

April 19, 2023 at 1:30 p.m.
Via Videoconference and PBS North Carolina Livestream
University of North Carolina at Pembroke
James A. Thomas Building, Room 225-226
Pembroke, North Carolina

AGENDA

OPEN SESSION

- A-1. Approval of the Open Session Minutes of February 22, 2023..... Carolyn Coward
- A-2. Informational Reports
 - a. Faculty Recruitment and Retention Fund Utilization Under Delegated Authority to the President..... David English
 - b. President's Delegated Faculty Promotion and Tenure Conferral Report David English
 - c. New UNC System Office and SAAO-I Appointments Under Delegated Authority to the President..... Darryl Bass
- A-3. General Updates for the CommitteeDarryl Bass and David English
- A-4. Report on Human Resources Turnover Metrics Sean Womack
- A-5. Proposed Revisions to The Code and Chapter 100 of the UNC Policy Manual David English

CLOSED SESSION

- A-6. Approval of the Closed Session Minutes of February 22, 2023..... Carolyn Coward
- A-7. Informational Report: EHRA Salary Adjustment Pre-Authorizations Delegated to the President or His Designee..... Darryl Bass
- A-8. EHRA Salary Pre-Authorizations Requiring Approval by the Committee on University Personnel..... Darryl Bass

OPEN SESSION

- A-9. Adjourn



Closed Session Motion

Motion to go into closed session to:

- Prevent the disclosure of information that is privileged or confidential under Article 7 of Chapter 126 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
- Consult with our attorney to protect attorney-client privilege.
- Consider the qualifications, competence, performance, or condition of appointment of a public officer or employee or prospective public officer or employee.

Pursuant to: G.S. 143-318.11(a)(1), (3), and (6).

DRAFT MINUTES

February 22, 2023 at 2 p.m.
Via Videoconference and PBS North Carolina Livestream
UNC System Office
223 S. West Street, Room 1809 (18th Floor)
Raleigh, North Carolina

This meeting of the Committee on University Personnel was presided over by Chair Carolyn Coward. The following committee members, constituting a quorum, were present either in person or via videoconference: Mark Holton, Sonja Nichols, Lee Barnes, and John Fraley.

Chancellors participating were Kevin Guskiewicz and Harold Martin. Crystal Woods, chair of the UNC Staff Assembly, and Wade Maki, chair of the UNC Faculty Assembly, were also in attendance.

Staff members present included Darryl Bass, Mary Griffin Inscoe, and others from the University of North Carolina System Office.

1. Call to Order and OPEN Session Minutes (Item A-1)

The chair called the meeting to order at 2:01 p.m. on Wednesday, February 22, 2023, and reminded all committee members of their duty under the State Government Ethics Act to avoid conflicts of interest and appearances of conflicts of interest. The chair asked if there were any conflicts or appearances of conflicts with respect to any matter coming before the committee. No members identified any conflicts at the time. The chair called for a motion to approve the open session minutes of January 18, 2023.

MOTION: Resolved, that the Committee on University Personnel approve the open session minutes of January 18, 2023, as distributed.

Motion: Mark Holton

Motion carried

2. Informational Reports (Item A-2)

The committee received informational reports on new UNC System Office SAAO-I appointments under delegated authority to the president and faculty recruitment and retention fund utilization under delegated authority to the president.

3. General Updates for the Committee (Item A-3)

The committee received an update on the faculty policy initiative that President Hans announced at the January Board of Governors meeting. The committee also received several updates regarding the status of the career banding project. Buck Consultants is assisting the System Office in revising career banded

SHRA ranges, which the Board has called out as a priority. The final product will need to receive approval from the Office of State Human Resources and the State HR Commission. The initial target completion date is July 2023. Buck Consultants has also been contracted to assist the System Office with refreshing SAAO and IRIT ranges. The committee will continue to receive updates as this initiative moves forward. The committee also received an update on the new EHRA referral bonus program for law enforcement officers.

4. Report on Human Resources Turnover Metrics (Item A-4)

The committee received a presentation on turnover metrics across the University of North Carolina System. After seeing a rise in turnover in the summer of 2021 due to COVID-19, the numbers have begun to decline toward more historical levels as of mid-2022. The legislation and policies approved by the Board of Governors in response to these market trends have provided the UNC System institutions with the additional tools needed to attract and retain talent.

5. UNC Optional Retirement Program Technical Changes (Item A-5)

The committee reviewed a proposed resolution approving an amendment to the Optional Retirement Program plan document clarifying the re-employment with the University and vesting provisions.

MOTION: Resolved, that the Committee on University Personnel approve the resolution amending the Optional Retirement Program plan document to clarify both the re-employment with the University and the vesting provisions and submit them to the full Board of Governors for a vote.

Motion: Sonja Nichols

Motion carried

6. Closed Session

The chair called for a motion to move into closed session.

MOTION: Resolved, that the Committee on University Personnel move into closed session to prevent the disclosure of information that is privileged or confidential pursuant to Article 7 of Chapter 126 of the North Carolina General Statutes [N.C.G.S. 143-318.11(a)(1)]; to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged [N.C.G.S. 143-318.11(a)(3)]; and to consider the qualifications, competence, performance, or conditions of appointment of a public officer or employee or prospective public officer or employee [N.C.G.S. 143- 318.11(a)(6)].

Motion: Mark Holton

Motion carried

THE MEETING MOVED INTO CLOSED SESSION AT 2:18 PM
(The complete minutes of the closed session are recorded separately.)

THE MEETING RESUMED IN OPEN SESSION AT 2:22 p.m.

There being no further business and without objection, the meeting adjourned at 2:22 p.m.

Sonja Nichols, Secretary

AGENDA ITEM

A-2a. Informational Report: Faculty Recruitment and Retention Fund
Utilization Under Delegated Authority to the President..... David English

Situation: This is an informational report provided to the committee at each meeting pursuant to Section 200.6 of the UNC Policy Manual.

Background: Authority has been delegated to the president for approval of salary increases supported by the University of North Carolina Faculty Recruitment and Retention Fund.

Assessment: This month's report includes the following:

Faculty Retention and Recruitment Fund Expenditures:

- NC State University, four approved requests
- University of North Carolina Asheville, two approved requests
- University of North Carolina at Chapel Hill, nine approved requests
- University of North Carolina at Charlotte, seven approved requests
- University of North Carolina at Greensboro, ten approved requests
- University of North Carolina School of the Arts, two approved requests
- Western Carolina University, one approved request

Remaining Balance of Fund

Note: Permanent adjustments to salary may be accomplished only with recurring funds. However, nonrecurring funds may be used for retention bonuses, research equipment and facilities, and other one-time inducements to counter outside offers. The remaining balances are:

\$0 in nonrecurring funds
\$4,511,946 in recurring funds

Action: This item is for information only.



Report: Faculty Recruitment and Retention Fund Utilization Under the Delegated Authority to the President

NC State University

Frederico Santos Soares de Freitas, assistant professor in the Department of Educational Leadership, \$7,000 from the Faculty Recruitment and Retention Fund with NC State funding the cost of benefits (\$83,199 from \$76,199 effective February 9, 2023)

Lira Gonzalez, associate professor in the Department of Clinical Sciences, \$6,495 from the Faculty Recruitment and Retention Fund with NC State funding the cost of benefits (\$170,000 from \$163,505 effective February 14, 2023)

Helen Armstrong, professor in the Department of Graphic and Experience Design, \$7,996 from the Faculty Recruitment and Retention Fund with NC State funding the cost of benefits (\$117,004 from \$109,008 effective February 14, 2023)

Sankarasubramanian Arumugam, professor in the Department of Civil Construction and Environmental Engineering, \$19,606 from the Faculty Recruitment and Retention Fund with NC State funding the cost of benefits (\$170,394 from \$150,788 effective March 6, 2023)

University of North Carolina Asheville

Carla Hung, assistant professor in the Department of Sociology and Anthropology, \$3,375 from the Faculty Recruitment and Retention Fund with UNC Asheville funding the cost of benefits (\$70,000 from \$66,625 effective February 17, 2023)

Laura Jones, associate professor in the Department of Health and Wellness, \$10,000 from the Faculty Recruitment and Retention Fund with UNC Asheville funding the cost of benefits (\$87,092 from \$77,092 effective March 17, 2023)

University of North Carolina at Chapel Hill

Justin Sawon, professor in the Department of Mathematics, \$7,198 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits (\$123,500 from \$116,302 effective February 9, 2023)

Chad Bryant, professor in the Department of Political Science, \$17,366 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits (\$132,900 from \$115,534 effective March 8, 2023)

Thurston Domina, professor in the School of Education, \$20,000 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits (\$157,506 from \$137,506 effective March 13, 2023)

David Garcia, professor in the Department of Music, \$20,000 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$126,320 **from** \$106,320 effective March 17, 2023)

Misha Becker, professor in the Department of Linguistics, \$15,863 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$144,325 **from** \$128,462 effective March 20, 2023)

Maggie Cao, associate professor in the Department of Art and Art History, \$12,837 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$100,000 **from** \$87,163 effective March 20, 2023)

Clark Gray, professor in the Department of Geography, \$16,497 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$138,000 **from** \$121,503 effective March 20, 2023)

Pervin Gokarikel, professor in the Department of Geography, \$20,000 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$142,791 **from** \$122,791 effective March 20, 2023)

Morgan Pitelka, distinguished professor in the Department of Asian and Middle Eastern Studies, \$13,278 from the Faculty Recruitment and Retention Fund with UNC-Chapel Hill funding the cost of benefits
(\$160,800 **from** \$147,522 effective March 28, 2023)

University of North Carolina at Charlotte

Craig Depken, professor in the Department of Economics, \$23,415 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$197,703 **from** \$174,288 effective February 17, 2023)

Oscar De La Torre, associate professor in the Department of Africana Studies, \$11,054 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$96,000 **from** \$84,946 effective February 17, 2023)

Samantha Gesel, assistant professor in the Department of Special Education and Child Development, \$8,854 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$88,000 **from** \$79,146 effective March 8, 2023)

Maria C. Soliz Urrutia, associate professor in the Department of History, \$13,000 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$93,565 **from** \$80,565 effective March 14, 2023)

Janaki Gooty, professor in the Department of Management, \$24,988 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$222,323 **from** \$197,335 effective March 20, 2023)

Catty Dan Zhang, assistant professor in the School of Architecture, \$10,000 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$90,738 **from** \$80,738 effective March 20, 2023)

Justin Webb, distinguished professor in the Department of Management, \$17,834 from the Faculty Recruitment and Retention Fund with UNC Charlotte funding the cost of benefits
(\$311,252 from \$293,418 effective March 31, 2023)

University of North Carolina at Greensboro

Jesse Ford, assistant professor in the Department of Teacher Education and Higher Education, \$6,075 from the Faculty Recruitment and Retention Fund with \$5,000 going toward salary and \$1,075 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$79,261 from \$74,261 effective February 7, 2023)

Delma Ramos, assistant professor in the Department of Teacher Education and Higher Education, \$3,645 from the Faculty Recruitment and Retention Fund with \$3,000 going toward salary and \$645 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$83,627 from \$80,627 effective February 7, 2023)

Barbara Thomas, professor in the Department of Art, \$15,793 from the Faculty Recruitment and Retention Fund with \$13,000 going toward salary and \$2,793 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$94,755 from \$81,755 effective February 15, 2023)

Tami Draves, professor in the Department of Music, \$7,896 from the Faculty Recruitment and Retention Fund with \$6,500 going toward salary and \$1,396 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$86,253 from \$79,753 effective February 17, 2023)

Mya Brown, assistant professor in the Department of Theatre, \$6,075 from the Faculty Recruitment and Retention Fund with \$5,000 going toward salary and \$1,075 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$70,774 from \$65,774 effective February 22, 2023)

Jungho Kim, associate professor in the Department of Music, \$9,111 from the Faculty Recruitment and Retention Fund with \$7,500 going toward salary and \$1,611 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$77,500 from \$70,000 effective March 7, 2023)

Catrina Kim, assistant professor in the Department of Music, \$6,075 from the Faculty Recruitment and Retention Fund with \$5,000 going toward salary and \$1,075 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$68,653 from \$63,653 effective March 8, 2023)

Michaeline Jensen, assistant professor in the Department of Psychology, \$4,097 from the Faculty Recruitment and Retention Fund with \$3,373 going toward salary and \$724 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$84,000 from \$80,627 effective March 22, 2023)

Danielle Swick, associate professor in the Department of Social Work, \$17,272 from the Faculty Recruitment and Retention Fund with \$14,218 going toward salary and \$3,054 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$98,000 from \$83,782 effective March 22, 2023)

Courtney Miller, assistant professor in the Department of Music, \$1,215 from the Faculty Recruitment and Retention Fund with \$1,000 going toward salary and \$215 toward funding the cost of benefits, with UNC Greensboro funding any remaining cost of benefits
(\$69,000 **from** \$68,000 effective March 30, 2023)

University of North Carolina School of the Arts

Quinten Gordon, associate professor in the School of Drama, \$11,000 from the Faculty Recruitment and Retention Fund with UNCSA funding the cost of benefits
(\$75,708 **from** \$64,708 effective February 24, 2023)

Jordan Bak, assistant professor in the School of Music, \$5,000 from the Faculty Recruitment and Retention Fund with UNCSA funding the cost of benefits
(\$75,000 **from** \$70,000 effective March 6, 2023)

Western Carolina University

Timothy Eckard, assistant professor in the Department of Physical Therapy, \$8,169 from the Faculty Recruitment and Retention Fund with WCU funding the cost of benefits
(\$106,830 **from** \$98,661 effective February 9, 2023)

AGENDA ITEM

A-2b. Informational Report: President's Delegated Faculty Promotion
and Tenure Conferral Report David English

Situation: This is an informational report provided to the committee.

Background: Authority has been delegated to the president to approve faculty promotions and confer tenure for institutions without management flexibility.

Assessment: This meeting's report includes the following:

Faculty Promotion and Tenure Conferrals at North Carolina Central University:

- 12 tenure conferrals

Action: This item is for information only.



President's Delegated Faculty Promotion and Tenure Conferral Report

Actions effective 3/16/2023

North Carolina Central University

Tenure Conferrals

- Kristen Bell-Adair, associate professor, psychology
- Omar Christian, associate professor, chemistry and biochemistry
- Sujayalakshmi Devarayasamudram, associate professor, nursing
- Danai Fannin, associate professor, communication science and disorders
- Will Guzman, professor, history
- Kelly Hall, professor, communication science and disorders
- Charles Johnson, associate professor, history
- Kevin Lee, professor, law
- Simon Marshall, associate professor, biology and biomedical sciences
- Gladys Mitchell-Walthour, professor, law
- Christopher Paul, associate professor, public administration
- Yongan Tang, associate professor, mathematics and physics

AGENDA ITEM

A-2c. Informational Report: New University of North Carolina System Office and SAAO-I
Appointments Under Delegated Authority to the PresidentDarryl Bass

Situation: This is an informational report provided to the committee at each meeting pursuant to Section 200.6 of the UNC Policy Manual.

Background: Section 200.6 of the UNC Policy Manual delegates authority to the president to appoint and fix the compensation of senior academic and administrative officers and other employees exempt from the State Human Resources Act serving at the UNC System Office.

Section 600.3.4 of the UNC Policy Manual delegates authority to the president to create senior academic and administrative officer positions (Tier I) within the System.

Assessment: This meeting's report includes the following:

UNC System Office Appointments:

- Four personnel appointments that are state funded
- One personnel appointment that is non-state funded

System SAAO-I Appointments

- Four SAAO-I position creations
- One SAAO-I position reclassification

Action: This item is for information only.



President's Delegated Personnel Actions Report

The following actions have been approved by the president pursuant to Section 200.6 of the UNC Policy Manual during the period of February 3, 2023, to March 31, 2023.

University of North Carolina System Office

Appointments

State Funds:

- Renee Barger, Strategic Research Fellow, January 30, 2023, \$65,000, new position
- Jennifer Addison, PBS NC, Chief Financial Officer, March 20, 2023, \$160,000 vacant position
- Charles Stanley, PBS NC, IT Integration/Solutions Professional, March 20, 2023, \$95,000, vacant position
- Erin Kernen, PBS NC, Finance & Budget Analyst, February 13, 2023, \$70,000, vacant position

Non-State Funds:

- Usman Khan, UNC System Office, Linux/Windows Systems Administrator, March 6, 2023, \$84,500, vacant position

UNC System Institutions

New or Modified UNC System SAAO-I Positions or Appointments

Appalachian State University

New SAAO-I position. Vice Chancellor for Enrollment Management.

This new position will report to the chancellor and will provide a vision and strategic direction for all aspects of enrollment management, including the office of admissions, the registrar's office, transfer admissions and engagement, and the office of student financial aid and university scholarships. The position will focus on maintaining or exceeding enrollment growth for the Boone campus and growing enrollment for the Hickory campus.

University of North Carolina at Pembroke

Reclassification from SAAO-II (associate vice chancellor enrollment management) to SAAO-I (vice chancellor enrollment management).

University of North Carolina Wilmington

New SAAO-I position. Dean, Computing, Engineering, and Science.

The University of North Carolina Wilmington is evolving their college structure to move from four academic colleges to five. This position will service as the founding dean for the new college with a focus on computing, engineering, and science. The new college will include approximately 200 faculty and 58 staff.

University of North Carolina Wilmington

New SAAO-I position. Dean, Arts, Humanities and Social Sciences.

The University of North Carolina Wilmington is evolving their college structure to move from four academic colleges to five. This position will service as the founding dean for the new college with a focus on the arts, humanities, and social sciences. The new college will include approximately 240 faculty and 53 staff.

Winston-Salem State University

New SAAO-I position. Dean College of Business and Entrepreneurship.

Winston-Salem State University is updating their structure as part of their strategic plan. This position will serve as the founding dean of the new College of Business and Entrepreneurship. This position will be committed to student success, employee development, and community engagement and will oversee the academic budget, academic leadership, external relations, and administration of the college.

AGENDA ITEM

A-3. General Updates for the Committee..... Darryl Bass and David English

Situation: The committee will hear updates on recent academic affairs and human resources activities.

Background: The Committee on University Personnel reviews and makes recommendations to the University of North Carolina Board of Governors on issues supporting faculty, personnel, academic affairs, and human resources matters under the jurisdiction of the Board. The human resources and academic affairs departments provide updates to the committee at every meeting on both annual and ad hoc work, including HR-related efforts during the pandemic, the review of tenured faculty, and annual salary guidance related to any legislatively supported salary raise process.

Assessment: Information will be provided to the committee on recent updates in academic affairs and human resources at the University of North Carolina System Office and across the 17 institutions.

Action: This item is for information only.

AGENDA ITEM

A-4. Report on Human Resources Turnover Metrics..... Sean Womack

Situation: This is an update on University of North Carolina System human capital metrics.

Background: The UNC System Division of Human Resources began collecting turnover information from constituent institutions in fiscal year 2017-2018 as part of the human resources metrics goal included in the 2017-2022 UNC System Strategic Plan. The current 2022-2027 UNC System Strategic Plan includes faculty and staff retention goals.

The turnover data are divided into three major categories:

- Voluntary Turnover: Resignations and other employee-driven departures
- Involuntary Turnover: Separations that are employer-driven, such as reduction-in-force, at-will discontinuations, contract non-renewals, and discharge/dismissal for cause
- Other Turnover: Separations due to retirement, disability, or death (approximately 90 percent of the turnover in this category is due to retirements)

Assessment: Since mid-2022, turnover numbers Systemwide have continued to trend downward toward pre-pandemic levels, with turnover rates in February 2023 comparable to pre-pandemic rates. Faculty turnover rates trend below the mean benchmarks provided by the College and University Personnel Association (CUPA). In fiscal year 2021-22, non-tenure tracked faculty with fewer than 15 years of service showed the highest turnover rates, with voluntary separations decreasing in frequency after ten years of service for tenured and tenure-tracked faculty. For tenured faculty, voluntary separations are most likely to occur within the first 10-15 years since conferral of tenure. Health sciences in general showed the most voluntary turnover in fiscal year 2021-22 compared to other academic programs. Human resources will continue to review turnover trends and assess progress toward the UNC System's strategic goals.

Action: This item is for information only.



UNC SYSTEM TURNOVER METRICS

Presented to the Committee on University Personnel
April Meeting – UNC Board of Governors
04-19-2023

Voluntary Separations – By Employee Type – With CUPA Benchmarks

PERMANENT FACULTY

VOLUNTARY SEPARATIONS	FY18	FY19	FY20	FY21	FY22
UNC SYSTEM	3.0%	3.0%	2.6%	2.7%	4.3%
CUPA Mean	4.4%	4.8%	3.7%	3.6%	5.5%
UNC Difference from CUPA	-31%	-37%	-31%	-26%	-21%

FLSA EXEMPT PERMANENT STAFF

VOLUNTARY SEPARATIONS	FY18	FY19	FY20	FY21	FY22
UNC SYSTEM	8.0%	8.5%	7.8%	7.2%	13.4%
CUPA Mean	8.8%	8.8%	10.9%	6.9%	13.2%
UNC Difference from CUPA	-9%	-3%	-29%	4%	1%

FLSA NON-EXEMPT PERMANENT STAFF

VOLUNTARY SEPARATIONS	FY18	FY19	FY20	FY21	FY22
UNC SYSTEM	7.7%	8.3%	7.9%	8.3%	14.4%
CUPA Mean	9.5%	9.5%	7.6%	10.7%	13.2%
UNC Difference from CUPA	-19%	-13%	5%	-23%	9%

Voluntary Turnover by Tenure Type

FACULTY (PERMANENT; NOT TENURE TRACK)

YEARS OF STATE SERVICE	FY18	FY19	FY20	FY21	FY22
< 2 yrs	6.3%	5.3%	3.4%	6.0%	6.2%
2-4 yrs	7.7%	4.8%	3.3%	5.7%	8.8%
5-9 yrs	6.1%	6.1%	1.9%	4.3%	8.8%
10-14 yrs	1.8%	3.9%	1.2%	3.0%	6.3%
15-19 yrs	1.6%	2.8%	0.2%	1.7%	3.6%
20+ yrs	1.2%	0.8%	0.3%	1.3%	1.2%
Systemwide	4.6%	4.3%	2.0%	4.0%	6.5%
CUPA Mean	12.8%	9.9%	8.4%	7.3%	10.2%
UNC Difference from CUPA	-64%	-57%	-76%	-45%	-36%

FACULTY (TENURED / TENURE-TRACKED)

YEARS OF STATE SERVICE	FY18	FY19	FY20	FY21	FY22
< 2 yrs	4.4%	2.0%	1.8%	3.2%	4.2%
2-4 yrs	4.2%	4.4%	4.1%	3.9%	5.8%
* 5-9 yrs	2.9%	3.5%	3.0%	2.7%	4.6%
10-14 yrs	1.9%	2.0%	1.0%	1.8%	2.9%
15-19 yrs	1.0%	1.1%	0.8%	0.9%	1.3%
20+ yrs	0.4%	0.5%	0.3%	0.3%	0.8%
Systemwide	2.1%	2.1%	1.7%	1.9%	3.0%
CUPA Mean	2.5%	3.2%	2.3%	2.6%	4.0%
UNC Difference from CUPA	-16%	-34%	-26%	-27%	-25%

* Tenure conferred generally within 5-10 years

TENURED FACULTY TURNOVER

Years of state service after conferral of tenure	TURNOVER RATES			EMPLOYEE COUNTS	
	FY 2022	VOLUNTARY	RETIREMENT	OVERALL	TOTAL
< 2 yrs	3.1%	0.5%	3.6%	641	23
2-4 yrs	2.4%	0.5%	2.9%	954	28
5-9 yrs	1.9%	1.0%	2.9%	1545	45
10-14 yrs	1.0%	1.7%	2.7%	1283	35
15-19 yrs	0.6%	4.7%	5.4%	780	42
20-24 yrs	0.4%	5.4%	5.9%	496	29
25-29 yrs	0.3%	8.9%	9.2%	382	35
30+ yrs	0.3%	12.6%	12.9%	302	39

Highest Turnover by Faculty Professional Areas

	FY 2022	Turnover Counts			Turnover Rates			
	FACULTY CIP GROUPS	POPULATION	VOLUNTARY	RETIREMENTS	TOTAL	Voluntary	Retirement	Total
1	Pharmacy	125	11	3	14	8.8%	2.4%	11.2%
2	Dentistry	167	14	4	18	8.4%	2.4%	10.8%
3	Nursing	454	26	20	46	5.7%	4.4%	10.1%
4	Engineering Technology	167	6	10	16	3.6%	6.0%	9.6%
5	Medicine	2,118	171	25	196	8.1%	1.2%	9.3%
6	Natural Resources	152	9	4	13	5.9%	2.6%	8.6%
7	Veterinary Medicine	101	5	3	8	5.0%	3.0%	7.9%
8	Public Health	190	9	6	15	4.7%	3.2%	7.9%
9	Health Professions	377	17	11	28	4.5%	2.9%	7.4%
10	Philosophy/Religion	194	6	8	14	3.1%	4.1%	7.2%

Turnover Trends

- **Since mid-2022, turnover numbers Systemwide have continued to trend downward toward pre-pandemic levels, with turnover rates in February 2023 comparable to pre-pandemic rates.**
- **Faculty turnover trends below mean benchmarks from the College and University Personnel Association (CUPA).**
- **In fiscal year 2021-22, faculty who had fewer than 15 years of service showed the highest turnover rates for non-tenure track faculty, with voluntary separations decreasing in frequency after ten years of service for tenure and tenure-tracked faculty.**
- **For tenured faculty, voluntary separations are most likely to occur within the first 10-15 years since conferral of tenure.**
- **Health sciences in general showed the most voluntary turnover in fiscal year 2021-22 compared to other academic programs.**

AGENDA ITEM

A-5. Proposed Revisions to *The Code* and Chapter 100 of the UNC Policy Manual David English

Situation: On October 1, 2022, the University of North Carolina System Office, through the Office of Legal Affairs, initiated a Systemwide policy review effort. This effort precipitated from, and is grounded in, Systemwide feedback and requests from constituent institutions. The policy update project encompasses reviewing and proposing revisions to *The Code* and UNC Policy Manual to System leadership and bringing select recommendations to the Board of Governors for consideration. The review is being conducted chapter-by-chapter, beginning with Chapter 100 and *The Code*. The first round of proposed policy amendments is presented herein. If approved, UNC System staff will work with System leadership and campus stakeholders to create implementing regulations regarding Chapter V of *The Code* and Chapter VI of *The Code*.

Background: The proposed revisions to *The Code* and Chapter 100 of the Policy Manual largely govern academic tenure, faculty employment decisions, and termination of faculty employment. The proposed amendments further clarify and define the various avenues of faculty grievance procedures. The campus comment period for Chapter 100 and *The Code* was March 10, 2023, to March 31, 2023. System leadership solicited input from chancellors, constituent institution faculty and staff, and other subject matter experts to ensure that items developed for inclusion in *The Code* and UNC Policy Manual reflect a thorough review of academic, policy, financial, and other considerations.

Assessment: If approved, these proposed revisions to *The Code* and Policy Manual will be presented to the full Board in May. Pursuant to *The Code* 202F, any provision of *The Code* (except those required or governed by statutory or constitutional provisions) may be amended by a vote of 2/3 of the voting membership of the full board at the subsequent meeting. Under UNC Policy 100.2, the approval vote for a *Policy* amendment will be through the consent agenda at the subsequent meeting.

Action: This item requires a vote by the committee and a vote by the full Board of Governors at the next meeting.

CHAPTER V - OFFICERS OF THE UNIVERSITY
SECTION 500. ELECTION OF OFFICERS.

500 A. President and Staff.

(1) The Board of Governors shall elect a president of the University of North Carolina [See G.S. 116-14(a)], whose compensation shall be fixed by the Board of Governors.

(2) The Board of Governors, on nomination of the president, shall elect and fix the compensation of such professional members of the presidential staff as may be deemed necessary to administer the affairs and execute the policies of the University of North Carolina unless the Board has otherwise delegated this authority to the president. These staff members shall include such senior vice presidents and other vice presidents and officers as may be deemed desirable. [See G.S. 116-14(b)]

(3) In addition, the president shall employ such other personnel, subject to the provisions of Chapter 126 of the North Carolina General Statutes (State Human Resources Act), as may be deemed necessary to assist the officers of the University in administering the affairs and executing the policies of the University of North Carolina. [See G. S. 116-14(b)]

(4) The professional staff complement shall be established by the Board on recommendation of the president to ensure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to ensure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the University of North Carolina. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public-service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs, and institutional development, and for state and federal programs administered by the Board. [See G.S. 116-14(b)]

500 B. Chancellors and Staffs.¹

(1) The Board of Governors shall elect, on nomination of the president, the chancellor of each of the constituent institutions and fix the chancellor's compensation. The president shall make a nomination from a list of not fewer than two names recommended by the institutional board of trustees. [See G. S. 116-11(4)]

(2) Unless the Board of Governors has delegated this authority to the president or to an institutional board of trustees, the Board of Governors shall, on recommendation of the president and of the appropriate institutional chancellor, appoint and fix the

compensation of all vice chancellors, senior academic and administrative officers, and persons having permanent tenure. [See G.S. 116-11(5) and 116-40.22(b)]

SECTION 501. PRESIDENT OF THE UNIVERSITY.

501 A. General Authority.

The president of the University of North Carolina shall be the chief administrative and executive officer of the University. [See G.S. 116-14(a)] The president shall have complete authority to manage the affairs and execute the policies of the University of North Carolina and its constituent institutions, subject to the direction and control of the Board of Governors and the provisions of *The Code*. The president shall personally represent before the state, the region, and the nation the ideals and the spirit of the University of North Carolina. As the chief executive, the president shall be the official administrative spokesperson for and the interpreter of the University to the alumni and alumnae as a whole, the news media, the educational world, and the general public. The president shall be responsible for the presentation and interpretation of all University policies, recommendations, and requests to the General Assembly, the governor, state officers and commissions, and the federal government.

501 B. Relation of the President to the Board of Governors.

(1) The president, as the chief executive officer of the University, shall perform all duties prescribed by the Board of Governors. The president shall be responsible to the Board of Governors for the prompt and effective execution of all laws relating to the University of North Carolina and of all resolutions, policies, rules, and regulations adopted by the Board for the operation of the University of North Carolina and for the government of any and all of its constituent institutions, and the president's discretionary powers shall be broad enough to meet the extensive responsibilities of the presidency.

(2) The president shall make recommendations to the Board of Governors with respect to the adoption, modification, revision or reversal of policies, rules, and regulations applicable to the University of North Carolina and any or all of its constituent institutions. To this end, the president shall establish and maintain agencies of inquiry and administrative lines of communication, which include the constituent institutions, to ensure prompt perception of needs for problem identification and analysis, decision, and policy formulation.

(3) The president shall prepare and submit to the Board of Governors such reports and recommendations concerning the University of North Carolina and its constituent institutions as the president may deem wise or as the Board may require.

(4) The president shall attend and may participate in, without the privilege of voting, the meetings of the Board of Governors and its various committees, and the president may attend the meetings of all the boards of trustees.

(5) The president shall be the official administrative medium of communication between the Board of Governors and all individuals, officials, agencies, and organizations, both within and without the University and its constituent institutions.

(6) The president, consistent with the provisions of Section 500 B(2), shall make nominations for all appointments that are to be acted upon by the Board of Governors and shall make recommendations for all promotions, salaries, transfers, suspensions, and

dismissals that are to be acted upon by the Board. The Board reserves the right, in all instances, to act on its own initiative.

(7) The president shall assume, and retain at all times, control over the budget of the University of North Carolina, subject to the direction and control of the Board of Governors. The president shall prepare the proposed budget of the University of North Carolina and shall submit such proposed budget to the Board of Governors for approval; administrative procedures uniformly applicable to all institutions shall be established by the president to ensure that each institution has full opportunity to provide information and advice concerning the formulation of such proposed budget. The president shall be responsible for the presentation and explanation of budget requests approved by the Board of Governors to the director of the budget and the Advisory Budget Commission, the General Assembly and its committees, officers, and members. The president shall be responsible for the execution of the budget of the University of North Carolina as approved by the General Assembly. All revisions of the budget which require approval of the Advisory Budget Commission shall be acted upon by the Board of Governors on recommendation of the president.

(8) The president, with the approval of the Board of Governors, shall appoint an advisory committee composed of representative presidents of the private colleges and universities of the state. [See G.S. 116-14(c)]

501 C. Relation of the President to the University.

(1) The president shall be the leader of the University of North Carolina and its constituent institutions and shall coordinate the activities of all constituent institutions in accordance with the principle of allocated functions prescribed by the Board of Governors. The president shall promote the general welfare and development of the University in its several parts and as a whole.

(2) The president shall be a member of, and shall have the privilege of attending meetings of, all faculties of the constituent institutions of the University of North Carolina.

(3) In the absence of policies prescribed by the Board of Governors, the president shall resolve all issues of jurisdiction and dispute among the constituent institutions of the University.

(4) Repealed.

(5) The president may refer for investigation, report, and advice any question of University concern to any council, faculty, or scientific, extension, or administrative staff.

(6) The medium for official communications between the president and the constituent institutions of the University shall be the respective chancellors.

(7) The president shall establish administrative organizations to carry out the policies of the University and shall interpret these organizations to the Board of Governors and to the officers and faculties of the University. The president shall ensure that the University and its constituent institutions are properly staffed with personnel competent to discharge their responsibilities effectively. In carrying out the president's duties and responsibilities, the president shall be assisted by staff officers and by the chancellors of the constituent institutions. The president shall prescribe the duties and assignments of the staff officers reporting to the president. The president may establish and define the

duties of all-University councils and committees to advise and assist the president in the execution of the president's duties. The president may delegate to other officers portions of the president's duties and responsibilities, with the required authority for their fulfillment. However, such delegation shall not reduce the president's overall responsibility for those portions of duties which the president may choose to delegate.

SECTION 502. CHANCELLORS OF CONSTITUENT INSTITUTIONS.

502 A. General Authority.

The administrative and executive head of each constituent institution shall be the chancellor, who shall exercise complete executive authority therein, subject to the direction of the president. The chancellor shall be responsible for carrying out policies of the Board of Governors and of the board of trustees. [See G.S. 116-34(a)]

502 B. Relation of the Chancellor to the Board of Governors and the President.

(1) It shall be the duty of the chancellor to keep the president, and through the president the Board of Governors, fully informed concerning the operations and needs of the institution. Upon request, the chancellor shall be available to confer with and make reports to the president or with the Board of Governors concerning matters that pertain to the institution. [See G.S. 116-34(c)]

(2) The chancellor shall make recommendations for development of the educational programs of the institution [See G.S. 116-34(d)] and shall serve as general adviser to the president, and through the president the Board of Governors, with respect to all programs and activities of the institution.

(3) The chancellor shall be responsible to the president for the administration of the institution, including the enforcement of the decisions, actions, policies, and regulations of the Board of Governors applicable to the institution.

(4) Subject to policies prescribed by the Board of Governors and by the institutional board of trustees, the chancellor shall make recommendations for the appointment of personnel within the institution. [See G.S. 116-34(d)] With respect to all personnel matters, including appointments, promotions, removals, and compensation for the institution's academic, administrative, and other staffs, which are required to be acted upon by the Board of Governors, the chancellor shall make recommendations to the president.

(5) The chancellor shall present to the president all matters concerning the institution which are to be considered by the Board of Governors or any of its committees. In accordance with prescribed administrative procedures uniformly applicable to all institutions, the chancellor shall participate in the development of the proposed budget of the University of North Carolina.

(6) The chancellor shall be the official medium of communication between the president and all deans, heads or chairs of departments, directors, and all other administrative officers, faculty members, students, and employees.

502 C. Relation of the Chancellor to the Board of Trustees.

(1) It shall be the duty of the chancellor to attend all meetings of the board of

trustees and to be responsible for keeping the board of trustees fully informed on the operation of the institution and its needs. [See G.S. 116-34(b)]

(2) The chancellor shall submit such reports to the board of trustees as the chancellor may deem wise or as the board may require. The chancellor shall seek the counsel of the board of trustees concerning the affairs of the institution.

(3) The chancellor shall be responsible to the board of trustees for enforcing all policies, rules, and regulations of the board of trustees.

(4) The chancellor shall be the official medium of communication between the board of trustees and all individuals, officials, agencies, and organizations, both within and without the institution.

502 D. Relation of the Chancellor to the Constituent Institution.

(1) Subject to policies established by the Board of Governors, the institutional board of trustees, or the president, the chancellor; shall be the leader of and the official spokesperson for the institution; shall promote the educational excellence and general development and welfare of the institution; shall define the scope of authority of faculties, councils, committees, and officers of the institution; and all projects, programs, and institutional reports to be undertaken on behalf of the institution shall be subject to the chancellor's authorization and approval.

(2) The chancellor shall be a member of all faculties and other academic bodies of the institution and shall have the right to preside over the deliberations of any [legislative](#) bodies of the faculties of the institution.

The chancellor shall be responsible for ensuring that there exists in the institution a faculty council or senate, a majority of whose members are elected by and from the members of the faculty. The general faculty, however, which shall include at least all full-time faculty and appropriate administrators, may function as the council or senate. The faculty shall be served by a chair elected either by the general faculty or by the council or senate. However, the chancellor may attend and preside over all meetings of the council or senate. The council or senate may advise the chancellor on any matters pertaining to the institution that are of interest and concern to the faculty.

In addition to ensuring the establishment of a council or senate, the chancellor shall ensure the establishment of appropriate procedures within the institution to provide members of the faculty the means to give advice with respect to questions of academic policy and institutional governance, with particular emphasis upon matters of curriculum, degree requirements, instructional standards, and grading criteria. The procedures for giving advice may be through the council or senate, standing or special committees or other consultative means [as determined by the chancellor](#).

(3) Subject to any policies or regulations of the Board of Governors or of the board of trustees, it shall be the duty of the chancellor to exercise full authority in the regulation of student affairs and student conduct and discipline. In the discharge of this duty, delegation of such authority may be made by the chancellor to faculty committees and to administrative or other officers of the institution, or to agencies of student government, in such manner and to such extent as may by the chancellor be deemed necessary and expedient. In the discharge of the chancellor's duty with respect to matters of student discipline, it shall be the duty of the chancellor to secure to every student the right to due

process. Appeals from these disciplinary decisions are allowable only on the following grounds:

- (a) A violation of due process; or
- (b) A material deviation from the *Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Procedures*, Section 700.4.1 of the UNC Policy Manual.

Where the sanction is ~~suspension or~~ expulsion, an appeal may be made to the board of trustees. No appeal to the president or Board of Governors is permitted.

¹The merger of an institution into the University of North Carolina under Chapter 1244 of the 1971 Session Laws or the establishment of the North Carolina School of Science and Mathematics as a constituent institution under S.L. 2006-66 shall not impair any term of office, appointment, or employment of any administrative, instructional, or other personnel of the institution. Effective July 1, 1972, the title president and vice president of each constituent institution shall be changed to chancellor and vice chancellor, and the tenures of persons occupying these positions shall continue subject to the other provisions of *The Code*. [See Sec. 18, Ch. 1244, 1971 Session Laws]

CHAPTER VI- ACADEMIC FREEDOM AND TENURE

SECTION 600. ~~FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY~~FREEDOM OF INQUIRY AND RESPONSIBILITY WITHIN THE UNIVERSITY COMMUNITY.

- (1) The University of North Carolina System is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of these purposes. The University therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.
- (2) The University and each constituent institution shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.
- (3) Faculty and students of the University of North Carolina System shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

SECTION 601. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY.

- (1) It is the policy of the University of North Carolina System to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of the constituent institutions. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the University and their position as ~~men and women of learning~~faculty members. They should not represent themselves, without authorization, as spokespersons for the University of North Carolina System or any of its constituent institutions.
- (2) The University and its constituent institutions shall not penalize or discipline members of its faculties because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

SECTION 602. ACADEMIC TENURE; NON-DISCIPLINARY SEPARATION.¹

- (1) To promote and protect the academic freedom of its faculty, the board of trustees of each constituent institution shall adopt policies and regulations governing academic tenure. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president. The chancellor, or their designee, shall review the constituent institution's tenure policies periodically, but at least every five years, and shall report to the president whether or not amendments or revisions are appropriate. The chancellor shall involve the faculty in this review; however, the chancellor shall make the final decision regarding any proposed amendments or revisions.
- (2) In all instances, the tenure conferred on a faculty member is held with reference to

employment by a constituent institution, rather than to employment by the University of North Carolina System.

(3) The tenure policies and regulations of each constituent institution² shall prescribe the procedures by which decisions concerning appointment, reappointment, promotion, and the conferral of permanent tenure shall be made. The length of terms of appointment that do not carry permanent tenure and those faculty ranks or titles whose holders shall be eligible for permanent tenure shall be prescribed. The institutional policies and regulations also shall prescribe the intervals at which the review of candidates for reappointment and promotion, including the conferral of permanent tenure, shall occur. The tenure policies and regulations of each institution, which shall include the complete text of Chapter VI of *The Code*, shall be published by the institution in a manner accessible to faculty members ~~and distributed to its faculty members.~~

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

(5) The institutional policies and regulations shall specify that permanent tenure may be conferred only by action of the president and the Board of Governors, or by such other agencies or officers as may be delegated such authority by the Board of Governors, which may include the constituent institution's board of trustees.³

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

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

(b) The discharge for cause from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before that term expires only for reasons of (i) incompetence, (ii) neglect of duty, or (iii) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, as specified in Section 603 of *The Code*;

(c) The termination of employment for reasons of institutional financial exigency or major curtailment or elimination of a teaching, research, or public-service program of a faculty member who has permanent tenure, or of a faculty member who has been appointed to a specified term of service before that term expires; and

(d) 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 of 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 of the essential functions of the job.

A separation under this subsection (d) is not considered to be disciplinary. A faculty member may file a grievance pursuant to Section 607 with respect to a non-disciplinary separation under this subsection. In the event that such a grievance is filed, the burden shall be on the university (rather than the grievant) to demonstrate that the faculty member was unavailable based on one of the grounds listed in (d)(i) and (ii) and that the university took reasonable steps to avoid separation.

(e) Retirement or Phased Retirement.

(7) Institutional tenure policies and regulations shall provide that the appointment, reappointment, or promotion of a faculty member to a position funded in whole or in substantial part from sources other than continuing state budget funds or permanent trust funds shall specify in writing that the continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon the continuing availability of such funds. The institutional tenure policies and regulations may make one or more of the following exceptions to the foregoing contingency requirement:

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

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

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

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

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

SECTION 603. ~~DUE PROCESS BEFORE DISCIPLINARY DISCHARGE, SUSPENSION OR THE IMPOSITION OF SERIOUS SANCTIONS~~DEMOTION⁸.

(1) A faculty member who is the beneficiary of institutional guarantees of academic tenure shall enjoy protection against unjust and arbitrary application of formal discharge, suspension, or

⁸ A demotion as defined in this Section shall not include a demotion that results in the loss of a faculty member's tenure.

~~demotion~~~~disciplinary penalties~~. During the period of such guarantees the faculty member may be discharged from employment, suspended without pay, or demoted in rank for reasons of:

- (a) Incompetence, including significant, sustained unsatisfactory performance after the faculty member has been given an opportunity to remedy such performance and fails to do so within a reasonable time;
- (b) Neglect of duty, including 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 significant faculty professional obligations/essential duties of their position; or
- (c) Misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, including violations of professional ethics or engaging in other unethical conduct; violation of university policy or law; mistreatment of students or ~~other~~ employees; research misconduct; financial or other fraud; or criminal, or other illegal, or inappropriate ~~or unethical~~ conduct. To justify serious formal disciplinary action/discharge, suspension, or demotion, such misconduct should be either (i) sufficiently related to a faculty member's ~~academic~~ responsibilities as to disqualify the individual from effective performance of university job duties, or (ii) sufficiently serious as to adversely reflect on the individual's honesty, trustworthiness or fitness to be a faculty member.

~~These sanctions~~Formal discharge, suspension, or demotion may be imposed only in accordance with the procedures prescribed in this section. For impositions of formal discharge, suspension, or demotion ~~serious sanctions~~ under this section of *The Code*, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. These procedures shall not apply to ~~nonreappointment~~ Non-Reappointment, Denial of Tenure, and Denial of Promotion as provided in (Section 604), or Separation Due to Financial Exigency or Program Curtailment termination of employment as provided in (Section 605), a grievance as provided in Section 607, or any other lesser employment action that is not a formal discharge, suspension, or demotion.

(2) Procedures for the Imposition of Discharge, Suspension, or Demotion~~or Serious Sanction~~.

(a) "Notice of Intent to Discharge, Suspend, or Demote"

The chief academic officer of the institution, however titled, shall send the faculty member a written notice of intention to discharge, suspend, or demote a faculty member. The letter must include: (i) the proposed date of discharge, suspension, or demotion; (ii) specific 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 faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of~~ The notice shall be provided in such a manner that provides proof of delivery. mail or delivery that requires a signature for delivery. The statement shall include notice of the faculty member's right, upon request, to a hearing by an elected standing faculty committee on hearings. When the faculty member has been notified of the institution's intention to discharge the faculty member, At any point during these procedures, the chancellor or the chief academic officer shall have the sole

discretion to either reassign the faculty member to other duties or to place the faculty member on administrative leave with pay. Reassignment or placement of a faculty member on administrative leave with pay is not a disciplinary action. ~~Placement of a faculty member on administrative leave with pay shall be in exceptional circumstances, such as to avoid disruption in the work place or protect the safety of members of the campus community.~~

(b) If, within 14 calendar days after receiving the ~~notice and written specifications referred to in paragraph (a) above,~~ the faculty member makes no written request for a disciplinary hearing, the discharge, suspension, or demotion, shall be final and without faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.⁴

(c) If the faculty member makes a timely written request for a disciplinary hearing, the chancellor shall ensure a process is in place so that the hearing is timely accorded before an elected standing committee of the institution's faculty. The hearing shall be on the written specification of reasons for the ~~intended~~ discharge, suspension, or demotion. or imposition of a serious sanction. The hearing committee shall accord the faculty member at least 30 calendar days from the time it receives the faculty member's written request for a disciplinary hearing to schedule the hearing. to prepare a defense. The hearing committee may, upon the faculty member's written request and for good cause, extend ~~this any campus-imposed deadline~~ time by written notice to the faculty member. The disciplinary hearing committee will ordinarily endeavor to complete the disciplinary hearing within 90 calendar days except under unusual circumstances such as when a disciplinary hearing request is received during official university breaks and holidays and despite reasonable efforts the disciplinary hearing committee cannot be assembled.⁵¹²

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

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

(f) The disciplinary hearing committee shall make written recommendations to the chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later. In reaching its written recommendations to the chancellor, the committee shall consider only the evidence presented at the disciplinary hearing and such written or oral arguments as the committee, in its discretion, may allow. The university institution has the burden to prove by a showing of "clear and convincing" evidence that it had permissible grounds for the discharge, suspension, or demotion. of proof. In evaluating the evidence, the committee shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the

~~recommended action.~~

(g) Following receipt of the disciplinary hearing committee's written recommendations, the decision as to whether to discharge, suspend, or demote the faculty member ~~or impose serious sanction on the faculty member~~ is the chancellor's and shall be effective as of the date of the chancellor's decision and the institution's obligation to continue paying the faculty member's salary shall cease upon issuance of the chancellor's decision. ~~If the chancellor decides to discharge~~ if the chancellor decides to discharge, suspend, or demote the faculty member, the faculty member may appeal the decision to the board of trustees. ~~the faculty member, the institution's obligation to continue paying the faculty member's salary shall cease upon issuance of the chancellor's decision.~~ ~~If the chancellor decides to impose one or more serious sanctions upon the faculty member, the institution may impose such sanctions upon issuance of the chancellor's decision.~~ ~~If the chancellor concurs in a recommendation of the committee 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 to the board of trustees.~~ An appeal to the board of trustees 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. If the faculty member elects to appeal the chancellor's decision to the board of trustees, this appeal shall be transmitted through the chancellor and be addressed to the chair of the board. Notice of appeal shall be filed with the board of trustees by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member receives the chancellor's decision.

(3) Appeals of Decisions Imposing Discharge, Suspension, or Demotion ~~or Serious Sanction~~. 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. The board of trustees, or its committee, shall consider the appeal on the based on the record of the proceedings below, and may, in its discretion, consider written or oral arguments, subject to any policies, regulations or guidelines as may be adopted by the Board of Governors, president, or board of trustees. The board of trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the trustees. This decision shall ~~be the end~~ conclude of the University's appeals process.

(4) The procedures prescribed herein shall take effect with any discharge, suspension, or demotion ~~or serious sanction proposed~~ occurring on or after August 1, 2023 ~~July 1, 2019~~.

SECTION 604. NON-REAPPOINTMENT, DENIAL OF TENURE, AND DENIAL OF PROMOTION. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY.⁶

604 A. Notice of Reappointment or Nonreappointment Decisions Subject to Notice.

(1) ~~The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given.² For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows.~~ The following faculty employment decisions are subject to notice as provided by this section:

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

~~(ba) Decision not to reappoint a tenure track faculty member after the initial contract period ("Non-Reappointment"); During the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and~~

~~(be) Decision not to confer tenure to a tenure track faculty member ("Denial of Tenure"); and After two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.~~

~~(c) Decision not to promote in rank a tenure track faculty member or a tenured faculty member ("Denial of Promotion").~~

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

604 B. ~~Impermissible Reasons for Nonreappointment~~ Notice of Decisions.

~~(1) Non-Reappointment. For a non-reappointment of a tenure track faculty member, the faculty employment decision shall be made by the appropriate institutional faculty and administrative officers early enough to permit reasonable notice to be given. For a full time, tenure track faculty member, timely notice shall be as follows:~~

~~(a) During the first year of service at the institution, the faculty member shall be given not less than 60 calendar days' written notice before the specified term contract expires;~~

~~(b) During the second year of continuous service at the institution, the faculty member shall be given not less than 90 calendar days' written notice before the specified term contract expires; and~~

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

~~(2) Denial of Tenure. For Denial of Tenure the faculty member shall be given not less than 12 months' written notice before the faculty member's appointment expires.~~

~~(3) Denial of Promotion. For Denial of Promotion in rank, the faculty member shall be given written notice within a reasonable time following the final faculty employment decision not to promote.~~

In no event shall a decision not to reappoint a faculty member 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; or (2) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by campus boards of trustees; or (3) personal malice. For purposes of this section, the term "personal malice" means dislike, animosity, ill-will, or hatred based on personal characteristics, traits, or circumstances of an individual.

604 C. Review of Nonreappointment Decisions.

(1) Campus-Based Review. Subject to limitations contained in *The Code* and the policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty member may seek review of the a decision regarding non-reappointment, promotion, and tenure as provided in Section 604A. of the constituent institution not to reappoint the faculty member. Such procedures shall at a minimum provide for the following:

(a) A reasonable time of no less than 14 calendar days within which afterThe faculty member shall have at least 30 calendar days upon receiving the notice of the decision nonreappointment, the faculty member may to request a review of the decision on the grounds that the faculty employment decision was based on an Impermissible Basis (as defined herein). by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of nonreappointment decision in a timely fashion within the campus-defined timeframe, the decision shall be as specified by campus tenure policies, the nonreappointment is final without recourse to any further review or appeal by faculty committees, the institution, or the Board of Governors.

(b) If the faculty member files a request for review within the campus-specified timeframe in a timely fashion, the chancellor shall ensure a process is in place so that a hearing-review by a standing committee of the institution's faculty occurs within a reasonable time from the request for review. The institution and faculty member should endeavor to complete the review within 90 days from the request for review. is timely accorded before an elected standing committee of the institution's faculty.

(c) In reaching written recommendations to the chancellor, the review committee shall consider only the evidence presented at the hearing by the faculty member and a representative of the university, including the written record of the decision. and such written or oral arguments as the committee, in its discretion, may allow. The faculty member shall have the burden to prove by a preponderance of the evidence that the decision was based on an Impermissible Basis. of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence).

(d) Impermissible Basis. A decision under Section 604A 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. . The purpose of the campus-based review process is to determine

~~(i) whether the decision was based on considerations that *The Code* provides are impermissible; and (ii) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.~~

(2) Appeal to the Board of Trustees. If the chancellor concurs in a recommendation of the committee 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. This appeal 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 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;~~;~~~~so as to raise questions about whether the faculty member's contentions were fairly and reliably considered;~~ (b) that the result reached by the chancellor was clearly erroneous; or (c) that the decision was contrary to controlling law or policy.

(3) The procedures prescribed in this section shall take effect with any faculty employment nonreappointment decision effective on or after ~~July 1, 2019.~~ August 1, 2023.

SECTION 605. TERMINATION OF FACULTY EMPLOYMENT/SEPARATION DUE TO FINANCIAL EXIGENCY OR PROGRAM CURTAILMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605 C (1), subject to the concurrence by the president and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.⁸

605 B. Timely Notice of Termination.

(1) When a faculty member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public-service program and such curtailment or elimination of program is not founded upon due to financial exigency, the faculty member shall be given timely notice as follows:

- (a) One who has permanent tenure shall be given not less than 12 months' notice; and
- (b) One who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

(2) When a faculty member's employment is to be terminated because of financial exigency, the institution will make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give the same notice as set forth in Section 605 B(1).

(3) For a period of two years after the effective date of termination of a faculty member's contract for any of the reasons specified in Section 605 A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be made in such a manner that provides proof of delivery. by a method of delivery that requires a signature for delivery, and tThe faculty member will be given 30 calendar days after attempted delivery of the notice to accept or reject the offer.

605 C. Institutional Procedures.

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

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

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

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

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

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

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

SECTION 606. RETIREMENT OF FACULTY~~SEPARATION DUE TO RETIREMENT.~~

Faculty may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

SECTION 607. FACULTY GRIEVANCE ~~COMMITTEE FOR CONSTITUENT INSTITUTIONS~~ PROCESS.

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

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

(3) "Grievances" within the province of the grievance committee's power shall include matters directly related to a faculty member's s terms and conditions of employment. 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. employment status and institutional relationships within the constituent institution, including matters related to post-tenure review. However, ~~no the grievance committee may not consider a grievance matter that is subject to that grows out of or involves matters related to a formal proceeding 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]. for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.~~

(4) ~~If any faculty member has a grievance, the faculty member~~ A faculty member who has a grievance may submit the grievance may petition to the faculty grievance committee ~~for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case.~~ The grievance committee shall decide whether the facts fall within the institution's grievance policy such that the grievance is reviewable by the committee; merit a detailed investigation so that submission of a petition grievance shall not result automatically in consideration or review of the grievance. ~~an investigation or detailed consideration of the petition.~~

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

(65) The chancellor shall make the final decision on a grievance. If the decision is not in favor of the faculty member, the decision may be appealed to the board of trustees of the constituent institution. If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. ~~The decision of the board of trustees is final.~~

SECTION 608. STUDENTS' RIGHTS AND RESPONSIBILITIES.

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

(2) All students shall be responsible for conducting themselves in a manner that helps to enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.

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

SECTION 609. JURISDICTION OF THE BOARD OF GOVERNORS.

609 A. Discretionary Review.

The Board of Governors may make such inquiry and review into matters as it may from time to time deem appropriate; provided, however, that the Board of Governors shall not review matters or actions that are subject to separate processes under Chapter VI or any other chapter of *The Code*, or for which a designated review, grievance, or hearing process has been established by the UNC Policy Manual, including but not limited to student disciplinary matters, research misconduct matters, other employment matters, first amendment matters, misuse of state funds reports, or audit and compliance matters. Moreover, it is the Board of Governors expectation that campus matters will be appropriately addressed at the constituent institution. Therefore, it is only in extraordinary circumstances, as solely determined by the Board of Governors that the Board of Governors will 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.

609 B. Hearings.

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

609 C. Transmission of Appeals

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

SECTION 610. RIGHTS OF SPECIAL FACULTY MEMBERS

(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, artists-in-residence, writers-in-residence or other special categories are regarded as

“special faculty members” for purposes of *The Code*. Special faculty members may be paid or unpaid.

(2) Special faculty members who are paid shall be appointed for a specified term of service, as set out in writing in the letter of appointment. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires. The continued employment of a special faculty member during the term appointment may be made expressly contingent on items such as the continued availability of funding from any source, on enrollment levels, or any other contingency established by the institution, in which case the appointment letter must state such contingency.

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

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

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

SECTION 611. APPOINTMENT OF AFFILIATE FACULTY

Institutions may confer honorary academic titles to outstanding individuals who have primary employment responsibility outside the university but provide professional expertise or contributions to an academic program. Such honorary academic appointments are necessary to recruit and recognize professionals, especially those in healthcare fields, to serve in critical roles such as preceptors for clinical clerkships or experiential learning. Processes for the selection and appointment of these unpaid faculty roles must reside outside the tenure policies and regulations of each constituent institution as these appointments are not eligible for permanent tenure and shall not be entitled to any rights under any other Section of this Chapter.

SECTION 611.2. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE NORTH CAROLINA HUMAN RESOURCES ACT (EHRA)

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

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

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

(i) Notice

(A) For senior academic and ~~administration~~administrative officers defined only in Section 300.1.1 I.B., for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in Section 300.1.1 III.B. 1., 2., and 3., of the UNC Policy Manual; and

(B) For other employees exempt from the North Carolina Human Resources Act, as described only in Section 300.2.1, for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in Section 300.2.1 III. A., B., and C. of the UNC Policy Manual; or

(ii) Equal Employment Opportunity and Protected Activity

(A) For the senior academic and administrative officers defined in subsection (i) above, for violations of any provision of subsections III.D. or E. of Section 300.1.1 of the UNC Policy Manual; and

(B) For the other employees exempt from the North Carolina Human Resources Act defined directly above in subsection (ii), for violations of any provision of sections V., or VI., of Section 300.2.1 of the UNC Policy Manual; or

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

(A) For the senior academic and administrative officers defined in subsection (i) above, for discharge for cause or other formal disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Section 300.1.1 III.C. of the UNC Policy Manual; and

(B) For the other employees exempt from the North Carolina Human Resources Act defined above in subsection (ii), for discharge for cause or other formal disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Section 300.2.1 IV. of the UNC Policy Manual; or

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

(c) If the employee or former employee timely files a written request for review, the president (as to an employee of the UNC System Office) or chancellor (as to an employee of a constituent institution), shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

(d) In reaching decisions on which its written recommendations to the president (as to an employee of the UNC System Office) or chancellor (as to an employee of a constituent institution), as appropriate, shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the “greater weight of the evidence”).

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

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

(b) For employees of the [UNC System Office](#), if the president concurs in a recommendation of the committee that is favorable to the employee, the president’s decision shall be final. If the president either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the president’s written decision, by filing with the president for transmission to the Board of Governors a written notice of appeal, including a brief statement of the basis for appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in subsection (1)(b) above. The decision of the Board of Governors is final with no further appeal.

¹Pursuant to G.S. 116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors delegates certain authorities to the president of the UNC System. See Section 200.6, *Delegation Authority to the President of the University*.

²Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, the requirement that the institution adopt tenure policies will be satisfied at those institutions by an employment system based on renewable contracts, which system need not provide for the traditional faculty ranks. Wherever the phrase “tenure policies and regulations” is used in this chapter, it shall mean, for the University of North Carolina School of the Arts and for the North Carolina School of Science and Mathematics, the faculty employment policies of those schools. Wherever the phrase “tenured faculty” is used in this chapter and in the Policies of the Board of Governors, it shall mean, for those schools, a faculty member holding a fixed-term contract.

³See Footnote 1, above.

⁴In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted.

⁵To meet this deadline, faculty are encouraged to consider scheduling hearings during the evening, weekend, or other non-class time. It is strongly recommended that several days and times be established for the hearing when scheduling the first day, for the eventuality that they hearing may take two or more sessions.

⁶Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, regular faculty holding fixed-term contracts at those institutions are entitled to the rights afforded in this section.

⁷Faculty at North Carolina School of Science and Mathematics shall be given notice no later than February 15 of the reappointment year.

⁸Because of the unique character and mission of the North Carolina School of Science and Mathematics, when the employment of a faculty member is to be terminated during or at the conclusion of a fixed-term contract because of major curtailment or elimination of a teaching, research, or public-service program that is not founded upon financial exigency, written notice shall be given no later than the November 1 prior to termination. When faculty employment is to be terminated during or at the conclusion of a fixed-term contract because of financial exigency, the school shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give notice no later than the November 1 prior to termination. Terminations at the end of a fixed-term contract for the reasons stated above in this footnote are not subject to Section 604 of *The Code*, but instead are subject to Section 605.

CHAPTER VII - FINANCES, PROPERTY, AND OBLIGATIONS

SECTION 700. BUDGETS AND APPROPRIATIONS.

700 A. Budget Recommendations.

The Board of Governors shall develop, prepare, and present to the governor, ~~the Advisory Budget Commission,~~ and the General Assembly a single, unified recommended budget for all of ~~public senior higher education~~ the constituent institutions of the University of North Carolina. The recommendations shall consist of requests in three general categories: (i) funds for the continuing operation of each constituent institution, (ii) funds for salary increases for employees exempt from the State Human Resources Act, and (iii) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation, and increases to remedy deficiencies, as well as other areas. [See G.S. 116-11(9)a]

700 B. Appropriations and Allocations.

Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Human Resources Act shall be appropriated to the Board of Governors in a lump sum for allocation to the institutions. Funds for the third category in Section 700 A, above, shall be appropriated to the Board of Governors in a lump sum. The Board of Governors shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the Board's schedule of priorities; provided, however, that when both the Board and the director of the budget deem it to be in the best interest of the state, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. [See G.S. 116-11(9)b]

700 C. Transfers of Appropriated Funds.

The director of the budget may, on recommendation of the Board of Governors, authorize transfer of appropriated funds from one institution to another to provide adjustments for over- or under-enrollment or may make any other adjustment among institutions that would provide for the orderly and efficient operation of the institutions. [See G.S. 116-11(9)c]

SECTION 701. TUITION AND FEES.

The Board of Governors shall set tuition and required fees at the constituent institutions, not inconsistent with actions of the General Assembly, in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term. [See G.S. 116-11(7) and 116-143] Consistent with the North Carolina constitutional mandate, the benefits of the

University of North Carolina shall be extended to the people of the state free of expense, as far as practicable. [See N. C. Constitution, Art. IX, Sec. 9]

SECTION 702. GENERAL POWERS CONCERNING PROPERTY.

702 A. Corporate Powers.

The Board of Governors shall have the powers, relating to the acquisition, use and disposition of property, set forth in Chapter I, Section 101 of *The Code*.

702 B. Statutory Powers.

Subject to applicable state law and to the terms and conditions of the instruments under which property is acquired, the Board of Governors may acquire, hold, convey or otherwise dispose of, invest and reinvest any and all real and personal property, with the exception of any property that may be held by trustees of institutional endowment funds under the provisions of G.S. 116-36 or that may be held, under authority delegated by the Board of Governors, either by a board of trustees or by trustees of any other endowment or trust fund. [See G.S. 116-11(2)]

702 C. Transfer of Property and Obligations.

All property of whatsoever kind and all rights and privileges held by the former Board of Higher Education and by the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, University of North Carolina at Pembroke,¹ University of North Carolina School of the Arts,² Western Carolina University, and Winston-Salem State University, as said property, rights and privileges may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and vested in the Board of Governors. All obligations of whatsoever kind of the former Board of Higher Education and of the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central, University of North Carolina at Pembroke, University of North Carolina School of the Arts, Western Carolina University, and Winston-Salem State University, as said obligations may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and assumed by the Board of Governors. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall, from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries, and shall continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property right was acquired. All property of whatsoever kind and all rights and privileges held by the board of trustees of the North Carolina School of Science and Mathematics, as said property, rights and privileges may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Trustees of the North Carolina School of Science and Mathematics as said obligations may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and assumed by the Board of Governors of the University of North Carolina. In case a conflict arises as to which property, rights, or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights, or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board of Governors shall constitute final administrative action. Nothing in *The Code* shall be deemed to

increase or diminish the income, other revenue, or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof. [See G.S. 116-12]

702 D. Limitation on Exercise of Powers.

The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance, and disposition of real and personal property shall be subject to, and exercised in accordance with, the provisions of Chapters 143 and 146 of the General Statutes. [See G.S. 116-13]

SECTION 703. IMMUNITIES.

703 A. Tax Exemption.

The lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation. [See N. C. Constitution, Art. V, Sec. 2(3) and G.S. 116-16]

703 B. Tort Liability.

The University of North Carolina is not liable for any tort claims except as provided for by law. [See generally G.S. 143-291, *et seq.*, and G.S. 116-40. 2]

SECTION 704. ENDOWMENT FUND.

Each board of trustees is authorized to establish and maintain, pursuant to the requirements of state law and such terms and conditions as the Board of Governors may from time to time prescribe, permanent endowment funds for its institutions. [See G.S. 116-36]

SECTION 705. ANNUITY OR RETIREMENT INCOME CONTRACTS.

Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees of universities, colleges, and institutions of higher learning as named and set forth in *The Code* and other state agencies qualified as educational institutions under 501 (c)(3) of the United States Internal Revenue Code, the Board of Governors may authorize the business officer or agent for each constituent institution of the University of North Carolina to enter into annual contracts with any of the faculty members, administrative officers, and employees of said institutions of higher learning which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the faculty member, administrative officer, or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said faculty member, administrative officer, or employee. A faculty member, administrative officer, or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the faculty member, administrative officer, or employee before the individual's election for a salary reduction has become effective. The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the Board of Governors. The amount by which the salary of any faculty member, administrative officer, or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement

system purposes. [See G.S. 116-17]

SECTION 706. REVENUE BONDS.

The Board of Governors shall have authority, subject to such limitations and restrictions as may be established by state law, to issue revenue bonds and special obligation bonds. Revenue bonds may be issued for service and auxiliary facilities, student housing, student activities, physical education, and recreation facilities. [See G.S. 116-41.1 *et seq.*, 116-175 *et seq.*, and 116-187 *et seq.*] Special obligation bonds may be issued for the construction, renovation, improvement or expansion of any capital facilities located or to be located at a constituent or any affiliated institution of the University for the purposes of carrying out the mission of that institution. [See G.S. 116D-21 *et seq.*]

¹Designated as Pembroke State University prior to July 1, 1996.

²Designated as North Carolina School of the Arts prior to August 1, 2008.

THE CODE

Appendix 1 -

DELEGATIONS OF DUTY AND AUTHORITY TO BOARDS OF TRUSTEES

Pursuant to authority vested in it by the General Statutes (G.S.), and consistent with the provisions of *The Code of the University of North Carolina (The Code)*, the Board of Governors hereby delegates to the boards of trustees of the constituent institutions of the University of North Carolina System the following duties and powers:

I. ACADEMIC AND ADMINISTRATIVE PERSONNEL

A. Appointment and Compensation

1. Upon recommendation of the chancellor, the board of trustees of a special responsibility constituent institution with management flexibility for personnel appointments shall, for all positions exempt from the North Carolina Human Resources Act except the position of the chancellor, appoint, promote, and set the compensation for such employees consistent with the policies and salary ranges set by the Board of Governors and the regulations and guidelines established by the Office of the President.

2. Personnel actions at a constituent institution, other than a special responsibility constituent institution with management flexibility, shall be governed as follows:

a. With respect to all faculty positions with permanent tenure and ~~all senior administrative positions~~ SAAO positions, namely vice chancellors, provosts, deans and directors of major educational and public service activities, the chancellor, following consultation with the board of trustees, shall forward to the president recommendations with respect to such appointments, promotions, and compensation; if the president concurs in such recommendations, the president shall forward them to the Board of Governors for approval. Notwithstanding the requirements of this paragraph, a board of trustees may promote in rank a faculty member with permanent tenure, upon the recommendation of the chancellor, and without approval by the Board of Governors.

b. With respect to all faculty and administrative positions other than those identified in subparagraph 2.a., above, and other than those subject to the North Carolina Human Resources Act, the chancellor shall forward the chancellor's recommendations for appointment, promotion, and compensation to the board of trustees; subject to applicable provisions of *The Code* and to such policies as may be established by the Board of Governors, the action of the board of trustees with respect to such personnel actions shall be final.

B. Discharge or Suspension

Subject to regulations of the board of trustees and consistent with applicable policies of the Board

of Governors, all discharges or suspensions of faculty members and administrative personnel, other than those subject to the North Carolina Human Resources Act, shall be effected by the chancellor. A discharged or suspended employee shall have such rights of appeal from the action of the chancellor, [or the chancellor's designee](#), as may be prescribed by *The Code*, policies of the Board of Governors, or regulations of the board of trustees.

C. Personnel Policies

The board of trustees may adopt personnel policies [authorized by or](#) not otherwise prescribed by state law, *The Code*, or policies of the Board of Governors, for personnel in all categories of university employment. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president.

D. Chancellor Selection

In the event of a vacancy in the chancellorship, the board of trustees shall establish, in consultation with the president, a search committee composed of representatives of the board of trustees, the faculty, the student body, staff, the alumni, the local community, and other campus constituencies as may be appropriate. Upon the establishment of the search committee, the chair of the board of trustees, in consultation with the president shall establish a budget and identify staff for the committee.

The search committee, through the chair of the board of trustees, shall make a preliminary report to the president when the committee is preparing a schedule of initial interviews. At the completion of the campus interview process, the search committee shall recommend an unranked slate of no fewer than two candidates to the trustees for consideration.

The board of trustees, following receipt of the report of the search committee, shall, subject to the direction of the president, recommend an unranked slate of no fewer than two candidates for consideration by the president in designating a nominee for the chancellorship for approval by the Board of Governors.

II. ACADEMIC PROGRAM

The board of trustees shall be responsible for ensuring the institution's compliance with the educational, research, and public service roles assigned to it by the Board of Governors, either by express directive or by promulgated long-range plans of the Board of Governors.

III. ACADEMIC DEGREES AND GRADING

Subject to authorization by the Board of Governors of the nature and general content of specific degree programs which may be offered by an institution, each institution shall determine whether an individual student shall be entitled to receipt of a particular degree. Each institution also shall determine what grade a student will be assigned in a particular course. No appeal from any of these decisions or any other academic determination is allowable to the president or to the Board of Governors.

IV. HONORARY DEGREES, AWARDS AND DISTINCTIONS

The board of trustees shall be responsible for approving the names of all individuals on whom it is proposed that an honorary degree or other honorary or memorial distinction be conferred by the

institution, subject to such policies as may be established by the Board of Governors.

V. BUDGET DEVELOPMENT AND ADMINISTRATION

On an annual basis, the board of trustees shall approve a comprehensive, “all-funds” budget of the constituent institution for the upcoming fiscal year. The budget shall reflect estimated General Fund, Institutional Trust Fund, and other revenues and expenditures as defined by and in a manner prescribed by the president or the president’s designee. The board of trustees’ approval of a constituent institution all-funds budget shall not be delegated and shall be made by the full board of trustees.

The board of trustees shall advise the chancellor with respect to the development, execution, and administration of the budget of the constituent institution, consistent with actions by the General Assembly and the Board of Governors.

VI. PROPERTY AND BUILDINGS

The board of trustees of a constituent institution shall be responsible, subject to policies of the Board of Governors and all legal requirements relative to the construction of state-owned buildings, for the following matters concerning campus capital construction projects which have been approved by the Board of Governors and authorized by the state of North Carolina: (1) the selection of architects or engineers for buildings and improvements requiring such professional services; (2) the approval of building sites; (3) the approval of plans and specifications; and (4) the final acceptance of all completed buildings and projects.¹

The board of trustees shall be responsible to the Board of Governors for preparing and maintaining a master plan for the physical development of the institution, consistent with the total academic and service mission of the institution as defined and approved by the Board of Governors.

Any proposal involving the acquisition or disposition by an institution of any interest in real property shall be recommended by the board of trustees to and shall be approved by the Board of Governors; provided, that:

(a) If a proposal involves acquisition or disposition of any interest in real property other than a leasehold, the board of trustees may authorize such a transaction with a value less than \$500,000, and the president may authorize such a transaction with a value less than \$750,000, without obtaining approval of the Board of Governors; and

(b) If a proposal involves acquisition or disposition of a leasehold interest in real property, the board of trustees may authorize such a transaction with an annual value less than \$500,000 and a term of not more than 10 years, and the president may authorize such a transaction with annual value less than \$750,000 and a term of not more than 10 years, without obtaining approval of the Board of Governors;² and

(c) If the president or a board of trustees of a constituent institution has been delegated additional authority by the Board of Governors to do so under Section 600.1.3 of the UNC Policy Manual, the president or board of trustees of a constituent institution may authorize acquisition or disposition of an interest in real property with a value greater than that listed in paragraphs (a) and (b), above, without obtaining approval of the Board of Governors.

The Board of Governors, under circumstances which it considers appropriate and following notice from it to the board of trustees, may take action necessary to effect the acquisition or disposition of an interest in real property which is related to or which affects the institution, without receipt of a recommendation from the board of trustees.³

All delegations of authority in this section are subject to any necessary authorizations and approvals from state officials and agencies.

VII. ENDOWMENTS AND TRUST FUNDS

Subject to applicable provisions of state law and to such terms and conditions as may be prescribed from time to time by the Board of Governors, each board of trustees shall be responsible for the preservation, maintenance, and management of all properties, both real and personal, funds and other things of value which, either separately or in combination, constitute all or any part of the authorized endowment or trust funds, either currently in existence or to be established in the future, for the benefit of the individual constituent institution. [See G.S. 116-11(2); 116-12; 116-36; 116-36.1; 116-36.2]

VIII. ADMISSIONS

Subject to such enrollment levels and minimum general criteria for admission as may be established for a constituent institution by the Board of Governors, each constituent institution of the University of North Carolina System shall establish admissions policies and resolve individual admission questions for all schools and divisions within the institution. No appeal concerning an individual admission case shall lie beyond the institutional board of trustees. [An appeal to the institutional board of trustees is not required.](#)

IX. TUITION, FEES, AND DEPOSITS

A. General Authority of Boards of Trustees

The boards of trustees of the constituent institutions other than the board of the North Carolina School of Science and Mathematics shall cause to be collected from each student, at the beginning of each semester, quarter, or term, such tuition, fees, and other amounts necessary to pay other expenses for the term, as have been approved by the Board of Governors. [See G.S. 116-11(7) and G.S. 116-143]

B. Tuition and Fee Deposits

Each board of trustees shall require the payment of such advance deposits, at such times and under such conditions as it determines are appropriate or as may be required by state law or by the Board of Governors. [See G.S. 116-143]

C. Application Fee

Each board of trustees shall require the payment of such nonrefundable application fees, in connection with each application for admission, as may be required by state law or by the Board of Governors. [See G.S. 116-143]

D. Acceptance of Obligations in Lieu of Cash

Subject to policies prescribed by the Board of Governors, the boards of trustees shall establish regulations concerning the acceptance of obligations of students, together with such collateral or security as may be deemed necessary or proper, in lieu of cash, in payment of tuition and fees. [See G.S. 116-143]

E. Fee Recommendations

Subject to policies prescribed by the Board of Governors, each board of trustees, in consultation with the chancellor, shall recommend to the president the amounts to be charged at the constituent institution for application, athletics, health services, student activities, educational and technology, retirement of debt incurred for capital improvements projects authorized by the General Assembly, course, and special fees. In carrying out this responsibility, each board of trustees and the chancellor shall ascertain that the benefits of the activity or service are commensurate with the recommended fee which is required to support the activity or service. Recommended fees should be consistent with the philosophy set forth in the North Carolina Constitution which states that the benefits of the University of North Carolina System should be extended to the people of the state free of expense, as far as practicable.

X. STUDENT FINANCIAL AID

All scholarships and other forms of financial aid to students which are limited in their application to or are supported from sources generated by an individual campus shall be administered by the constituent institution pursuant to such regulations as may be prescribed by the board of trustees and subject to the terms of any applicable laws and to policies of the Board of Governors.

XI. STUDENT SERVICES

Each board of trustees, upon recommendation of the chancellor, shall determine the type, level, and extent of student services (such as health care, athletic programs, and counseling) to be maintained for the benefit of students at the institution, subject to general provisions concerning types and levels of student services as may be prescribed by the Board of Governors.

XII. STUDENT ACTIVITIES AND GOVERNMENT

Under such policies as may be prescribed by the Board of Governors and the board of trustees, the chancellor shall be responsible for the regulation and approval of organized, institutionally recognized student activities, the definition of roles and functions of any institutionally recognized system of student self-government and student participation in the governance of any aspect of the institutional programs and services. No appeal concerning such activities are allowable to the president or to the Board of Governors.

XIII. INTERCOLLEGIATE ATHLETICS

Subject to such policies as may be prescribed by the Board of Governors and the board of trustees, the chancellor shall be responsible for the establishment and supervision of the institution's program of intercollegiate athletics.

XIV. TRAFFIC AND PARKING REGULATIONS⁴

XV. CAMPUS SECURITY

Subject to applicable provisions of state law and such policies as may be adopted by the Board of Governors or the board of trustees, the chancellor shall be responsible for the maintenance of campus security.

XVI. AUXILIARY ENTERPRISES, UTILITIES, AND MISCELLANEOUS FACILITIES

Pursuant to applicable provisions of state law and policies of the Board of Governors, the boards of trustees of affected constituent institutions shall have authority and responsibility for the adoption of policies applicable to and the control and supervision of campus electric power plants and water and sewer systems, other utilities and facilities [G.S. 116-35], and child development centers [G.S. 116-38].

¹See Section 600.1.1 of the UNC Policy Manual for additional detail.

²The value of an interest in real property shall, with respect to a leasehold interest, be deemed the annual rental value thereof.

³Board of trustees are authorized to delegate to the respective chancellors the power to authorize for the institutions the acquisition or disposition of any interest in real property valued at less than \$50,000, subject to any necessary approval from state officials and agencies, in accordance with Section 600.1.3 of the UNC Policy Manual.

⁴Legislation adopted by the 1973 session of the General Assembly, on recommendation of the Board of Governors, gave the boards of trustees broad authority in this area and superseded the authority originally granted in this paragraph; hence it is omitted here. [See G.S. 116-44.3, *et. seq.*]

Policy on Grievances Filed Pursuant to Section 607 of *The Code*

~~I. Purpose of the Grievance Procedure. Section 607 of *The Code* provides a process for faculty members to seek redress concerning employment related grievances. The function of the grievance procedure is to attempt to reach a consensual resolution of the dispute and, if that fails, to determine whether the contested decision was materially flawed, in violation of applicable policies, standards or procedures. The grievance process is not intended to second-guess the professional judgment of officers and colleagues responsible for making administrative decisions.~~

~~II. Initiation of the Grievance Process~~

~~A. Any faculty member who has a grievance, as defined in Section 607(3) of *The Code*, may file a petition for redress in accordance with the procedure established by the constituent institution. The petition of the faculty member shall be in writing and shall set forth in detail the nature of the grievance and against whom the grievance is directed. The petitioner shall set forth any information that he or she considers pertinent to the grievance. The faculty member shall deliver a copy of the petition to the respondent administrator by certified mail or by another means that provides proof of delivery.~~

~~B. When a decision not to promote is made at the same time as a decision not to reappoint a faculty member, all challenges to those decisions will proceed pursuant to Section 101.3.1 of the UNC Policy Manual. When a decision not to promote is not made as a part of a reappointment decision, campus policy shall determine which faculty committee has jurisdiction to hear such disputes.~~

~~C. Unless the parties to the grievance have participated in mediation prior to the faculty member's filing the petition, before taking any action on the petition, the faculty grievance committee shall refer the matter for mediation in accordance with the policies of the constituent institution.~~

~~III. Mediation of Grievances~~

~~A. Mediation is a procedure in which disputing parties enlist the assistance of a neutral party to help them in achieving a voluntary, bilateral agreement that finally and definitively resolves all or portions of their dispute, without resorting to adversarial procedures such as grievance hearings, administrative hearings or litigation. Any such mediated agreement that the parties are able to negotiate will be embodied in a written agreement.~~

~~B. The appropriate functions of a mediator are to assist the parties in defining, clarifying, communicating about, and ascertaining the substantiality and relevance of the issues that appear to divide the parties and to aid the parties in generating, considering, and communicating with each other about possible bases for resolving the dispute.~~

~~C. Each constituent institution will have a policy either that requires the parties to a dispute made under Section 607 to participate in mediation as a prerequisite to access to the formal faculty grievance process or that permits the parties voluntarily to do so. While there can be no requirement that forces a party to reach a mediated agreement, a constituent institution may have a policy that require the~~

parties to participate in a mediation process about the dispute. If a constituent institution requires participation in mediation, the mediator may assess the value of continuing the mediation. If the mediator determines that the parties are not amenable to a settlement, then the mediator may end the mediation, and the formal grievance hearing process will then begin.

D. — Each constituent institution will have a mediation process available which:

1. — Has available the number of campus mediators necessary based on the size of the campus and the estimated need. Mediators may be trained members of the faculty or staff, outside mediators from the community, or mediators from other campuses within the University. Mediators may not be members of the faculty hearing committee that hears Section 607 grievances.

2. — Requires every mediator to have successfully completed formal mediation training substantially equivalent to that required for certification by the North Carolina Administrative Office of the Courts or to have been formally trained in mediation specifically designed for use in a university setting.

3. — Determines under what circumstances, if any, attorneys will be allowed to participate in the mediation process.

4. — Assures the parties that a decision by either party not to pursue mediation beyond the campus required minimum will not be held against that party in any way and that no blame will be attached to either party if mediation does not produce a settlement.

5. — Provides that no record of a failed mediation process will be produced by the mediator other than an unelaborated written statement to the appropriate authority necessary to invoke the next step in the grievance process, i.e., that mediation was attempted but settlement was not reached.

6. — Prohibits the mediator from being called as a witness in any subsequent proceeding, and prohibits anything done or said by either party during a mediation process from being referred to or used against a party in any subsequent proceeding.

E. — The adopted mediation policy of each constituent institution must provide that any mediation agreement that obligates the university must be signed by a university official with the authority to bind the university concerning the particular agreement.

F. — Any time limit adopted by a constituent institution or by Board of Governors policy concerning the formal resolution of Section 607 grievances will be suspended for the duration of a mediation process being held pursuant to this policy.

IV. — Administrative Decision

A. — If the grievance is not resolved through the mediation process, then the matter will be reviewed by the faculty grievance committee established pursuant to Section 607(1) of *The Code*.

B. — Standard for determining contested grievances. In order to prevail in the grievance process, a faculty member must establish that the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, university policies or regulations, or commonly shared understandings within the academic community about the rights, privileges and responsibilities attending university employment. Examples would be if the decision-maker disregarded an established standard for evaluation, relied on impermissible considerations such as race or sex, or failed or refused to consult with or receive information from mandated advisory bodies.

C. — If mediation fails to produce a voluntary resolution, the faculty grievance committee must decide whether a hearing should be held in response to the petition. The submission of a petition shall not result automatically in an investigation of or hearing on the petition. The committee shall determine whether the facts alleged merit a detailed investigation. The committee is to consider the content of the grievant's petition. Assuming the truth of the information contained in the petition, the committee is to determine whether the contentions advanced by the grievant justify a hearing. A petition properly is dismissed if the grievant fails to allege an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV.B., above. Dismissal is also required if the petition addresses a problem that is not within the committee's jurisdiction.

D. — If the petitioner has presented an apparently substantial issue within the purview of the committee's responsibility, the committee will hold an evidentiary hearing. At the hearing, which is to be attended by the grievant and the respondent, the faculty member is to present evidence in support of the faculty member's contentions and the person charged with wrongdoing is to be given an opportunity to respond. The committee is to maintain a complete transcript of all evidence received. Only the evidence so compiled is to form the basis for committee conclusions about the case and any resulting advice to the responsible administrator and the chancellor. The burden is on the grievant to establish by a preponderance of the evidence that the faculty member has experienced an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV.B., above.

E. — If, after hearing the matter, the faculty hearing committee determines that an adjustment in favor of the aggrieved faculty member is appropriate, the faculty grievance committee shall so advise the faculty member and the dean, department head, or other respondent administrator. If the relevant administrator does not make the recommended adjustment, or a different adjustment satisfactory to the faculty member, within a reasonable period of time, the faculty grievance committee shall advise the chancellor of its recommendation that an adjustment is appropriate.

F. — If, after reviewing the petition or hearing the matter, the faculty grievance committee determines that no adjustment in favor of the grievant is appropriate, it shall so advise the faculty member and the chancellor.

G. — The chancellor shall base his or her decision on the recommendation of the faculty committee and the record from the faculty grievance committee hearing. The chancellor may, in his or her discretion, consult with the faculty grievance committee before making a decision. The decision of the chancellor is the final administrative decision.

H. — The chancellor shall notify the faculty member and the respondent administrator in writing of the chancellor's decision. The notification shall include a notice of appeal rights, if any, and, if the decision is appealable, it shall contain the information specified in paragraph V.C.2., below.

I. — The faculty grievance process is a process available to current members of the faculty of a constituent institution. A faculty member whose employment is terminated during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of a faculty member is terminated after the grievance is filed, the chancellor may, however, in the chancellor's discretion, determine that it is in the best interest of the institution to continue the grievance process.

V. — Appeal to the Board of Trustees

A. — Decisions which may be appealed:

1. — If the faculty grievance committee did not advise that an adjustment in favor of the grievant was appropriate, then the decision of the chancellor is final and may not be appealed.

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

B. — 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 section 607 of *The Code*.

C. — Timeline for Appeals

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

2. — If the chancellor's decision is appealable, the chancellor's notice of the disposition of a grievant's case must inform the grievant: (a) of the time limit within which the grievant may file a petition for review by the board of trustees, (b) that a written notice of appeal containing a brief statement of the basis for appeal is required within the ten day period and, (c) that, after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established. All such notices of decision are to be conveyed to the grievant by a method which produces adequate evidence of delivery.

3. — To ensure full understanding by the faculty, the appropriate informational document regularly published by the institution (e.g., the faculty handbook), shall include a statement of the time limits established by the Board of Governors or board of trustees policy.

D. — Standard of Review. Unless a board of trustees provides by policy for a broader scope of review, in order to prevail before the board of trustees, the faculty member must demonstrate that the chancellor's decision was clearly erroneous, that it violated applicable federal or state law or university policies or regulations, or that the process used in deciding the grievance was materially flawed.

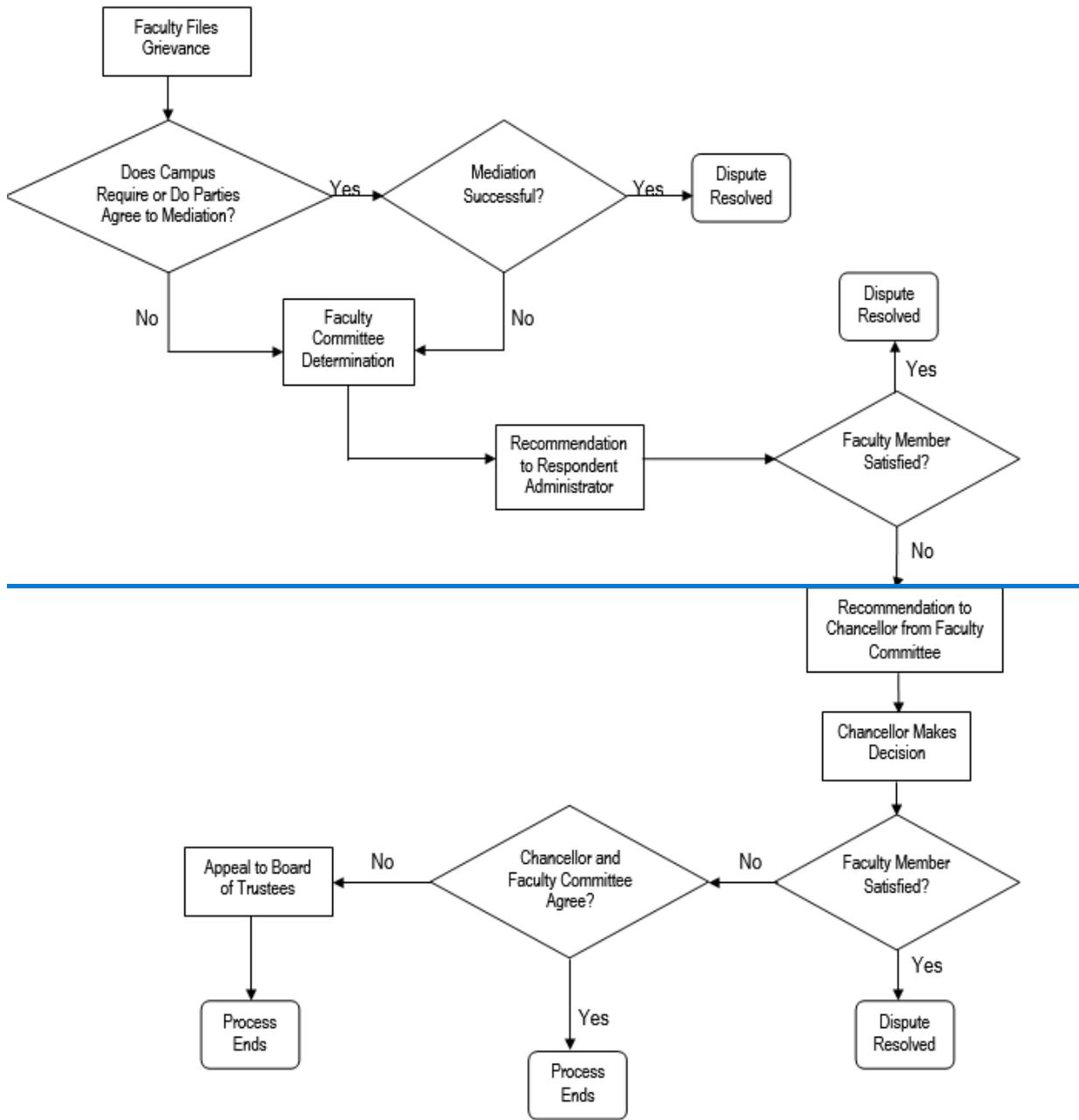
VI. — Other Matters

A. — Effective Date. The requirements of this policy shall be effective upon the date of its adoption by the Board of Governors.

B. — Relation to Federal and State Laws. The foregoing policy as adopted by the Board of Governors is meant to supplement, and does not purport to supplant or modify, those statutory enactments which may govern or related to the subject matter of this policy.

C. — Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

**Appendix for Policy 101.3.2
Process for Faculty Grievances**



Policy on Delivery of Notices

~~The Code of the University of North Carolina (The Code) specifies a particular mode of delivery for certain notices sent to affected parties in specified personnel actions. This policy will provide clarification and description of those notice requirements.~~

~~In Chapter VI of The Code, in some circumstances, the institution is required to send notice of a personnel action to the affected party by a "method of delivery that requires a signature for delivery." The following paragraphs describe a proper delivery that would meet the requirements of The Code.~~

~~A. — The delivery method must have as a requirement that the deliverer obtain the signature of the affected employee upon delivery. Such modes include, but are not limited to: certified mail, registered mail, Federal Express, or another commercial delivery service that obtains a signature.~~

~~B. — It is not necessary that the signature actually be obtained as long as the method noted above is used and a signature is requested or sought.~~

~~C. — If the signature cannot be obtained, a notation of this fact, the reason therefore if known, and the date of the attempted delivery shall be made and retained in institutional records.~~

~~D. — Personal or hand-delivered service is sufficient under paragraph A as long as the deliverer is an employee of the university and is not directly involved in the personnel action at issue, and the deliverer attempts to obtain a signature from the addressee. If these conditions are met, the delivery is proper and meets The Code requirements. If the deliverer cannot obtain a signature, a notation of this fact, the reason therefore if known, and the date of the attempted delivery shall be made to and retained in institutional records.~~

~~E. — For deliveries outside the United States, if no mode of delivery requiring the signature is available, the institution shall make a reasonable effort to utilize a reliable alternative mode, and the date and result of this attempted delivery shall be noted and retained in institutional records. A delivery meeting the requirement of this paragraph will be proper delivery under The Code provisions.~~

~~F. — Each constituent institution shall have a requirement that each employee provide an accurate and current mailing address to appropriate institutional offices.~~