panel and the operation of this policy remain subject to the Chancellor's authorization and approval. Final decisions regarding all faculty hearing or review matters described below rest solely with the Chancellor. This Policy is adopted by the East Carolina University Board of Trustees and sets forth the processes used by East Carolina University in implementing the following Regulations of the President of the UNC System:

1.1.1. 101.3.1.1[R]-Regulation on Disciplinary Discharge, Suspension, or Demotion Under Section 603 of *The Code*

1.1.2. 101.3.1.2[R]-Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion Under Section 604 of *The Code*

1.1.3. 101.3.1.3[R]-Regulation on Grievances Filed Pursuant to Section 607 of *The Code*

2. General Matters Applicable to this Policy

2.1. In accordance with its procedures, and as described in this Policy, the ECU Faculty Senate shall elect a standing faculty appellate committee, and any subcommittees or necessary hearing panels, as described in 603 of *The Code*, a committee to participate in campus-based review of decisions regarding non-reappointment, promotion, and tenure as described in Section 604 of *The Code*, the faculty committee to hear reconsideration of termination due to financial exigency or program curtailment as described in Section 605 of *The Code*, and a Faculty Grievance Committee, as described in Section 607 of *The Code*. The Faculty Senate Appellate Committee serves in these roles and its members will staff the four (4) panels. The methods and process for the selection, organization, and membership of these committees and hearing panels is delegated to the Chancellor for the establishment of formal procedures related to faculty committee composition. Election of members committees shall be in accordance with the procedures set forth in the *ECU Faculty Manual*, as approved by the Chancellor.

2.2. Descriptions of Grievant and Respondent

2.2.1. Grievant A Grievant is any faculty member who initiates one of the four Faculty Appellate processes described this Policy. Except as otherwise described herein, a Grievant must be a current faculty member employed by East Carolina University. Affiliate Faculty under Section 611 of *The Code* are not entitled to any rights under this Policy.

2.2.2. Respondent and Substitute Respondent The Respondent is the person(s) whose action is the subject of the process initiated by the Grievant. "Respondent" may be used in the singular form, even where it refers to more than one person. A Respondent must be a current employee of East Carolina University and must have institutional authority to respond to the allegations made by a Grievant. In matters of arising under Sections 603 and 604 of *The Code*, the Provost shall be a respondent as the institutional officer responsible for the decision under review. Generally, an individual or a departmental/unit committee and/or its chairperson may be named as a Respondent. If a named Respondent is a former administrator and, therefore no longer in a position to provide a remedy regarding grieved issues, the employee who presently occupies the administrative position will be considered as a Substitute Respondent for that purpose. If still employed by ECU, the former administrator may be called as a witness as determined by the Panel or the Substitute Respondent.

2.3. Advisors

2.3.1. Grievants and Respondents may elect to have the assistance of a single advisor during the pendency of any of the four processes described herein. Active participation, including but not limited to speaking during the hearing, by an advisor in a matter before one of the Hearing Panels described in this policy, is only permitted by an advisor who is an attorney representing the Grievant or the Respondent during a disciplinary hearing before the Due Process Panel.

2.3.2. Advisors for Grievants and Respondents may include East Carolina University faculty members. Generally, the role of advisor should be filled by a tenured faculty member with experience in faculty appellate processes, as evidenced by prior service on university governance/appellate committees. Notwithstanding, any individual who is associated with a matter before one of the Panels described in this policy is prohibited from serving as an advisor to either the Grievant or Respondent for that matter. Association with a matter may include, but is not limited to, instances where the individual may reasonably be called as a witness or when the individual holds actual knowledge about the substance of the underlying matter. A list of potential faculty advisors shall be maintained by the Faculty Senate Office. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. If, in the

judgment of the Hearing Panel Chair, such an individual interferes or is in any way disruptive, they may be instructed to leave immediately. In this situation, it is within the discretion of the Hearing Panel Chair to decide whether such an individual may return and participate in the process at a later time.

2.4. Special Considerations Related to Witnesses

- 2.4.1. Individuals, such as the University Ombuds, that are assigned roles at the University in which their exclusive responsibilities are related to informal resolution of concerns and conflict are generally not appropriate to include as a witness in a hearing under this policy. In the event a party believes that individual is relevant to the hearing for reasons unrelated to their conflict resolution role they may submit a petition, for consideration by the Chancellor or their designee to include that individual as a witness
- 2.4.2. The Chair of Faculty may not be called as a witness in a hearing under this policy unless the Chancellor or their designee determines that the individual serving as the Chair of the Faculty is an appropriate witness for reasons outside of the individual's purview as Chair of the Faculty.

2.5. Prior Attempts at Informal Resolution

- 2.5.1. No part of an attempt at informal resolution and/or mediation (e.g., conversations, offers, negotiations, proposals, etc.) shall be introduced or admitted as evidence.

2.6. Training for Appellate Panels

- 2.6.1. The Processes described herein may present complex and difficult questions of fact, policy, and law. An important role of the hearing panel is gathering and preserving the evidence upon which most subsequent decisions will be based; therefore, it is important that both Appellate Steering Committee members and panel members are appropriately trained on the applicable policies and procedures described in this Policy. The Office of University Counsel provides training regarding these matters.
- 2.6.2. In addition to annual training of the Appellate Committee, the Appellate Steering Committee will receive training regarding its role following the organizational meeting of the Appellate Committee. Training for the hearing panels described in this Policy is conducted after the formation of a panel and may be scheduled upon the receipt of a request for initiation of a process described in this Policy.

- 2.7. Initiation of Processes A faculty member's request to initiate a process described in this Policy shall be directed to the Chair of the Appellate Steering Committee. Upon receipt, the Appellate Steering Committee will review the petition to confirm that the appeal properly states a contested matter within the jurisdiction of one of the faculty appellate processes under this policy. The Appellate Steering Committee shall confirm whether or not the Grievant presented sufficient information to establish jurisdiction under Chapter VI of *The Code* and applicable UNC Regulations.

2.8. Deadlines

2.8.1. When calculating a deadline under this Policy, and except as otherwise provided herein, any reference to the word “day” or “days” means calendar day or calendar days, respectively. In computing the applicable timeframe, do not count the day in which notice is received, but include the last day of the period being computed. When the last day of a period falls on a Saturday, Sunday, or an institutional holiday, the next working day is the last day of such period.

2.8.2. Extension of Time

2.8.2.1. Either party may request an extension of time to deadlines provided under this policy. Upon request for an extension of time, the Appellate Steering Committee Chair, or the relevant Hearing Panel Chair when the matter has been referred for hearing, may award an extension when good cause is shown. Additionally, under unusual circumstances, such as when a hearing request is received during official university breaks, holidays, or other periods of time when the University is closed for business, the deadline will start on the first day the University is open for business.

2.8.2.2. Consistent with the requirements of this Policy, the Chancellor may extend any deadline for a reasonable amount of time when doing so is in the best interests of the University. The Chancellor will promptly inform the Grievant, Respondent, the Hearing Panel Chair, the Chair of the Faculty, and the Provost of the timing and basis of a deadline extension.

2.8.3. Communications and Notifications Communications and notifications to and from the Grievant and the Respondent, respectively, must be made in a manner that provides adequate proof of delivery. Actual delivery is not required when a party attempts to deliver a communication by signature verification or other trackable methods, and upon attempted delivery the other party refuses to sign or accept the communication. Evidence of three (3) service attempts by signature verification or other trackable means, to the individual’s address on file with the University will constitute sufficient service of any written notification or communication under this Policy. Hand delivery by an individual not personally involved in the matter is also a sufficient means of delivery.

2.8.4. Closed Sessions and Confidentiality of Proceedings. Hearings are closed to the public. Only the immediate parties to the proceeding, the responsible administrators, the respective committees and staff, and advisors and attorneys are permitted access to the hearing and/or materials collected under this Policy, unless otherwise specified by law or applicable University of North Carolina Policy. Transcripts produced from the hearings are considered part of the faculty member’s personnel file and are confidential.

2.8.4.1. The confidential records and information derived from any discussions that are part of the formal hearing process shall not be disclosed to or discussed with any person except as allowed by law, including the limitations to access to confidential personnel files provided by Chapter 126 of the North Carolina

General Statutes.

- 2.8.4.2. Violation of this section and improper access or disclosure to confidential personnel information may result in disciplinary action, including sanctions up to and including termination of employment.
- 2.8.5. The Record of Appeal Communications to and from parties that are part of the appeal process, documents or media submitted for hearings, transcripts, and the panel reports make up the Record of Appeal and are maintained in the Faculty Senate Office. The components of the record on appeal include: The printed record of all petitions, notices and formal communications, transcripts, exhibits and other items submitted to the hearing panel, and any other supplement or additional materials that are considered by the hearing panel. Some or all the record may become part of the personnel records of the parties, with access restricted by law (see NC General Statutes, Chapter 126, Article 7).
- 2.8.6. Additional Hearing Procedures Adopted by the Chancellor: This policy shall be implemented and applied in accordance with such regulations and procedures as may be adopted by the Chancellor, including the development of hearing procedures that may include, but not limited to, procedural items such as the identification of exhibits, time limitation for proceedings, timeline for submissions of witnesses and evidence in advance of the hearing, hearing agendas, and the other like matters related to the hearing procedures.
- 2.9. Non-Retaliation University employees have the right to avail themselves of this Policy, and the processes described herein, free from threats or acts of illegal retaliation, interference, coercion, restraint, discrimination, or reprisal. Retaliation against a Grievant, Respondent, or person who participates in the processes described in this Policy is a violation of this policy and is strictly prohibited. Such retaliation may result in disciplinary action, up to and including dismissal from employment in accordance with applicable disciplinary policies.
- 2.10. Jurisdiction of the Board of Governors The Board of Governors expects that campus matters will be addressed appropriately at the constituent institution. Therefore, the Board of Governors will not hear appeals of decisions that have been addressed through this Policy. Under extraordinary circumstances, as solely determined by the Board of Governors, the Board may exercise its discretion to review any matter that has not first been brought to the attention of the designated institutional administrator, Chancellor, or president for appropriate review and handling. The Board of Governors may in its sole discretion conduct hearings, whether before the full board or a designated standing or special committee of the board. Such hearings shall be limited to matters as the Board of Governors deems appropriate. All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.
3. Disciplinary Discharge, Suspension or Demotion
- 3.1. Matters relating to the formal discharge, suspension, or demotion of a faculty member are

governed by Chapter 100, Section 603 of *The Code* and UNC Policy Manual 101.3.1.1[R]-Regulation on Disciplinary Discharge, Suspension, or Demotion under Chapter 100, Section 603 of *The Code*.

3.2. Basis for Discharge, Suspension, or Demotion A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of formal discharge, suspension, or demotion; such actions may be imposed only in accordance with the process described in Article 3 of this Policy. For impositions of formal discharge, suspension, or demotion, a faculty member serving a fixed term shall be regarded as a faculty member until the end of that term. During the period of such guarantees, the faculty member may be discharged from employment, suspended without pay, or demoted in rank only for reasons of:

3.2.1. 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.

3.2.2. Neglect of duty, including but not limited to, the sustained failure to: Meet assigned classes, respond to communications from individuals within the faculty member's supervisory chain, report to their employment assignment and by continuing to be absent for fourteen (14) consecutive calendar days without being excused by their supervisor, or to perform other essential duties of their position; or

3.2.3. Misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, including violations of professional ethics or engaging in other unethical conduct; violation of university policy or law; mistreatment of students or employees; research misconduct; financial or other fraud; or criminal, or other illegal or inappropriate conduct. To justify formal discharge, suspension, or demotion, such misconduct should be either (i) sufficiently related to a faculty member's responsibilities as to disqualify the individual from effective performance of job duties, or (ii) sufficiently serious as to adversely reflect on the individual's honesty, trustworthiness, or fitness to be a faculty member.

Certain facts presented to support a discharge, suspension, or demotion may fall under one or more of the reasons listed above. Therefore, classification of alleged conduct as one categorical basis for imposition of formal discharge, suspension without pay or demotion, when the conduct more appropriately meets the definition of another (e.g., willful, intentional neglect of duty might be considered misconduct), shall not be considered a deficiency in the charge. So long as there is sufficient evidence of the underlying facts to support a discharge, suspension, or demotion, an action shall not be invalid because the reason provided mislabeled or miscategorized the underlying facts.

3.2.4. The provisions found in this section do not apply to the other processes described in this policy, including campus-based review of non-reappointment, denial of tenure and/or denial of promotion, termination of employment, or general grievances.

3.2.5. Consistent with Chapter 100, Section 603 of *The Code*, there is no expectation that the process be attended by the formality or technicality which characterizes civil or criminal legal proceedings in a court of law. Rather, the process should be conducted by administrators and faculty in a manner designed to determine whether discharge, suspension, or demotion is warranted.

3.3. Notice to Faculty of Imposition of Discharge, Suspension, or Demotion The Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) shall provide written notice to the faculty member of intent to discharge, suspend, or demote. The written notice must include: (i) the proposed date of discharge, suspension, or demotion; (ii) a written specification of the reasons for discharge, suspension, or demotion; (iii) the faculty member's right to request a disciplinary hearing; and (iv) the deadline and process for the faculty member to request a disciplinary hearing in writing. The notification shall be sent by a method that provides delivery verification.

3.4. Administrative Leave with Pay at any point during these procedures, the Chancellor, Provost, or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) shall have the discretion to place the faculty member on administrative leave with pay. The decision to place a faculty member on administrative leave with pay is not a disciplinary action and, therefore, not grievable.

3.5. Failure to Respond to Notice of Intent If the faculty member wishes to respond to the Notice of Intent by requesting a hearing, they must do so, in writing, within fourteen (14) days after receipt of the Notice of Intent. If the faculty member does not submit a timely written request for a hearing, they may be discharged or sanctioned without recourse to any institutional grievance or appeal procedure.

3.6. Request for a Disciplinary Hearing

3.6.1. Within fourteen (14) calendar days of receiving written notice from the Provost a faculty member (hereafter, the Grievant) may request a disciplinary hearing to review the written specification of reasons for the intended discharge, suspension, or demotion. A disciplinary hearing shall be requested by sending a written request to the Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) and the chair of the Appellate Steering Committee.

3.6.2. Upon receipt of a timely written request from the Grievant, the respective Appellate Chair will promptly convene a Due Process Panel to conduct a disciplinary hearing on the written specification of reasons for the intended discharge, suspension, or demotion.

3.6.3. Legal Counsel Consistent with Chapter 100, Section 603 of *The Code*, the Grievant shall have the opportunity, at the expense of the Grievant, to be actively represented by legal counsel in a matter under Article 3 of this Policy. Counsel may represent the interests of the Grievant before the Due Process Panel, if the faculty member so chooses. Legal counsel for the institution may actively represent the Provost or Executive Dean of Brody School of Medicine, respectively, and may be provided by in-house campus counsel, counsel from another constituent institution, a member of the Attorney General's Office, counsel from the System Office, or outside counsel.

3.7. Procedures for the Disciplinary Hearing

3.7.1. Time, Date, and Location of Hearing

3.7.1.1. The Due Process Panel shall normally set the time, date, and place for the hearing. The panel shall accord the Grievant and the Respondent at least thirty (30) calendar days to prepare for the disciplinary hearing from the date the Appellate Steering Committee receives a Grievant's written request for a hearing before scheduling the hearing date. With advance notice to the Chair of the Hearing Committee the time, date, and place for the hearing may be adjusted by the Chancellor with good cause and taking into consideration the confidentiality and safety of the proceedings.

3.7.1.2. The Due Process Panel shall promptly notify the Grievant, the Provost, or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority), and the Chair of the Faculty of the time, date, and place of the hearing. The hearing shall be scheduled to provide the parties at least one day to present their respective arguments and evidence; however, the hearing shall not exceed two business days unless good cause exists for the extension of the hearing. The Due Process Panel ordinarily will endeavor to complete the hearing within ninety (90) calendar days from the time the faculty member submits the request for a disciplinary hearing to the Appellate Steering Committee, except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and, despite reasonable efforts, the panel cannot be assembled. The panel may, upon one of the parties' written request and for good cause, postpone the date of the hearing by written notice to both parties, the Due Process Appellate Chair, the Chair of the Faculty, and the Chancellor.

3.7.1.3. At least fourteen (14) calendar days before the hearing, the parties shall notify the panel, the Chair of the Faculty, and the Chancellor of the identity of their legal counsel, if the Grievant intends to be represented at the hearing. The parties will also submit evidence and documents, as well as a list of witnesses to be called at the hearing, along with a brief statement of the relevance of each witness.

3.7.2. Submission of Hearing Documents

3.7.2.1. All information and documents shall be submitted to the Faculty Senate Office in accordance with the procedures set forth in the *ECU Faculty Manual*. The information and documents will be made available to each party in advance of the hearing date.

3.7.2.2. The Panel chair will create an agenda prior to the meeting that will state limits on the amount of time that each party will be allocated for presentation of their cases. This agenda shall identify the names of the panel members and procedures for submission of new documents and handling of the witnesses, and will be distributed to the panel, the Grievant and the Respondent in advance

of the hearing date.

3.7.3. Standard of Review The Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) shall have the burden of proof in matters of disciplinary hearings arising from appeal of a notice of intent for formal discharge, suspension without pay or demotion. In evaluating the evidence, the Due Process Panel shall use the standard of clear and convincing evidence to determine sufficient evidence of a permissible basis for the discharge, suspension, or demotion (e.g. – incompetence, neglect of duty, or misconduct (as defined by Section 603 of *The Code*)).

3.8. Conduct of Hearing

3.8.1. A professional court reporter must be used to record and transcribe the hearing. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential.

3.8.2 Hearings are closed to the public. Only the immediate parties to the proceeding, the responsible administrators, the respective committees and staff, and advisors and attorneys are permitted access to the hearing and/or materials collected under this Policy, unless otherwise specified by law or applicable University of North Carolina policy.

3.8.3 Witnesses will only be present for the duration of their testimony.

3.8.4 The Due Process Panel Chair is responsible for conducting the hearing and maintaining order and prompt progression of the hearing process. The Panel Chair has authority to take action that maintains the integrity of the process to the extent possible and consistent with applicable law and policy. Such rules and procedures shall be consistent with this Policy and Chapter 100, Section 603 of *The Code* and applicable UNC regulations.

3.8.5 Following the opening remarks by the Panel Chair, the Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) or legal counsel/advisor shall present their contentions and any supporting witnesses and documentary evidence. The Grievant or legal counsel/advisor may then respond to the contentions and present any supporting witnesses and evidence. Each party shall have time for examining their own witnesses. During these presentations, the Grievant or legal counsel/advisor, and the Respondent or legal counsel/advisor, may cross-examine opposing witnesses. For purposes of clarification, panel members may question witnesses, including the Grievant and the Respondent. At the conclusion of the hearing, the Grievant will be given the opportunity to make a summary final statement, and then the Respondent will be given the same opportunity.

3.8.6 The Panel shall create a clear, permanent written record of the evidence presented at the disciplinary hearing and make a recommendation to the Chancellor of whether or not to impose a discharge, suspension, or demotion, based on a finding that the Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) showed by a standard of clear and convincing evidence that there is a permissible basis for the discharge, suspension, or demotion (e.g. – incompetence,

neglect of duty, or misconduct (as defined by Section 603 of *The Code* and Section II.A of this Regulation)).

3.9. Procedures After the Hearing

3.9.1. After the hearing, the panel shall meet in executive session within three (3) calendar days to conduct deliberations. In reaching the decisions on which the Due Process panel's written recommendations to the Chancellor will be based, the panel shall consider only the evidence presented at the hearing and such written or oral arguments as the panel, in its discretion, may allow.

3.9.2. The University has the burden of proof. In evaluating evidence, the Due Process Panel shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden showing that permissible grounds for the discharge, suspension, or demotion exist and are the basis for the recommended action. "Clear and convincing" is a higher standard than "preponderance of evidence" and must indicate that the University's case is substantially more likely to be true than not true.

3.9.3. Within fourteen (14) calendar days after the full transcript is received, the Panel shall provide the Grievant, Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) and any other Respondent, the Chair of the Faculty, and the Chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing.

3.10. Chancellor's Decision

3.10.1. Following receipt of the Due Process Panel's written recommendations, the decision whether to discharge, suspend, or demote the faculty member is the Chancellor's. As soon as reasonably possible after receiving the report of the Due Process Panel and the court reporter's written transcript of the hearing along with the materials offered in evidence at the hearing, the Chancellor's decision shall be conveyed in writing to the Panel, Grievant, Faculty Senate Office, and relevant administrators by a method that provides delivery verification. In reaching a decision, the Chancellor shall consider only the written transcript of the hearing, including materials offered in evidence in the Due Process Panel's hearing and the documents that constitute the record of the appeal, including but not limited to the notice of intent to discharge, suspend or demote, the faculty member's request for a hearing, and the report of the Due Process Panel.

3.10.2. The Chancellor's notice to the faculty member of the decision must inform the faculty member: (1) of the permissible grounds for appeal pursuant to Section 603 of *The Code*; (2) that the faculty member has fourteen (14) calendar days to file a notice of appeal through the Chancellor requesting review by the Board of Trustees as provided in Section 603(2)(b) of *The Code*; (3) that a written notice of appeal with a brief statement of the basis for the appeal is all that is required within the 14-day period provided in Section 603(2)(b) of *The Code*; and (4) 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.

3.11. Appeal of the Chancellor's Decision to the ECU Board of Trustees

3.11.1. An appeal of a Chancellor decision to the Board of Trustees shall be transmitted through the Chancellor and be addressed to the Chair of the Board of Trustees, by submitting such notice by certified mail, return receipt requested, or by another means that provides proof of delivery, within fourteen (14) calendar days after the Grievant's receipt of the Chancellor's decision.

3.11.2. The appeal must contain a brief statement that alleges one or more of the following as the basis for the appeal: (1) that the process for making the decision was 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 clearly erroneous; or (3) that the decision was contrary to controlling law or policy.

3.11.3. 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 an initial review to a standing or ad hoc committee of at least three members of the Board.

3.11.4. The Board of Trustees, or its designated committee, shall consider the appeal based on the written transcript of the hearing held by the Due Process Panel, including materials offered in evidence and the documents that constitute the record of the appeal, including but not limited to the notice of intent to discharge or impose sanctions, the faculty member's request for a hearing, and the report of the panel; however, at its discretion, the Board may consider written or oral arguments, subject to any policies, regulations, or guidelines that may be adopted by the Board of Governors. 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 is final and shall be the end of the University's appeal process.

4. **Non-Reappointment, Denial of Tenure and Denial of Promotion Review Process**

4.1. Matters relating to Non-Reappointment, Denial of Tenure, and Denial of Promotion are governed by Chapter 100, Section 604 of *The Code* and UNC Policy Manual 101.3.1.2[R]-Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion under Section 604 of *The Code*.

4.2. Applicability and Purpose The hearing process provided in this Article 4 is applicable to all faculty members holding probationary appointments (tenure track) and appointments with permanent tenure. The purpose of the review process is to determine whether, by a preponderance of the evidence, a Grievant has established that a non-reappointment, denial of tenure and/or denial of promotion decision was based on "Impermissible Basis", as defined under Chapter 100, Section 604 of *The Code*.

4.3. Request for a Hearing

4.3.1. Initiation of the Hearing Process A faculty member is responsible for initiating the hearing process. Within thirty (30) calendar days of receiving written notice from the Provost of non-reappointment, denial of tenure, or denial of promotion, a faculty member (hereafter, the Grievant) seeking to initiate the process shall file a written statement to the chair of the Appellate Steering Committee and deliver it to the Faculty Senate Office. The statement shall comply with the requirements of this Section and be addressed to the Chair of the Appellate Steering Committee, with a copy to the Provost.

4.3.2. Impermissible Basis Review A request for hearing is limited to the Grievant's contention that the decision on non-appointment, denial of tenure, or denial of promotion was based on "Impermissible Basis" as defined in The UNC Policy Manual Chapter 100.1 and Section 604C(d) of *The Code*. "Impermissible Basis" means a decision under Chapter 100.1, 604(A) of *The Code* shall not be based upon (1) 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; (2) the faculty member's membership in a group protected from discrimination under state or federal law; (3) other violation of state or federal law; or (4) material violation of applicable university policies for reappointment, promotion, and tenure that materially affected the decision.

4.3.3. Under Section 604 of *The Code*, The UNC Policy Manual 101.3.1.2[R], "[a] review is not to second-guess professional judgments based on permissible considerations [,]" but rather to review allegations that a decision was made on an Impermissible Basis.

4.3.4. The Grievant's request for a hearing must specifically identify and enumerate all reasons for the request of an Impermissible Basis for appeal. It shall specify the contention(s), identify the administrator(s) and/or other party(ies) whose recommendation, determination, or decision was based on "Impermissible Basis", and outline the facts that the Grievant can provide to support the contention(s). If multiple respondents identified as part of Grievant's statement, the respondents shall designate a representative to act before this Hearing Panel. The Hearing Panel shall reject any statement that does not include these required specifications.

4.4. Deadline to submit for Hearing If the faculty member does not file a written statement meeting the required specifications with the Appellate Steering Committee within thirty (30) calendar days of the decision on non-reappointment, denial of tenure or denial of promotion, the decision is final without recourse to any further review by the Hearing Panel or the University. However, before the expiration of the deadline, the faculty member may request an extension of time to file a written statement to request review for good cause only. Such a request for an extension of time request is made shall be made in writing to the Chair of the Appellate Steering Committee. The Appellate Steering Committee shall promptly decide on the request for the extension of time but shall issue a decision no more than ten (10) calendar days after receiving a request.

4.5. Appellate Steering Committee Responsibilities

- 4.5.1. Upon receipt of a written statement from a faculty member requesting a campus-based review, the Appellate Steering Committee Chair will review the request in consultation with the Appellate Steering Committee. The Appellate Steering Committee shall consider the written statement and decide whether to grant a hearing. The Appellate Steering Committee shall grant a hearing if it determines that the Grievant's statement contends that the non-reappointment, denial of tenure, denial of promotion decision was based on Impermissible Basis and the facts outlined, if established, tend to support the contention.
- 4.5.2. If the Appellate Steering Committee determines the request for review does not sufficiently state a ground for review, the Steering Committee Chair shall provide written notice of that decision and its rationale to the Grievant and the Provost. The decision not to grant a hearing confirms the non-reappointment, denial of tenure, and/or denial of promotion decision.
- 4.5.3. If the Appellate Steering Committee decides to grant a hearing, the matter shall be referred to the respective Appellate Chair to move the matter forward to a hearing and establish the Hearing Panel, consistent with the requirements of this Policy and faculty hearing committee procedures found in the ECU Faculty Manual, as approved by the Chancellor. Once a Hearing Panel is established, the panel will elect a chair and a secretary.

4.6. The Hearing

4.6.1. Notice of Hearing

The Chair of the Hearing Panel shall then notify the Grievant and the Provost, as well as any named respondent(s), of the setting of a time, date, and place for a hearing, including notification that identifies the membership of the Hearing Panel. Unless an extension of time is approved in accordance with Section 2.8.2 above, the hearing shall be scheduled no later than thirty (30) days from the written statement requesting review and the Chancellor shall endeavor to issue a decision on the request within ninety (90) calendar days of the Grievant's request for campus-based review.

- 4.6.1.1. At least twenty-one (21) calendar days before the hearing, the Grievant shall notify the panel and the Respondent(s) of the identity of the Grievant's advisor.

4.6.2. Hearing Panel Procedures and Authority. The Hearing Panel Chair is responsible for conducting the hearing and maintaining order and prompt progression of the appeal and hearing process. The Hearing Panel Chair has authority to take action that maintains the integrity of the process to the extent possible and consistent with applicable law and policy. Such rules and procedures shall be consistent with this Policy and Chapter 100, Section 604 of *The Code* and applicable UNC regulations.

4.6.3. Standard for Review. The Grievant shall have the burden of proof in matters

contesting decisions on non-reappointment, denial of tenure and/or denial of promotion. In evaluating the evidence, the Hearing Panel shall use the standard of preponderance of the evidence. The purpose of the campus-based review process is to determine whether the decision was based on an Impermissible Basis, as defined by *The Code*. Preponderance is defined as the greater weight of evidence, or such evidence as leads the panel to find a contested fact to be more probable than its nonexistence (more likely than not).

4.6.4. Submission of Hearing Documents

- 4.6.4.1. At least fourteen (14) calendar days before the hearing, the Grievant and Respondent(s) will submit documentary evidence. All information and documents shall be submitted to the Faculty Senate Office in accordance with the procedures set forth in the *ECU Faculty Manual*. The information and documents will be made available to each party.
- 4.6.4.2. The Hearing Panel Chair will create an agenda prior to the meeting that will state limits on the amount of time that each party will be allocated for presentation of their cases. This agenda, with names of the panel members and procedures for handling of the witnesses, will be distributed to the panel, the Grievant and the Respondent(s) no less than five (5) calendar days prior to the hearing date.

4.6.5. Hearing

- 4.6.6. A professional court reporter must be used to record and transcribe the hearing. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential.
- 4.6.7. Hearings are closed to the public. Only the immediate parties to the proceeding, the responsible administrators, the respective committees and staff, and advisors and attorneys are permitted access to the hearing and/or materials collected under this Policy, unless otherwise specified by law or applicable University of North Carolina policy.
 - 4.6.7.1. The parties shall be provided the opportunity to make opening and closing statements, elicit testimony from witnesses, cross examine witnesses, to provide other evidence, and to examine information and evidence presented at the hearing. Witnesses will only be present for the duration of their testimony.
 - 4.6.7.2. The Hearing Panel Chair shall begin the hearing by briefly introducing the hearing's purpose, the panel's authorization and powers, and the procedures to be followed during the hearing. The chair shall then enter into the hearing record the documentation submitted by the Grievant and Respondent(s) as Exhibits G and R.
 - 4.6.7.3. At the conclusion of the hearing, the Grievant will be given the opportunity to make a summary statement, and then the Respondent(s) will be given the same

opportunity.

4.6.8. Hearing Panel Actions After Hearing

4.6.8.1. After the hearing, the panel shall meet in executive session within three (3) calendar days to begin its deliberations and determine whether the Grievant proved, by a preponderance of the evidence, that the decision was based on an Impermissible Basis as defined by Section 604C of *The Code*. The Hearing Panel shall consider only the evidence presented at the hearing, and such written or oral arguments as the panel, in its discretion, may allow.

4.6.8.2. Within fourteen (14) calendar days after the full transcript is received, the Panel shall provide the Grievant, the Provost and any other Respondents, the Chair of the Faculty, and the Chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing.

4.6.9. Chancellor's Actions After Hearing

4.6.9.1. Within thirty (30) calendar days after receiving the recommendation of the Hearing Panel and the record on appeal, the Chancellor shall provide written notice of their decision to the Grievant, Provost, as well as any named respondent(s), and the Faculty Senate Office.

4.6.9.2. If the Chancellor concurs with a recommendation of the Hearing Panel that is favorable to the faculty member, the Chancellor's decision shall be final with no appeal available. 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 by filing a written notice of appeal with the Board of Trustees.

4.6.9.3. In addition, the Chancellor may consult with the Hearing Panel in person (or in writing) to request clarification of the Hearing Committee's recommendation.

4.6.9.4. If the Chancellor concludes that the non-reappointment, denial of tenure and/or denial of promotion decision was based on an Impermissible Basis, the Chancellor will prescribe an appropriate remedy which may include a re- review of the decision in such a way to address the findings or an extension of the probationary term. The remedy is never an automatic grant of tenure, promotion, or reappointment.

4.6.10. Appeal to the Board of Trustees

4.6.10.1. An appeal of the Chancellor's decision to the Board of Trustees shall be transmitted through the Chancellor and be addressed to the chair of the Board of Trustees, by submitting such notice by means that provides proof of delivery,

within fourteen (14) calendar days after the faculty member's receipt of the Chancellor's decision. The notice must contain a brief statement that alleges one or more of the following as the basis for the appeal: (a) that the campus-based process for reviewing the decision was materially flawed; (b) that the result reached by the Chancellor was clearly erroneous; or (c) that the decision was contrary to controlling law or policy.

4.6.10.2. The Board of Trustees shall conduct its review pursuant to UNC Board of Governors Regulation 101.3.1.2[R], Section III. This decision is final and shall end the University's appeals process.

5. Faculty Grievances Filed Pursuant to Chapter 100, Section 607 of *The Code*

5.1. Matters relating to Grievances Filed Pursuant to Chapter 100, Section 607 of *The Code* are governed by Chapter 100, Section 607 of *The Code* and UNC Policy Manual 101.3.1.3[R]-Regulation on Grievances Filed Pursuant to Section 607 of *The Code*.

5.2. The right to the review of grievances through this procedure is available to actively employed members of the ECU faculty. A faculty member whose employment ends during the pendency of a grievance proceeding is not entitled to continue the grievance forward through these procedures. However, the Chancellor may, in their sole discretion, determine that it is in the best interest of the constituent institution to continue the grievance, in certain circumstances.

5.3. This Article 5 provides for peer review of faculty grievances through a formal procedure that includes access to mediation and the potential for a formal hearing of a grievance. No grievance that is within the jurisdiction of another appellate panel, falls within the charge of these Faculty Grievance provisions.

5.4. Redress of a grievance pursuant to this section is limited to the faculty and administrative structure of East Carolina University. There is no right to appeal available beyond the Board of Trustees, as applicable under this Policy.

5.5. Faculty Grievance Classifications There are two classifications of grievances covered by this section:

5.5.1. General Grievance

5.5.1.1. Consistent with Chapter 100, Section 607 of *The Code*, general grievances within the province of the Grievance Panel's power shall include matters directly related to a faculty member's terms and conditions of employment. General grievances must be based upon a decision made by an administrator in a supervisory role over the faculty member. The grievance must allege that the decision was in violation of federal or state law, or UNC Policy or Regulation, or constituent institution policy or regulation and that the faculty member was negatively affected by such decision. However, the grievance committee may not consider a matter that is subject to Chapter 100, Section 603, Section 604, or Section 605 of *The Code*, or a matter that is not grievable as

defined in UNC Policy 101.3.2[R].

- 5.5.1.2. The power of the Grievance Panel is limited to those matters properly defined by *The Code* and UNC Policy. The UNC Policy Manual Regulation 101.3.1.3 (Regulation on Grievances Filed Pursuant to Section 607 of *The Code*) states:

“For clarity, a grievance shall not include disputes between faculty colleagues, disputes between faculty and staff members, disputes between faculty and students, decisions that do not directly affect the faculty member’s terms and conditions of employment, decisions on teaching loads and assignments, or business decisions about the allocation of university resources other than the faculty member’s compensation.”

5.5.2. Informal Conflict Resolution

- 5.5.2.1. Faculty are encouraged to resolve the issue through informal conflict resolution which could include but is not limited to the Ombuds Office or other mediation services prior to initiating a general grievance with the Appellate Steering Committee. The ombuds is an impartial and independent third party trained to facilitate discussion. Mediation (led by an ombuds or other trained mediator between two or more parties) is an informal discussion conducive to fair and just agreements. Mediation is also confidential. Consequently, mediation records may not be used as evidence in a hearing, and the ombuds or mediator may not reveal information to other parties without consent of the party who revealed the information.

- 5.5.2.2. Informal Resolution by the Parties When attempting to resolve issues through informal conflict resolution, the following procedures are recommended:

5.5.2.2.1. Before meeting, the faculty member shall provide the other party a written statement setting forth the nature of the problem and the redress sought. If there are multiple claims, each should be presented clearly. This statement should include all information necessary to support each of the objecting faculty member’s claims, giving the other party an opportunity to identify, understand, and address each concern.

5.5.2.2.2. During attempts to resolve conflicts, each party may select an advisor. The advisor may serve in this role if a formal grievance process is initiated but shall not be called as a witness in a formal grievance process. For impartial adjudication of a conflict, either party may require availability of information that is controlled or in the possession of the other party or the administration.

5.5.2.2.3. Upon specific request by a party during the informal conflict resolution, the other party or the administration shall provide the

requesting party with information bearing on the conflict that is not otherwise confidential as a matter of law (“privileged”). No requests for access to information from current or past grievances at ECU shall be granted.

5.5.3. Appeal of a Non-Disciplinary Separation

5.5.3.1. Bases for Non-Disciplinary Separation Appeals Chapter VI, Section 602 of the UNC Policy Manual and Code specifies that if a faculty member wishes to appeal a non-disciplinary separation, then they can file a grievance pursuant to Chapter 100, Section 607 of *The Code*.

5.5.3.2. Section 602(6)(d) states: “The non-disciplinary separation from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before the term expires when:

- (i) the faculty member is unable to perform the essential functions of the job due to a medical condition or the vagueness of a medical prognosis, and the university and the faculty member are unable to reach agreement on a return-to-work arrangement that meets both the needs of the university and the faculty member’s condition, and the university has demonstrated a business or operational need to fill the faculty member’s position; or
- (ii) notwithstanding any unexhausted leave credits and leave benefits, the faculty member is unable to perform all the position’s essential duties due to a court order, or due to the loss of credentials or certification required for the position and that would render the faculty member unable to perform all the essential functions of the job.”

5.5.3.3. Notice to Faculty of Non-Disciplinary Separation. The Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) shall provide written notice to the faculty member of intent to discharge as part of a non-disciplinary separation. The written notice must include: (i) the proposed date of discharge; (ii) a written specification of the reasons for discharge; (iii) the faculty member’s right to a hearing; and (iv) the deadline and process for the faculty member to request a hearing in writing. The notification shall be sent by a method that provides delivery notification. If no written request for a hearing is received within fourteen (14) calendar days after receipt of this notification, the faculty member may be discharged without recourse to any institutional grievance or appellate procedure.

5.5.3.4. Request for a Non-Disciplinary Separation Hearing

5.5.3.4.1. Within fourteen (14) calendar days of receiving written notice from the Provost or Executive Dean of Brody School of Medicine (as appropriate

according to supervisory authority), a faculty member (hereafter, the Grievant) may request a review of the reason for the separation before a Grievance Panel by sending the request to the Provost or Executive Dean of Brody School of Medicine (as appropriate according to supervisory authority) and the Chair of the Appellate Steering Committee.

5.5.3.4.2. The Grievant's request for a hearing shall specify the contention that the decision for a non-disciplinary separation was arbitrary or capricious, and shall include a short, plain statement of facts that the faculty member believes support that contention.

5.5.3.4.3. Unless an extension of time is approved in accordance with Section 2.8.2 above, the Grievance appellate chair will convene a Grievance Panel within ten (10) calendar days of receiving this request.

5.5.3.4.4. The burden of proof for grievances of non-disciplinary separation under Chapter 100, Section 602(6)(d) of *The Code* shall be on the University to show by a preponderance of evidence that the faculty member is unable to perform the essential functions and duties of their job and the separation is consistent with the requirements articulated in Section 602(6)(d). The procedures found within subparts III through IV of this Section, shall control for appeals of non-disciplinary separations.

5.5.4. Deadlines to Initiate a Grievance

5.5.4.1. The deadline for initiating a grievance by filing a petition for redress (Step One) by the end of the following Spring semester for an incident alleged to have occurred during the previous Fall semester (August 16th to December 31st) and the end of the Fall semester for an incident alleged to have occurred during the previous Spring semester or during the summer months between the relevant Spring and the Fall semesters (January 1st to August 15th).

5.5.4.2. The Appellate Steering Committee and Grievance Panel shall hold the Grievant responsible for progressing through the grievance steps in a timely manner. If time delays are encountered because of the Respondent(s), the Grievant shall bring this to the attention of the appellate or panel chair as appropriate to the stage of the grievance at the time.

5.5.4.3. The parties may agree to pause the grievance, at any time, during the process by emailing the Grievance Appellate Chair. The Grievance Appellate Chair will issue a communication to all parties regarding the pause of the grievance. The grievance may be resumed upon the request of the Grievant or will resume after forty-two (42) calendar days, unless the parties agree to a brief extension of the pause. All communications relating to pausing the grievance will be added to the record of appeal.

5.5.4.4. The Grievant may terminate the grievance at any time during the process by emailing the Grievance Appellate Chair. The Grievance Appellate Chair will issue

a communication to all parties regarding the termination of the grievance. Any such notice of termination is final, and the grievance shall be closed. The communications terminating the grievance will be added to the record of appeal.

5.5.5. Grievance Process

5.5.5.1. Petition for Redress (Step One)

5.5.5.1.1. Serving the Petition

5.5.5.1.1.1. A Petition for Redress by the Grievant should be addressed to the Appellate Steering Committee Chair. The grievance shall be in writing and shall set forth in detail the nature of the grievance and the administrator in the supervisory role over the faculty member against whom the grievance is being filed. The Petition for Redress should set forth the redress sought. If there are multiple claims, each should be presented clearly. The petition for redress should include all information necessary to support each of the Grievant's claims and should follow procedures provided by the Faculty Senate Office. The faculty member shall deliver a copy of the grievance to the Chair of the Appellate Steering Committee by a method that provides proof of delivery. The Appellate Steering Committee will provide a copy to the Respondent administrator.

5.5.5.1.1.2. The Petition for Redress, once submitted to the Appellate Steering Committee, shall not be modified. The Appellate Steering Committee Chair will notify the parties of the decision regarding the petition for redress. All material collected as part of the grievance shall be collected in the record of appeal maintained in the Faculty Senate Office under the Grievant's name.

5.5.6. General Grievances - Review of Petition for Redress under Chapter 100, Section 607 of *The Code*

5.5.6.1. Based on information contained in the Grievant's Petition for Redress, and when not a matter of appeal of a non-disciplinary separation, the Appellate Steering Committee shall determine whether the grievance is within the scope of Chapter 100, Section 607 of *The Code*. Submission of a grievance shall not automatically result in the consideration or review of the grievance. The Appellate Steering Committee shall confirm that the review and hearing by the Grievance Panel is limited to hearing grievances that meet the requirements of Section 607(3) of *The Code*.

5.5.6.2. Upon review of the Petition for Redress, the Appellate Steering Committee may decide that none, some, or all of the issues in the Petition for Redress sufficiently state a basis for a general grievance. If the Appellate Steering

Committee determines that only a portion of the claims alleged by the Petition for Redress are within the scope of review under Chapter 100, Section 607 of *The Code*, then the Appellate Steering Committee shall issue a memorandum providing written notice to the parties of what matters asserted by the Grievant are within the proper scope of review and the subsequent review and hearing by the Grievance Panel. Issues not within the scope of Chapter 100, Section 607 of *The Code* will receive no further attention and the Appellate Steering Committee's decision concerning the grievance shall be communicated by memorandum to the Grievant and Respondent. The decision of the Appellate Steering Committee is final for matters rejected by the Appellate Steering Committee, unless the articulated issues fall within the scope of another appellate process, in which case the Appellate Steering Committee will endeavor to transfer the matter to the appropriate appellate process, as properly allowed under this policy.

5.5.7. Mediation (Step Two)

- 5.5.7.1. After the Appellate Steering Committee has determined which, if any, issues raised in the Grievant's Petition for Redress are within the scope of Chapter 100, Section 607 of *The Code*, the grievance shall move to mediation.
- 5.5.7.2. The Grievance Appellate Chair shall offer the parties to the grievance the opportunity to seek a resolution through mediation. Participation in mediation is limited to the Grievant and the Respondent. Each party will be asked to respond within fifteen (15) calendar days indicating to their acceptance of mediation.
- 5.5.7.3. If the Grievant and the Respondent accept mediation, the Faculty Senate Office administrator and Chair of the Faculty will be responsible for securing a mediator. To avoid real or apparent conflicts of interest, all mediation will be conducted by a third-party mediator with no formal association with East Carolina University nor prior association with either party to the grievance. All mediators shall be certified by the North Carolina Administrative Office of the Courts.
- 5.5.7.4. The parties to the grievance will inform the appellate chair within five (5) calendar days of receiving the name of the proposed mediator, as to whether the mediator has a conflict of interest or bias that would impact the mediator's role and duties. An alternate mediator will be located if necessary.
- 5.5.7.5. Following the selection of a mediator, the Grievance Appellate Chair will provide the Petition for Redress, and the Appellate Steering Committee's memorandum identifying issues under Chapter 100, Section 607 of *The Code*, if applicable, to the mediator. The mediator will communicate to the Grievance Appellate Chair and the parties the beginning date of the process. The mediator will inform the Grievance appellate chair and the parties monthly that mediation is continuing with measurable progress. The mediation process shall not exceed forty-two (42) calendar days.

5.5.7.6. Mediation will continue until such time that:

5.5.7.6.1. An agreement among the parties is reached;

5.5.7.6.2. A party or the mediator writes to the Grievance Appellate Chair that further mediation is unlikely to be successful; or

5.5.7.6.3. The time limit for the mediation process has expired.

5.5.7.7. If mediation is unlikely to be successful or the time limit for mediation has expired the Grievance Appellate Chair to notify the parties of termination of the mediation process and inform provide notice to the Grievant of the option to move to a hearing (Step Three), if desired. Any decision by the Grievant, Respondent, or mediator to terminate mediation shall have no bearing on substantive decisions or recommendations related to the grievance. All information from the mediation process is confidential and inadmissible in the grievance hearing.

5.5.7.8. If mediation is successful, the grievance will be considered closed. If applicable, a copy of any agreement made by the parties to the grievance will be placed in the grievance file maintained in the Faculty Senate Office.

5.5.8. Request for a Hearing (Step Three)

5.5.8.1. If the grievance is not resolved through mediation, the Grievant may request a hearing by written notice to the Grievance Appellate Chair, with a copy to the Respondent, made within ten (10) days of the resolution of mediation (Step Two). The Grievant may also decide that the grievance will not be pursued and elect to end the grievance process at any time.

5.5.8.2. The Grievance Appellate Chair will establish a Grievance Panel if it determines that all or some of the issues unresolved by mediation allege an injury that would entitle the faculty member to relief under Chapter 100, Section 607 of *The Code*. In this case and as applicable, the Appellate Steering Committee shall provide an updated memorandum to the Grievant and Respondent(s) explaining any remaining issue(s) to address in a hearing. Should the Appellate Steering Committee determine that remaining issues are no longer within the purview of a Grievance Panel, this decision will end the general grievance process and shall be communicated in writing to all parties that the grievance is terminated.

5.5.9. Establishment of the Grievance Panel

5.5.9.1. If the grievance moves to a hearing, the Appellate Chair shall establish the Grievance Panel, consistent with the requirements found in this policy and the *ECU Faculty Manual* procedures, as approved by the Chancellor. Once a

Hearing Panel is established, the panel will elect a chair and a secretary.

5.5.9.2. The Grievance Appellate Chair will communicate the membership of the grievance panel to the parties. Any party to a grievance may request that any member of the panel be recused from the hearing for conflict of interest.

5.5.10. Notice of Hearing

5.5.10.1. Once a Grievance Panel is established, the Grievance Panel Chair will notify the Grievant and Respondent, setting a time, date, and place for a hearing on the Petition for Redress, and the Appellate Steering Committee Memorandum, when applicable. The date of the hearing shall be within forty-two (42) calendar days of the Grievant's written request for hearing, except when the request for a hearing is received during summer months, official university breaks and holidays, and when, despite reasonable efforts, the Grievance Panel cannot be assembled. If the panel cannot schedule a hearing during the summer, a fall hearing date will be scheduled as soon as possible after the fall organizational meeting of the Appellate Committee. If a panel was selected for a grievance prior to the end of the spring semester and their work extends into the fall semester, all members on the panel should continue work on that grievance even if their terms on the Appellate Committee concluded with the end of the spring semester. In those situations, panel members will only be replaced under special circumstances (e.g., the member has taken on administrative duties that would render them ineligible to serve).

5.5.10.2. The panel may, upon one of the parties' written request and for good cause, postpone the date of the hearing by written notice to both parties, the Grievance Appellate chair, the Chair of the Faculty and the Chancellor.

5.5.11. Submission of Hearing Documents

5.5.11.1. At least fourteen (14) calendar days before the hearing, the parties will submit evidence and a list of witnesses to be used in the hearing, along with a brief statement of the relevance of each witness. Neither the Ombuds, a mediator, nor the Chair of the Faculty may be called as a witness in the hearing of a grievance and no part of an attempt at informal resolution and/or the mediation effort (e.g., conversations, offers, proposals, etc.) shall be introduced or admitted as evidence.

5.5.11.2. All information and documents to be considered by the Grievance Panel shall be submitted to the Faculty Senate Office in accordance with the procedures set forth in the *ECU Faculty Manual*. The information and documents shall be made available to each party in advance of the hearing:

5.5.12. Agenda The Grievance Panel Chair will create an agenda prior to the meeting that will state limits on the amount of time that each party will be allocated for

presentation of their cases. This agenda, with names of the panel members and procedures for submission of new documents and handling of the witnesses, will be distributed to the panel, the Grievant and the Respondent(s).

5.5.13. The Hearing (Step Four)

- 5.5.13.1. The Grievant's presentation shall be limited to the issues presented in the Petition for Redress and confirmed by the Appellate Steering Committee to be within Chapter 100, Section 607 of *The Code*. During the hearing, the panel may explore issues raised by any party to the grievance that are concretely based on issues allowed under Chapter 100, Section 607 of *The Code*. The panel's responsibility is limited to issuing recommendations based on the information presented as part of request for hearing (Step 3) and presented at the hearing (Step 4).
- 5.5.13.2. The grievance panel must decide whether the Grievant has alleged facts that, if true, constitute the basis for a grievance. If the Grievant fails to establish that the underlying issue(s) constitute a grievance under Section 607 of *The Code*, the grievance panel must dismiss the grievance. Notice of dismissal shall be provided, in writing, to the Grievant, the Respondent administrator, and the Chancellor,
- 5.5.13.3. At the hearing, the Grievant shall have the opportunity to present evidence in support of the grievance and the Respondent administrator shall have the opportunity to respond. The burden of proof is on the Grievant to establish by a preponderance of the evidence the allegations in the grievance and that the Grievant is entitled to relief.
- 5.5.13.4. Only the evidence presented and accepted into the record by the grievance panel shall be considered by the grievance panel. After receiving the evidence, the grievance panel will make a recommendation to the Chancellor.
- 5.5.13.5. A professional court reporter must be used to record and transcribe the hearing. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential.
- 5.5.13.6. Hearings are closed to the public. Only the immediate parties to the proceeding, the responsible administrators, the respective committees and staff, and advisors and attorneys are permitted access to the hearing and/or materials collected under this Policy, unless otherwise specified by law or applicable University of North Carolina policy. Witnesses will only be present for the duration of their testimony.
- 5.5.13.7. The Grievance Panel Chair is responsible for conducting the hearing and maintaining order and prompt progression of the appeal and hearing process. The Grievance Panel Chair has authority to take action that maintains the integrity of the process to the extent possible and consistent with applicable law and policy. Such action shall be consistent with this Policy and Chapter 100,

Section 607 of *The Code*.

- 5.5.13.8. The Grievance Panel Chair shall begin the hearing by briefly introducing the hearing's purpose, the panel's authorization and powers, and the procedures to be followed during the hearing. The chair shall then enter into the hearing record correspondence generated prior to the hearing as the Appellate Committee's Exhibit C, and information submitted in Step Three by the Grievant and the Respondent as Exhibits G and R.
- 5.5.13.9. The parties shall be provided the opportunity to make opening and closing statements, elicit testimony from witnesses, cross examine witnesses, to provide other evidence, and to examine information and evidence presented at the hearing. Witnesses will only be present for the duration of their testimony.
- 5.5.13.10. At the conclusion of the hearing, the Grievant will be given the opportunity to make a summary final statement, and then the Respondent will be given the same opportunity.
- 5.5.14. Grievance Panel Report (Step Five)
- 5.5.14.1. After the hearing, the grievance panel shall meet in executive session within three (3) calendar days and begin deliberations. In reaching the decisions on which the written recommendation to the Chancellor will be based, the grievance panel shall consider only the evidence presented at the hearing and such written or oral arguments as the panel, in its discretion, may allow.
- 5.5.14.2. In matters of general grievance, the burden of proof is on the faculty member to establish, by a preponderance of the evidence, the allegations in the grievance and that the Grievant is entitled to relief.
- 5.5.14.3. In matters of non-disciplinary separation, the burden of proof for grievances of non-disciplinary separation under Chapter 100, Section 602(6)(d) of *The Code* shall be on the university to show by a preponderance of evidence that the faculty member is unable to perform the essential functions and duties of their job and the separation is consistent with the requirements articulated in Chapter 100, Section 602(6)(d).
- 5.5.14.4. Preponderance is defined as the greater weight of evidence and its probable truth or accuracy, and not the amount of evidence presented.
- 5.5.15. Within fourteen (14) calendar days after the full transcript is received, the Panel shall provide the Grievant, Respondents, the Chair of the Faculty, and the Chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing. The written report shall indicate whether the

party with the burden of proof has met its burden and the material facts upon which this decision is based, and what, if any, relief is recommended. The grievance panel report shall be based on applicable law, UNC Policy and Regulation, and university policies and regulations.

5.5.16. Chancellor Decision (Step Six)

5.5.16.1. Upon receipt of the grievance panel's report and the record of the appeal, the Chancellor shall decide whether to accept, reject, or modify the grievance panel's recommendation. The Chancellor shall base their decision on the record. The Chancellor may, in their discretion, consult with the Grievance Panel Committee before making the decision.

5.5.16.2. The Chancellor shall notify the Panel, Grievant, Respondent(s), Faculty Senate Office, and relevant administrators, in writing, of the Chancellor's decision within thirty (30) business days of the receipt of the grievance panel report and the record of appeal. The Chancellor's written decision shall include a notice of any available appeal rights and the timeline for any available appeal.

5.5.17. Appeal to Board of Trustees (Step Seven)

5.5.17.1. Appeal Rights A decision in favor of the faculty member may not be appealed. A decision not in favor of the faculty member may be appealed to the Board of Trustees.

5.5.17.2. Timeline for Appeals A Grievant who seeks to appeal the Chancellor's decision must file written notice of appeal with the Board of Trustees (through the Chancellor, with proof of delivery) within fourteen (14) calendar days of the Chancellor's decision. The notice shall contain a brief statement of the basis for the appeal.

5.5.17.3. Standard for Review In order for the Board of Trustees to reverse or modify the Chancellor's decision, the Grievant must demonstrate that the Chancellor's decision was clearly erroneous, that the Chancellor's decision violated federal or state law or *The Code* or Policy or constituent institution policy, or that the process used in deciding the grievance was materially flawed.

5.5.18. Board of Trustee Decision

5.5.18.1. The Board of Trustees will establish a schedule for the submission of relevant documents to be presented with the appeal. Unless the Board determines an appeal is not within its jurisdiction or fails to meet the procedural requirements for consideration by the Board, the Board will consider the appeal on a schedule established by the Chancellor, subject to any instructions received from the Board chair or from a committee of the Board that 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 by the Board for the appeal, then the Board at its discretion may extend the time for compliance or may dismiss the appeal.

5.5.18.2. The Board of Trustees may delegate to a designated committee the authority to make procedural decisions and to make final decisions on behalf of the Board concerning appeals of faculty grievances submitted pursuant to Chapter 100, Section 607 of *The Code*. The decision of the Board of Trustees is final and may not be further appealed.

6. Financial Exigency or Program Curtailment or Elimination

6.1. The employment of a faculty member with permanent tenure or a faculty member holding a fixed-term or probationary appointment may be terminated by East Carolina University because of 1) demonstrable, bona fide institutional financial exigency, or 2) major curtailment or elimination of a teaching, research, or public service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by a 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). This determination is subject to concurrence by the UNC President and then approval of the UNC Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the institution's contractual obligation to a faculty member cannot be met, the employment of the faculty member may be terminated in accordance with Section 605 B (1) of The Code of The University of North Carolina and the institutional procedures set out below.

6.2. Consultation with Faculty and Administrative Officers under Section 605 C(1) If it appears that the institution will experience financial exigency or needs to consider a major curtailment or elimination of a teaching, research, or public-service program, the Chancellor or Chancellor's designee shall seek the advice and recommendations of the academic administrative officers and faculties of the department(s) in question or other units that might be affected.

6.3. Termination Procedures

6.3.1. Consideration in Determining Whose Employment is to be Terminated In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A of *The Code*, 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.

6.3.2. Timely Notice of Termination

6.3.2.1. 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, a permanently tenured faculty member shall be given at least twelve (12) months of notice. A faculty member without permanent tenure shall also be given notice in accordance with the requirements specified in subsection 6.3.3.1 below.

6.3.2.2. 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 the preceding paragraph.

6.3.3. Type of Notice to be Given

6.3.3.1. An individual faculty member whose employment is to be terminated shall be notified of this fact in writing by a method that provides delivery verification. This notice shall include: (i) a statement of the conditions requiring termination of the faculty member's employment; (ii) a general description of the procedures followed in making the decision; (iii) a disclosure of pertinent financial or other data upon which the decision was based; (iv) a statement of the faculty member's right to reconsideration procedure 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; and (v) a copy of this procedure on termination of employment.

6.3.3.2. When requested by a faculty member whose employment has been terminated, the institution shall give reasonable assistance in finding other employment. Such assistance should include, for example, administrative assistance, access to the telephone (including long distance), University/unit stationery and postage, travel funds to professional meetings, and other assistance as deemed reasonable and appropriate by the Chancellor and based upon the availability of funds.

6.3.4. Termination if Reconsideration is Not Requested If, within fourteen (14) calendar days after receipt of required notice, the faculty member makes no written request for a reconsideration hearing, employment will be terminated at the date specified in the notice, and without recourse to any institutional grievance or appellate procedure. Failure to submit a request for a Reconsideration Hearing and the review documents specified below within the time periods allotted constitutes a waiver of the right to reconsideration.

6.3.5. Request for Reconsideration Hearing Within fourteen (14) calendar days after receiving the required notice, the faculty member may request a reconsideration of the decision to terminate employment by a method that provides delivery verification. The request shall be submitted to the chancellor and copied to the chair of the faculty and the Appellate Steering Committee Chair. The request shall specify the contention

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 that contention. The Reconsideration Appellate Chair will convene a Reconsideration Hearing Panel within ten (10) calendar days.

6.4. Procedures for the Hearing

6.4.1. Time and Date of Hearing. The Reconsideration Panel shall set the time, date, and place for the hearing. The date for the hearing should be within forty-two (42) calendar days of the time the Appellate Steering Committee Chair receives the chancellor's notification of the faculty member's written request for a hearing. The panel chair shall notify the affected faculty member, the Chancellor, and the Chair of the Faculty of the time, date, and place of the hearing following the method described here. The panel may, upon the one of the parties' written request and for good cause, postpone the date of the hearing by written notice to the faculty member, Chancellor, Reconsideration Appellate Chair, and Chair of the Faculty. At least fourteen (14) calendar days before the hearing, the parties shall submit documents and a list of witnesses to be used in the hearing along with a brief statement of the relevance for each witness.

6.4.2. Submission of Hearing Documents All information and documents shall be submitted to the Faculty Senate Office in accordance with the procedures set forth in the *ECU Faculty Manual*. The information and documents will be made available to each party. The Reconsideration panel chair will create an agenda prior to the meeting. The agenda will state limits on the amount of time that each party will be allocated for presentation of their cases. This agenda, with names of the panel members and procedures for submission of new documents and handling of the witnesses, will be distributed to the panel, the grievant and the respondent no less than five (5) calendar days prior to the hearing date.

6.4.3. Conduct of Hearing The Reconsideration Panel's review of the faculty member's appeal shall be limited solely to determining whether the decision to terminate employment was arbitrary or capricious.

6.4.3.1 A professional court reporter must be used to record and transcribe the hearing. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential.

6.4.3.2 Hearings are closed to the public. Only the immediate parties to the proceeding, the responsible administrators, the respective committees and staff, and advisors and attorneys are permitted access to the hearing and/or materials collected under this Policy, unless otherwise specified by law or applicable University of North Carolina policy. Transcripts produced from the hearings are considered part of the faculty member's personnel file and are confidential.

6.4.3.3 The Reconsideration Panel Chair is responsible for conducting the hearing and maintaining order and prompt progression of the appeal and hearing process. The Reconsideration Panel Chair has authority to take action that maintains the integrity of the process to the extent possible and consistent with applicable law and policy.

6.4.3.4 The Reconsideration Panel Chair shall begin the hearing by briefly introducing the

purpose of the hearing, the panel's authorization and powers, and the procedures to be followed during the hearing. The chair shall then enter into the hearing record correspondence generated prior to the hearing as the Hearing Committee's Exhibit C, and information submitted by the Grievant and the Respondent as Exhibits G and R.

6.4.3.5 The hearing shall begin with an opening introduction by the Panel Chair. This statement shall be limited to explaining the purpose of the hearing and the procedures to be followed. The panel chair explicitly will note that the review of the grievant's appeal shall be limited solely to determining whether the decision to terminate employment was arbitrary or capricious. The parties shall be provided the opportunity to make opening and closing statements, elicit testimony from witnesses, cross examine witnesses, to provide other evidence, and to examine information and evidence presented at the hearing. Witnesses will only be present for the duration of their testimony.

At the conclusion of the hearing, the grievant will be given the opportunity to make a summary final statement, and then the respondent will be given the same opportunity.

6.5 Procedures After the Hearing After the hearing, the panel shall meet in executive session within three (3) calendar days and begin its deliberations on the decision to terminate employment. In reaching its decisions on which the panel's written recommendations to the Chancellor shall be based, the panel shall consider only the evidence presented at the hearing and such written or oral arguments as the panel, in its discretion, may allow. The burden of proof is on the grievant and the standard of proof is preponderance of evidence. Preponderance is defined as the greater weight of evidence and its probable truth or accuracy, and not the amount of evidence presented.

Within fourteen (14) calendar days after the full transcript is received, the Panel shall provide the Grievant, Respondent(s), the Chair of the Faculty, and the Chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing.

If the Reconsideration Panel Committee determines that the burden of proof has not been met by a preponderance of evidence, the report shall, by a simple unelaborated statement, so notify the faculty member, the Chair of the Faculty and the Chancellor.

If the panel determines that the burden of proof has been met, the report shall so notify the faculty member, Respondent(s) the Chair of the Faculty, and the Chancellor.

If the Chancellor concurs in the recommendation of the Reconsideration Panel and withdraws the termination notice, the decision is final and written notification thereof shall be sent to the faculty member, the Chair of the Faculty, and the Chair of the Reconsideration Panel. If the original termination decision is not reversed, the Chancellor shall send written notice of such to the faculty member by a method that provides delivery verification, with copies to the Chair of the Faculty and the Chair of the Reconsideration Panel. The faculty member may appeal the termination to the Board of Trustees within fourteen (14) calendar days following receipt of the chancellor's decision.

6.6 Appeal of the Chancellor's Decision The appeal to the Board of Trustees shall be transmitted through the chancellor and shall be addressed to the chair of the Board. The faculty member must file a notice of appeal within fourteen (14) calendar days after the

faculty member receives the chancellor's decision. In order for the Board of Trustees to reverse or modify the chancellor's decision, the grievant must demonstrate that the chancellor's decision was clearly erroneous, that the chancellor's decision violated federal or state law or UNC *Code* or Policy or constituent institution policy, or that the process used in deciding the grievance was materially flawed. The appeal to the Board of Trustees shall be decided by the full Board; 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 designated committee shall consider the appeal based on the written transcript of the hearing held by the Reconsideration Panel, including materials offered in evidence and the documents that constitute the record of the appeal. These include, but are not limited to, the statement of termination, the faculty member's request for a hearing, and the report of the panel. At its discretion, the Board may hear such other evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the Trustees. The decision of the Board of Trustees shall be final and shall end the University's appeal process.

7. Periodic Review

The Faculty Governance Committee and Appellate Committee of the Faculty Senate will review the policy annually, and as needed, and may make recommendations for revisions to increase the clarity and efficiency of the faculty appellate process.

REGULATION	INSERT ASSIGNED NUMBER
Title	Regulation on Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of The Code)
Category	Personnel
Subcategory	
Authority	Chancellor
History	Approved: INSERT DATE
Contact	Provost and Senior Vice Chancellor for Academic Affairs
Related Policies	<p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-Chapter VI-Sections 603, 604, 605, 607, and 609</p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1 Policy on Regulations and Guidelines Implementing Chapter VI of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.1[R]-Regulation on Disciplinary Discharge, Suspension, or Demotion Under Section 603 of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.2[R]-Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion Under Section 604 of <i>The Code</i></p> <p>Chapter 100-<i>The Code</i> and Policies of the University of North Carolina-101.3.1.3[R]-Regulation on Grievances Filed Pursuant to Section 607 of <i>The Code</i></p>
Additional References	<p>Chapter 100.1-<i>The Code</i> and Policies of the University of North Carolina-Appendix 1-Delegations of Duty and Authority to the Boards of Trustees</p> <p>NC General Statutes, Chapter 126, Article 7</p>

1. Introduction: Consistent with ECU's Policy Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of *The Code*) (hereinafter "the Policy") this regulation addresses the Chancellor's delegated authority to adopt procedures for the composition of faculty committees supporting the faculty appellate provisions, as well as, the Chancellor's delegated authority to develop certain additional hearing procedures to support the hearing processes established by the policy. In the event of any inconsistency between the terms of this regulation, the *ECU Faculty Manual* or the Policy, the terms of the Policy shall control.
2. ECU Faculty Committees: This Regulation establishes the requirements necessary to develop procedures for the selection, organization, and membership of faculty appellate committees and hearing panels and for the establishment of formal procedures related to faculty committee composition.
 - a. Election of members for the committee shall be in accordance with the procedures set forth in the *ECU Faculty Manual*.
 - b. All procedures developed in accordance with this Regulation shall be subject to review and approval of the Chancellor.
3. Hearing Procedures for Faculty Appellate Provisions (Implementing Processes for Sections 603, 604, 605, and 607 of *The Code*)
 - a. The *ECU Faculty Manual* shall contain hearing procedures for the Faculty Appellate provisions that are consistent with the Policy, and UNC Policy 101.3.1.1[R]-Regulation on Disciplinary Discharge, Suspension, or Demotion Under Section 603 of *The Code*, UNC Policy 101.3.1.2[R]-Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion Under Section 604 of *The Code*, and UNC Policy 101.3.1.3[R]-Regulation on Grievances Filed Pursuant to Section 607 of *The Code*.
 - b. Procedures developed under this regulation shall offer support for timely and efficient hearing processes while ensuring the procedural requirements found in the Policy. Procedures developed should address matters such as
 - i. Hearing agendas
 - ii. Hearing timelines
 - iii. Presentation of witnesses and evidence, including exhibits; and
 - iv. Identification of exhibits in the record
 - c. All procedures developed in accordance with this Regulation shall be subject to review and approval of the Chancellor.
4. Review
 - a. Procedures contained in the *ECU Faculty Manual* under this Regulation shall be reviewed annually.



AGENDA ITEM

III. Conferral of Degrees..... Dr. Chris Buddo
Interim Provost & Senior Vice Chancellor
for Academic Affairs

Situation: The ECU Board of Trustees should confer the degrees of those qualified candidates.

Background: The ECU Board of Trustees has the authority and responsibility to confer the degrees for candidates who have been approved by the Chancellor and Faculty Senate.

Assessment: Proposed Motion:
"I move the candidates for degrees, as approved by the Chancellor and the Faculty Senate, be authorized for conferral at the annual Winter Commencement on Friday, December 13, 2024."

Action: This item requires a vote by the committee and a vote by the full Board of Trustees.

AGENDA ITEM

IV. Closed Session Dave Fussell
Committee Chair

Situation: The committee requests to go into closed session to consider personnel related matters.

Background: It is the policy of the State of North Carolina that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in Chapter 143 of the North Carolina General Statutes.

Assessment: The committee will go into closed session:

- To prevent the disclosure of confidential information under N.C. General Statutes §126-22 to §126-30 (personnel information) and the federal Family Educational Rights and Privacy Act; and
- To consider the qualifications, competence, performance, character, fitness, or appointment of prospective and/or current employees and/or to hear or investigate a complaint or grievance by or against one or more employees
- To consult with an attorney to preserve the attorney-client privilege between the attorney and the Committee.

Action: This item requires a vote by the committee.