

**TENURE POLICIES, REGULATIONS AND PROCEDURES OF
THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE
Revised effective xx, 2009**

1 Definitions

1.1 Academic Year

"Academic Year" and its beginning and end means the academic year as shown on the official university academic calendar published by the Office of Academic Affairs.

1.2 College and Dean

For purposes of this document, the term "College" shall include the Library and the term "Dean" shall include the University Librarian.

1.3 Day

Except as otherwise provided herein, any reference to the word "day" or "days" means calendar day or calendar days, respectively. In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted. When the last day of a period falls on a Saturday, Sunday, or an institutional holiday, the next working day is the last day of such period.

1.4 Faculty

For purposes of this document, the term "Faculty" means all persons who hold Professorial Rank pursuant to Section 3.2 below, or a Special Faculty Appointment pursuant to Section 3.4 below.

1.5 Faculty Member

For purposes of this document, the term "Faculty Member" means any person who is a member of the Faculty as that term is defined in 1.3 above.

1.6 Financial Exigency

For purposes of this document, the term "Financial Exigency" is defined as a significant decline in the financial resources of the University that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the University's current operations budget.

1.7 Formal Notice

For the purposes of this document, giving "Formal Notice" means notifying or attempting to notify an individual of an action or decision following the notice standards set forth in The University of North Carolina Board of Governors Policy 101.3.3.

1.8 Impermissible Grounds

For the purposes of this document, basing a decision on "Impermissible Grounds" means basing a decision on (1) exercise by the Faculty Member of rights of freedom of speech guaranteed by the First Amendment to the Constitution of the United States or by Article I of the Constitution of North Carolina; (2) discrimination based upon the Faculty Member's race, color, creed, sex, disability, sexual orientation, religion, age, national origin, veteran status, or other forms of discrimination prohibited under policies adopted by the Board of Trustees; or (3) Personal Malice.

1.9 Instructor

For purposes of this document, the term "Instructor" is an individual who begins employment at The University of North Carolina at Charlotte in a fixed-term appointment bearing that title before having

Comment [JESH1]: Item 1, Code 604B.

been awarded the appropriate terminal degree or who presents evidence of comparable professional distinction in his or her field.

1.10 Mandatory Review

For purposes of this document, the term “Mandatory Review” means a review that is required to be made in a specified year of a Faculty Member’s career pursuant to this document.

1.11 Material Procedural Irregularities

For purposes of this document, “Material Procedural Irregularities” means departures from prescribed procedures governing reappointment, promotion, or the conferral of Permanent Tenure that cast reasonable doubt upon the validity of the decision not to reappoint, not to promote, or not to confer Permanent Tenure.

1.12 Personal Malice

A decision not to reappoint, not to promote, or not to confer Permanent Tenure on a Faculty Member is based on “Personal Malice” if the decision maker permits that decision to be made because of dislike, animosity, ill-will, or hatred based on the Faculty Member’s personal characteristics, traits, or circumstances not relevant to valid University decision making. See The University of North Carolina Board of Governors Policy 101.3.1 II.B. for details.

1.13 Professorial Rank

For purposes of this document, the term “Professorial Rank” is the rank of Assistant Professor, Associate Professor, or Professor.

1.14 Tenure; Permanent Tenure

For purposes of this document, the term “Tenure” refers to the duration of a Faculty appointment. “Permanent Tenure” is an employment status awarded by the Board of Trustees of the University of North Carolina at Charlotte (formerly by the Board of Governors of the University of North Carolina), and is a recognition of an individual’s academic achievements. To attain the award of Permanent Tenure, an individual must demonstrate teaching, research, and service accomplishments meeting criteria established by the University. An appointment with Permanent Tenure creates an expectation of continued employment for an indefinite period of time, unless the Faculty Member is removed from such employment by the University for any of the reasons, and only in accordance with the procedures, established in Sections 8 and 9 of this document. Only those individuals holding the rank of Associate Professor or Professor are eligible for the award of Permanent Tenure.

Comment [JESH2]: Item 2.

Faculty appointments with Permanent Tenure may be contrasted with all other Faculty appointments, which entitle the Faculty Member to employment only for the fixed term of service set forth in the document of appointment.

Although Faculty appointments with Permanent Tenure and fixed-term Faculty appointments differ in duration, both carry important rights as a matter of UNC Charlotte and University of North Carolina policy. These rights include academic freedom and freedom of inquiry, and the right to protection against the unjust or arbitrary application of disciplinary penalties, as described in Section 2.

1.15 Tenure Track

A Faculty Member is “on the Tenure Track” if he or she holds a fixed-term appointment at a Professorial Rank and must be reviewed for the conferral of Permanent Tenure not later than the end of a specified term of service.

1.16 Unfavorable RPT Decision

For purposes of this document, the term “Unfavorable RPT Decision” means a decision not to reappoint, not to promote, or not to confer Permanent Tenure on a Faculty Member.

2 Academic Freedom and Responsibility of Faculty

The University of North Carolina at Charlotte endorses and supports the principles of academic freedom and responsibility of Faculty, as set forth in Sections 601 and 602 of *The Code* of the University of North

Carolina. UNC Charlotte will support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of its Faculty, to the end that they may responsibly pursue the transmission and advancement of knowledge and understanding free from internal or external restraints that would unreasonably restrict academic endeavors. The University will protect Faculty Members in the responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth, and will not penalize or discipline members because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

Faculty Members will 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. They are expected to recognize that accuracy, forthrightness and dignity befit their association with the University, and should not represent themselves, without authorization, as spokespersons for the University of North Carolina or any of its constituent institutions.

3 Faculty Appointments

3.1 General Considerations in Faculty Appointments

Recommendations, determinations, and decisions on initial appointment, reappointment, promotion, or the conferral of Permanent Tenure shall be based upon an assessment of at least the following: (1) the Faculty Member's demonstrated professional competence; (2) potential for future contribution to The University of North Carolina at Charlotte; and (3) institutional needs and resources.

3.2 Professorial Ranks and Their Characteristics

To be qualified for Professorial Rank (Assistant Professor, Associate Professor, and Professor), a person shall hold the appropriate terminal degree or present evidence of comparable professional distinction in his or her field.

Prior professional experience shall be taken into account in determining initial rank and salary.

Appointment in a given department or unit shall not continue beyond seven years of experience in the Professorial Ranks at The University of North Carolina at Charlotte unless a decision to award Permanent Tenure has been made during or before year six. However, in rare cases, an individual who has not been granted Permanent Tenure may subsequently be offered a Special Faculty Appointment in accordance with Section 3.4.

Notice of reappointment or nonreappointment shall be in writing from the Provost and shall be given not later than the end of the penultimate year of the current appointment. If the decision is not to reappoint, failure to provide written notice shall oblige the Chancellor thereafter to offer a terminal appointment of one academic year beyond the termination of the current appointment.

A Faculty Member may be considered for the conferral of Permanent Tenure or promotion with conferral of Permanent Tenure at times earlier than those specified in this Section 3.

3.2.1 Assistant Professor

The initial appointment of a Faculty Member at the rank of Assistant Professor shall be for a term of four years.

Before the end of the third year of the initial appointment as Assistant Professor, the Faculty Member shall be reviewed for reappointment and shall receive written notice of reappointment at the same or higher rank or of nonreappointment.

An Assistant Professor who is reappointed at the same rank shall receive an appointment of three years. During and before the end of the second year of the second appointment as Assistant Professor, he or she shall be reviewed and given written notice of promotion to Associate Professor with conferral of Permanent Tenure or of nonreappointment. Permanent Tenure may not be awarded to a Faculty Member at the rank of Assistant Professor.

3.2.2 Associate Professor

With the written approval of the dean of the College and the concurrence of the Provost obtained in advance of the initiation of formal appointment procedures, an initial appointment to

the rank of Associate Professor with Permanent Tenure may be recommended, to become effective upon the subsequent approval of the appointment through the procedures of Section 4.

When a Faculty Member's initial appointment by the institution is to the rank of Associate Professor without Permanent Tenure, the appointment is to a term of three to five years. During and before the end of the penultimate year of the appointment as Associate Professor, the Faculty Member shall be reviewed for Permanent Tenure and given written notice from the Provost that he or she will be reappointed with Permanent Tenure at the same or higher rank or of nonreappointment.

A Faculty Member promoted to the rank of Associate Professor must also be awarded Permanent Tenure.

An Associate Professor with Permanent Tenure is required to undergo a comprehensive review every five years pursuant to the "Tenured Faculty Performance Review Policy." If a review of a tenured Faculty Member for promotion to full professor is conducted at the time at which a Tenured Faculty Performance Review is mandated, review for promotion fulfills the requirement. An Associate Professor with Permanent Tenure may not elect to postpone periodic reviews as required under the "Tenured Faculty Performance Review Policy."

3.2.3 Professor

The initial appointment of a Faculty Member to the rank of Professor shall be either with Permanent Tenure or for a term of three to five years. If the initial appointment is without Permanent Tenure, the Faculty Member shall be reviewed for reappointment with Permanent Tenure and given written notice from the Provost, during and before the end of the penultimate year of the appointment, of reappointment with Permanent Tenure or of nonreappointment.

A Faculty Member who is promoted to the rank of Professor shall have Permanent Tenure.

All Professors will be subject periodic reviews as required under the "Tenured Faculty Performance Review Policy."

3.3 Annual Performance Review for Tenure Track Faculty

The chair will provide each tenure track Faculty Member in the department's Professorial Ranks a letter each year that provides an evaluation of the Faculty Member's accomplishments during the previous year and that discusses the Faculty Member's progress toward achieving reappointment, promotion, or the conferral of Permanent Tenure, as appropriate. The letter should clearly and specifically address strengths and weaknesses in the performance of the Faculty Member, providing for a clear plan and timetable for improvement of any deficiencies in performance. While ultimate decisions on reappointment, promotion, and the conferral of Permanent Tenure take into account many factors, not all of which are related to the Faculty Member's performance, effective annual evaluations are intended to help to eliminate unexpected results in the comprehensive reviews supporting decisions on reappointment, promotion, and the conferral of Permanent Tenure. Guidelines for the annual performance review are detailed in the *UNC Charlotte Academic Personnel Procedures Handbook*.

3.4 Special Faculty Appointments

If a Faculty appointment is not an appointment to the Professorial Ranks, it is a Special Faculty Appointment. A Special Faculty Appointment shall carry a title appropriate to the responsibilities of the position, such as Visiting Professor, Adjunct Professor, Instructor, Assistant Professor (Library), Assistant Professor (Military), Lecturer, Assistant Research Professor (see [Policy Statement #100, Research Appointments](#)), or Artist-in-Residence. All Special Faculty Appointments are for a specified term of service. The letter of appointment shall specify the length of the term of service. Special Faculty Appointments may be paid or unpaid. Unpaid faculty members may be appointed for a specific term or at will; their pay and appointment status should also be set out in the letter of appointment.

The specification of the length of the appointment shall be deemed to constitute full and timely notice of nonreappointment when that term expires. Except as provided in Section 3.4.2, the University has no obligation to consider future appointments for persons with such Special Faculty Appointments. The "Principles of Employment for Non-Tenure-Track Faculty" shall be considered in the development of policies and procedures related to persons holding Special Faculty Appointments.

Faculty Members in Special Faculty Appointments shall not be eligible for Permanent Tenure and are not entitled to participate in the Process for Review of Unfavorable RPT Decisions described in Section 7 of this document. During the term of their employment, Faculty Members in Special Faculty Appointments are entitled to seek recourse for employment related problems and concerns under the UNC Charlotte "Procedures for Resolving Faculty Grievances Arising from Section 607(3) of *The Code of The University of North Carolina.*"

3.4.1 Instructor

To be qualified for the rank of Instructor, a person shall be a candidate for the appropriate terminal degree or present evidence of comparable professional distinction in his or her field. An Instructor shall be appointed for a term of one year. Ordinarily, service as an Instructor should not exceed one year, and in no case shall an Instructor serve in this rank for more than two years. It is expected that an Instructor will complete the work necessary to be qualified for the rank of Assistant Professor in two years or less. An Instructor who completes the requirements for the rank of Assistant Professor will be eligible to be considered for appointment to an initial four-year term as Assistant Professor at the beginning of the next academic year. Service as an Instructor shall not be included when computing the maximum seven-year period noted in Section 3.2 above.

3.4.2 Library Faculty Members in Certain Special Faculty Appointments

Library Faculty Members covered by the "Procedures for Initial Appointment, Reappointment, and Promotion for Covered Library Faculty at The University of North Carolina at Charlotte" ("Covered Library Faculty") hold Special Faculty Appointments. Covered Library Faculty shall be considered for appointment, reappointment, promotion, and annual review as provided in those Procedures. Covered Library Faculty Members may seek review of a decision not to reappoint or not to promote in accord with Section 7 below.

3.5 Joint Appointments

A Faculty Member, either in a Professorial Rank or in a Special Faculty Appointment, may at one time hold only one full-time appointment at The University of North Carolina at Charlotte. This appointment may be held, by joint appointment, between or among two or more departments, between or among a department and one or more programs or centers, or by holding an appointment to an administrative position concurrently with a Faculty appointment. In all joint appointments, the base unit of appointment shall be an academic unit.

A Faculty Member with Permanent Tenure who accepts an administrative position within The University of North Carolina at Charlotte shall retain Permanent Tenure, and shall be judged for promotion according to the same criteria and on the same schedule as apply to other Permanently Tenured Faculty Members in the Faculty Member's base unit. A Faculty Member without Permanent Tenure who holds an administrative position shall be considered for reappointment, promotion, and conferral of Permanent Tenure according to the same criteria, and on the same schedule, as apply to Faculty Members of the same rank and Tenure status in the Faculty Member's base unit. Procedures for renewal of the joint administrative appointment shall be specified in the original appointment recommendation.

When a joint appointment is to be made as part of an initial appointment to the Faculty, the regular procedures prescribed herein for initial appointment to the rank proposed shall be followed simultaneously by the units involved in making a joint recommendation for appointment. The joint recommendation shall designate one of the units as the unit of base appointment and set forth, at a minimum, the terms and conditions specified in the "Policy Statement on Joint Appointments for Faculty" included in the *UNC Charlotte Academic Personnel Procedures Handbook*. If the joint appointment is approved by the Provost, thereafter the base unit is responsible for processing

personnel actions that affect the joint appointee; but with respect to each such action, the recommendation put forward shall be one jointly concurred in by the units concerned as required by their agreed procedures for joint consultation and decision. An agreement signed by the Faculty Member, the Provost, and the heads of the affected units will describe the process for evaluating the Faculty Member holding such joint appointment. The Faculty Member shall be judged for promotion according to the same criteria and on the same schedule as apply to Faculty Members in the Faculty Member's base unit.

When a joint appointment is made for a person who is already a member of the Faculty, the heads of the affected units shall jointly put forward through the regular channels for review of initial appointments a recommendation that the existing appointment be converted into a joint appointment. The joint recommendation shall include the same elements required with respect to a recommendation for initial joint appointment. Upon approval of such a recommendation, the joint appointee retains the same Faculty rank and Tenure status as previously held, and shall enjoy the rights associated with the Faculty position. Thereafter, all personnel actions affecting his or her Faculty appointment shall be processed as provided in the case of an initial joint appointment.

The provisions of this section do not apply to the creation of adjunct appointments for persons who are currently members of the Faculty of The University of North Carolina at Charlotte.

3.6 Continued Availability of Special Funding

The appointment, reappointment, or promotion of a Faculty Member to a position funded in whole or in substantial part from sources other than continuing State budget funds or permanent trust funds shall specify in writing that the continuance of his or her services, whether for a specified term or for Permanent Tenure, shall be contingent upon the continuing availability of such funds. This contingency shall not be included in a Faculty Member's appointment following promotion if, before the effective date of that promotion, the Faculty Member had Permanent Tenure and no such contingency was attached to the conferral of Permanent Tenure.

If a Faculty Member's appointment is terminated because these funds are not available, The University of North Carolina at Charlotte shall make every reasonable effort to give the same notice as set forth in Section 3.2. Furthermore, the University shall make every reasonable effort to give at least twelve months notice to Faculty Members with Permanent Tenure.

3.7 Leaves of Absence

A Faculty Member may receive full or partial Leave of Absence providing relief from full-time employment responsibilities for a fixed period, upon recommendation of the department chair and dean, and by written agreement signed by the Provost or designee and Faculty Member. The agreement shall specify the effect of the leave on the timetable for consideration of Tenure. (See The University of North Carolina at Charlotte [Policy Statement #46](#), "Leaves of Absence for Members of the Faculty.")

Any provisions for less than full-time employment in an initial appointment to the Faculty must be specified in the initial appointment document signed by the appropriate University official.

3.8 Faculty Resignations and Retirements

A Faculty Member who decides to resign or to retire from The University of North Carolina at Charlotte has the obligation to give timely written notice of the decision, with its effective date, to his or her immediate supervisor.

4 Procedures for Initial Appointment

4.1 Procedures for Initial Appointment

Each College shall establish procedures for the initial appointment of all Faculty Members, including how search committees are formed and how they operate to provide recommendations to the dean concerning the appointment of full-time Faculty. Such procedures shall be consistent with the *UNC Charlotte Academic Personnel Procedures Handbook*, this document, and, for Special Faculty

Appointments, procedures developed by the applicable College that are consistent with the "Principles of Employment for Non-Tenure-Track Faculty."

College procedures shall provide that the department chair shall consider the recommendation of the Department Review Committee (DRC; see Section 5.3 below) before forwarding to the dean any recommendation that will confer Permanent Tenure in an initial appointment. The department chair shall forward to the dean the recommendation and rationale of the DRC along with his or her recommendation and rationale. College procedures may also provide additional requirements for review and consultation in the initial appointment process.

For Assistant Professor and Special Faculty Appointments, the dean of the College, after consulting with the department chair, shall forward his or her decision to appoint along with the necessary documentation to the Provost. The dean shall forward to the Provost a recommendation to appoint any Associate Professor or Professor, or any recommendation for an appointment that will carry Permanent Tenure.

The Provost shall have final authority to make decisions to appoint Associate Professors and Professors without Permanent Tenure. For an appointment that would confer Permanent Tenure, the Provost shall make a recommendation to the Chancellor.

If the Chancellor decides not to recommend an appointment that would confer Permanent Tenure, that decision is final. If the Chancellor concurs with a recommendation from the Provost to make an appointment that would confer Permanent Tenure, the Chancellor shall forward his or her recommendation to the Board of Trustees for final approval.

4.2 Closed Sessions

Any deliberations by a search committee concerning appointment for a particular Faculty Member shall be held in closed session, with only those present whom the committee deems necessary to its deliberations.

4.3 Confidentiality

All documents submitted or created in connection with the process of review for initial appointment and the information contained therein, as well as information derived from any discussions that are part of the formal review, are considered confidential personnel information. All persons participating in the process of review for initial appointment shall treat such information as confidential. Such confidential records and information shall not be disclosed to or discussed with any person except: (1) search committee members (2) those persons required or permitted to be consulted in accord with the requirements of department, College, or University policies; or (3) those persons permitted access to such documents by law. Violation of this section may expose any Faculty Member, including an administrator, to the imposition of serious sanctions pursuant to Section 8 below.

4.4 Terms and Conditions of Appointment

The general terms and conditions and any specific terms and conditions of each initial appointment and of each reappointment to the Faculty shall either be set forth in the document of appointment or reappointment or shall be incorporated therein by clear reference to specified documents that shall be readily available to the Faculty Member. A copy of the terms, signed by the Chancellor or a delegated officer, shall be delivered to and signed by the Faculty Member.

5 Review Committees for Faculty Members in Professorial Ranks

5.1 Closed Sessions

Any deliberations by a department or College review committee concerning reappointment, promotion, or the conferral of Permanent Tenure for a particular Faculty Member shall be held in closed session, with only those present whom the committee deems necessary to its deliberations.

5.2 Confidentiality

All documents submitted or created in connection with the process of review for reappointment, promotion, or the conferral of Permanent Tenure, and the information contained therein, as well as

information derived from any discussions that are part of the formal review, are considered confidential personnel information. All persons participating in the process of review for initial appointment, reappointment, promotion, or the conferral of Permanent Tenure shall treat such information as confidential. Such confidential records and information shall not be disclosed to or discussed with any person except: (1) review committee members; (2) those persons required or permitted to be consulted in accord with the requirements of department, College, or University policies; or (4) those persons permitted access to such documents by law. Violation of this section may expose any Faculty Member, including an administrator, to the imposition of serious sanctions pursuant to Section 8 below.

5.3 Department Review Committee (DRC) on Reappointment, Promotion, and the Conferral of Permanent Tenure

In Colleges with formal departmental structure, each department shall have a Department Review Committee (DRC) that provides the department chair with recommendations on reappointment, promotion, and the conferral of Permanent Tenure. The DRC shall be elected by the department Faculty from the department Faculty who have full-time appointments holding Professorial Rank. Election shall be according to procedures established by the department Faculty. At least three Permanently Tenured Faculty Members shall serve as the voting members of the committee, and the Permanently Tenured members shall have a majority. Permanently Tenured Faculty Members from other departments may be selected, according to a procedure approved by the department Faculty, as voting members only if necessary to constitute the committee. Faculty Members without Permanent Tenure who hold Professorial Rank may serve only as nonvoting participants, as determined by the department. The committee shall elect its chair from its Permanently Tenured members.

No dean, department chair, associate dean, or assistant dean may serve on the DRC.

A department may permit, pursuant to its own policies, Tenure Track Faculty Members who are not members of the DRC to observe the DRC as it conducts its deliberations; provided that the chair of the DRC informs such observers that they are bound by the confidentiality requirements set forth in Section 5.2.

In Colleges without formal departmental structure or in Colleges with Schools, the Faculty will create procedures for review for reappointment, promotion, and the conferral of Permanent Tenure for Tenure Track Faculty that provide the opportunity for two separate and independent reviews within the College. A document that describes these procedures will be reviewed by the College Faculty and approved by the Provost.

5.4 College Review Committee (CRC) on Reappointment, Promotion, and the Conferral of Permanent Tenure

Each College shall have a College Review Committee (CRC) that provides the dean with recommendations on reappointment, promotion, and the conferral of Permanent Tenure. The committee shall be elected by the College Faculty from the Permanently Tenured Faculty of the College who hold full-time appointments. Election shall be according to procedures established by the College Faculty that provides for the election of at least three members. The CRC shall elect its chair from its members.

Colleges shall have procedures ensuring that no Faculty Member participates in the same case as a member of both the DRC and the CRC in reviewing or providing recommendations about reappointment, promotion, or the conferral of Permanent Tenure.

No dean, department chair, associate dean, or assistant dean may serve on the CRC.

It is the responsibility of members of the CRC to act in the interest of the College in general. Members of the CRC do not serve on that body to represent the interests of their home departments in supporting or opposing the case of any Faculty Member under consideration by the CRC.

6 Procedures for Review for Reappointment, Promotion, and the Conferral of Permanent Tenure for Faculty Members in Professorial Ranks

6.1 Notifications

Each positive or negative determination and the rationale for such determination on reappointment, promotion, or conferral of Permanent Tenure made by a chair or a dean shall be provided in writing to the Faculty Member to whom it pertains simultaneously with its transmittal to the next administrative level. Each positive or negative decision of the Provost or the Chancellor and the rationale for any negative decision on reappointment, promotion, or conferral of Permanent Tenure shall be provided in writing to the Faculty Member to whom it pertains simultaneously with its transmittal to the next administrative level. That Faculty Member shall have access to all documents that are part of the decision-making process.

6.2 Permissible and Impermissible Grounds for Decisions

Except as herein provided, determinations and decisions pertaining to reappointment, promotion, and conferral of Permanent Tenure are, without further recourse, the responsibility of the officers of administration authorized to make them, acting in accordance with procedures prescribed herein. In exercise of their judgment, whether in the first instance or in review of recommendations, such officers may take into account and use as the basis of decision, in whole or in part, any factors deemed relevant to total institutional interests, except that in no event shall an Unfavorable RPT Decision be based upon Impermissible Grounds or Material Procedural Irregularities as defined in Section 1 of this document.

6.3 Channels of Review

6.3.1 Faculty Member's Right to Terminate Review

A Faculty Member may terminate a review for reappointment, promotion, or the conferral of Permanent Tenure at any time prior to notification of the Provost's final decision under Section 6.3.4 below by delivering a signed written request for termination of review to the department chair, with copies to the dean and Provost. The department chair, dean, or Provost shall respond in writing to the request. If the request is granted, the termination of the review is irrevocable.

If the review terminated by the Faculty Member included the question of reappointment, employment in the Professorial Rank will not extend beyond the end of the current term of employment.

If the review terminated by the Faculty Member included the question of promotion or of the conferral of Permanent Tenure when such review is not mandated by Section 3.2, then the review shall be terminated. The termination of a review under these circumstances shall have no effect on voluntary or Mandatory Reviews in subsequent academic years.

6.3.2 Departmental Review

In all review cases, the deadline for submission of full dossiers may not be earlier than the first day of the academic year during which the review will take place. Notwithstanding the immediately preceding sentence, departments may set earlier deadlines with regard to the submission of any materials or information needed to obtain external review letters.

The Permanently Tenured Faculty Members in the department, other than those who will participate in the review process at another level, who are at or above the rank for which a candidate is under consideration shall be provided an opportunity to review the candidate's dossier and provide advice to the DRC. Evaluations of the candidate's dossier by the DRC and by the chair are intended to be separate and independent. However, the DRC may invite the department chair into its discussions if the DRC unanimously determines that doing so will assist in its deliberations. The DRC shall submit its recommendation(s) and rationale(s) whether or not to reappoint, to promote, or to confer Permanent Tenure to the department chair after considering the advice provided by such Permanently Tenured Faculty. If the department chair's determination is positive on each action under review, he or she shall, after consulting

with the assembled DRC, submit his or her determination and rationale, together with the recommendation(s) and rationale(s) of the DRC, to the dean of the College.

If, after consulting with the assembled DRC, the department chair determines not to reappoint, promote, or confer Permanent Tenure for a Faculty Member under review, he or she shall meet with the Faculty Member to provide the Faculty Member with a copy of that determination and its rationale, and to explain the Faculty Member's right of rebuttal. Within fourteen days after this meeting, the Faculty Member may submit to the dean and the chair his or her written rebuttal to the chair's determination. Upon receipt of the Faculty Member's rebuttal, or at the end of fourteen days after the chair meets with the Faculty Member if the Faculty Member does not submit a rebuttal, the chair shall submit his or her determinations and rationales, together with the recommendations and rationales of the DRC, to the dean of the College.

6.3.3 College Review

After receipt of the determinations and rationales of the department chair and the recommendations and rationales of the DRC, and the Faculty Member's rebuttal to the chair's determination, if any, the dean shall deliver such documents to the CRC. The CRC shall submit its recommendations and rationales to the dean. If the dean's determination is positive on each action under review for a Faculty Member, he or she shall, after consulting with the assembled CRC, submit his or her determinations and rationales, together with the recommendations and rationales of the CRC and the DRC, the determinations and rationales of the department chair, and the Faculty Member's rebuttal(s), if any, to the Provost.

If, after consulting with the assembled CRC, the dean determines not to reappoint, promote, or confer Permanent Tenure for a Faculty Member under review, he or she shall meet with the Faculty Member to provide the Faculty Member with a copy of that determination and its rationale, and to explain the Faculty Member's right of rebuttal. Within fourteen days after this meeting, the Faculty Member may submit to the Provost and the dean his or her written rebuttal to the dean's determination. Upon receipt of the Faculty Member's rebuttal, or at the end of fourteen days after the dean meets with the Faculty Member if the Faculty Member does not submit a rebuttal, the dean shall submit his or her determinations and rationales, together with the recommendations and rationales of the CRC and the DRC, the determinations and rationales of the department chair, and the Faculty Member's rebuttal(s), if any, to the Provost.

6.3.4 Provost's Review

In each case regarding reappointment, promotion, or the conferral of Permanent Tenure, the Provost shall consider the recommendations and rationales from the DRC and the CRC, determinations and rationales from the chair and the dean, and the Faculty Member's rebuttal(s), if any, before making his or her decision or recommendation.

If the Provost decides not to reappoint, promote, or confer Permanent Tenure on a Faculty Member, he or she shall, by written statement, notify the Faculty Member under consideration of that decision and its rationale. Such notice, when concerning reappointment, or when concerning conferral of Permanent Tenure in connection with a Mandatory Review for reappointment, constitutes full and timely notice of nonreappointment as required in Section 3.2.

If the Provost makes a positive recommendation to confer Permanent Tenure, he or she shall submit such recommendation to the Chancellor together with the recommendations and rationales from the DRC and the CRC, determinations and rationales from the chair and the dean, and the Faculty Member's rebuttal(s), if any.

All decisions of the Provost regarding reappointment and promotion, as well as negative decisions regarding the conferral of Permanent Tenure, are final and cannot be appealed on the merits. A Faculty Member who contends that the decision was based on Impermissible Grounds or Material Procedural Irregularities at any point in the review process may seek a hearing on that contention in accordance with the procedures in Section 7.

6.3.5 Chancellor's Review

The Chancellor shall consider recommendations from the Provost to confer Permanent Tenure. If the Chancellor concurs in a recommendation from the Provost to confer Permanent Tenure, the Chancellor shall forward his or her recommendation to the Board of Trustees for final approval.

The Chancellor's decision not to confer Permanent Tenure is a final decision. If the Chancellor decides not to recommend conferral of Permanent Tenure, he or she shall, by written statement, notify the Faculty Member under consideration of that decision and its rationale. If the Chancellor's decision not to confer Permanent Tenure occurs in connection with a Mandatory Review for reappointment, such notice constitutes full and timely notice of nonreappointment as required in Section 3.2. A Faculty Member who contends that the Chancellor's decision was based on Impermissible Grounds or Material Procedural Irregularities may seek a hearing on that contention in accordance with the procedures in Section 7.

7 Process for Review of Unfavorable RPT Decisions

7.1 Applicability and Purpose

The hearing process provided in this Section 7 is applicable to all Faculty Members in Professorial Ranks and Library Faculty Members holding appointments described in Section 3.4.2.

The purpose of the review process is to determine whether, by a preponderance of the evidence, a Faculty Member has established that an Unfavorable RPT Decision was based on Impermissible Grounds or Material Procedural Irregularities. Once a Faculty Member has initiated the review process pursuant to Section 7.3 below, the Hearing Committee shall make one of the following decisions: (1) that a hearing will not be granted, (2) that the hearing should be concluded after the presentation of the Faculty Member's evidence, because the Faculty Member's evidence was insufficient to require a rebuttal, (3) that, after a full hearing, the Faculty Member has not established by a preponderance of the evidence that the Unfavorable RPT Decision was based on Impermissible Grounds or Material Procedural Irregularities, ((1) through (3) hereinafter collectively "unfavorable Hearing Committee decision"); or (4) that the Unfavorable RPT Decision was based on Impermissible Grounds or Material Procedural Irregularities.

The process for review of decisions to discharge or to impose other serious sanctions is set forth in Section 8 below. The process for review of decisions to terminate is set forth in Section 9 below.

7.2 Hearing Committee

7.2.1 Powers and Duties

The Hearing Committee shall hear cases of decisions not to reappoint, not to promote, not to confer permanent tenure, discharge, the imposition of serious sanctions, or termination in accordance with the procedures described in Sections 7, 8, and 9 herein.

7.2.2 Composition, Terms of Office, and Election

7.2.2.1 Composition and Eligibility

The Hearing Committee shall consist of sixteen members. The Committee members shall be Permanently Tenured Faculty Members who are elected by the Faculty. No department chair or senior administrative officer shall serve on the Committee. The Committee shall elect its chair each year.

7.2.2.2 Terms of Office

Committee members shall serve four-year terms and may serve no more than two consecutive terms. The term of office shall begin and end on the first day of the academic year.

Committee members may be recalled by a two-thirds vote of the Faculty present at a general Faculty meeting.

7.2.2.3 Election

The Faculty shall elect the Hearing Committee members in accordance with the procedures set forth in the Constitution of the Faculty and the Standing Rules of the Faculty Council of The University of North Carolina at Charlotte.

7.2.3 Conflicts of Interest, Bias, Incapacity, or Temporary Vacancy

A Committee member is disqualified and shall not participate as a Committee member in the proceedings described in Sections 7, 8, and 9 herein if he or she: (1) holds an appointment in the department of a person directly involved in a hearing, (2) served on a committee that previously considered the case, (3) will testify as a witness at the hearing, (4) has any other conflict of interest, bias, or is unable for any reason to assess the evidence fairly, impartially, and without prejudice.

If such Committee member does not recuse himself or herself from the proceedings, the Faculty Member or the administrator involved in a hearing may challenge the participation of any member of the Hearing Committee on grounds of bias or a personal relationship that might affect impartial consideration of the case. The Committee, excluding the member challenged, shall consider the charge of bias and, if it determines possible bias, shall disqualify the member challenged. If the disqualified member is the Committee chair, the remaining Committee members shall elect one of the members to fill the vacancy while these conditions exist. The Committee shall also select one of its members to replace the chair if he or she is incapacitated or absent.

If the Committee should have an insufficient number of qualified members to carry out its obligations because of conflicts of interest, bias, incapacity, or temporary vacancy, elections shall be held promptly in accordance with the *Standing Rules of the Faculty Council of The University of North Carolina at Charlotte* to staff the Committee while these conditions exist. If the need arises during the summer terms, the Faculty President in consultation with the Faculty Executive Committee may make temporary appointments to fill vacancies on the Committee. If a permanent vacancy occurs, elections shall also be held promptly in accordance with the *Standing Rules of the Faculty Council of The University of North Carolina at Charlotte* to fill the vacancy for the unexpired term.

7.2.4 Closed Sessions

Any deliberations by the Hearing Committee concerning an Unfavorable RPT Decision shall be held in closed session, with only those present whom the Committee deems necessary to its deliberations.

7.2.5 Confidentiality

Documents submitted or created in connection with all matters that come before the Hearing Committee, and the information contained therein, shall be treated as confidential personnel information. Such confidential records and information derived from any discussions that are part of the formal hearing process shall not be disclosed to or discussed with any person except: (1) those participating in the hearing as provided in these policies; (2) those persons required or permitted to be consulted in accord with the requirements of department, College, or University or Board of Governors policies; or (3) those persons permitted access to such documents by law. Violation of this section may expose a Faculty Member, including an administrator, to the imposition of serious sanctions pursuant to Section 8 below.

7.3 Request for Hearing; Avoiding Improper Communications

A Faculty Member who has received an Unfavorable RPT Decision and who has exhausted the review procedures of Section 6, or who is a Library Faculty Member holding an appointment described in Section 3.4.2 and who has received an unfavorable decision on reappointment or promotion from the University Librarian, and who believes the Unfavorable RPT Decision was based on Impermissible

Grounds or on Material Procedural Irregularities can take that contention to the Hearing Committee. Whether Material Procedural Irregularities occurred shall be determined by reference to those procedures that were in effect when the initial Unfavorable RPT Decision was made and communicated. The Hearing Committee shall ask the Chancellor (Board of Trustees if the Chancellor is an administrator who will be involved in the hearing) to certify what procedures were then in effect if that is a matter of dispute.

The Faculty Member is responsible for activating the hearing process. Within fourteen days after receiving written notice from the Provost (University Librarian if the Faculty Member is a Library Faculty Member holding an appointment described in Section 3.4.2; Chancellor if the Chancellor is an administrator who would be involved in the hearing) of an Unfavorable RPT Decision, the Faculty Member seeking to initiate the process shall file a written statement with the Hearing Committee. The statement shall be addressed to the chair of the Hearing Committee with a copy to the Provost (University Librarian if the Faculty Member is a Library Faculty Member holding an appointment described in Section 3.4.2; Chancellor if the Chancellor is an administrator who would be involved in the hearing). It shall specify the contention(s), identify the administrator(s) and/or other party(ies) whose recommendation, determination, or decision was based on Impermissible Grounds or Material Procedural Irregularities, and outline the facts that the Faculty Member can provide to support the contention(s). The Hearing Committee shall reject any statement that does not include these required specifications.

Once a Faculty Member has initiated the hearing process, no Hearing Committee member may engage in an ex parte communication (written, oral, email, or otherwise) concerning the case with the Faculty Member or with the administrator(s) alleged to be responsible.

If the Faculty Member does not file a written statement meeting the required specifications with the Hearing Committee within fourteen days of an Unfavorable RPT Decision, the Unfavorable RPT Decision is final without recourse to any further review by the Hearing Committee, the University or the Board of Governors.

7.4 Decision to Grant a Hearing

Within fourteen days of receiving the written statement from the Faculty Member, the Hearing Committee shall consider it and decide whether to grant a hearing. The Hearing Committee shall grant a hearing if it determines that the Faculty Member's statement contends that the Unfavorable RPT Decision was based on Impermissible Grounds or Material Procedural Irregularities and the facts outlined, if established, might support the contention.

If the Hearing Committee decides **not** to grant a hearing, it shall immediately provide written notice of that decision and its rationale to the Faculty Member and the Provost (University Librarian if the Faculty Member is a Library Faculty Member holding an appointment described in Section 3.4.2; Chancellor if the Chancellor is an administrator who would be involved in the hearing). Such a ruling confirms the Unfavorable RPT Decision. The Faculty Member may request that the Chancellor (Board of Trustees if the Chancellor is an administrator who would be involved in the hearing) review the Hearing Committee's decision.

If the Hearing Committee decides to grant a hearing, the chair of the Hearing Committee shall select from its members a hearing panel of five who will hear and decide the case on behalf of the Hearing Committee. All of its members shall be free of any bias or conflict of interest (see Section 7.2.3). The panel shall elect its chair. The chair of the hearing panel shall then notify the Faculty Member and the Provost of the intent to conduct a hearing. Such notification shall identify the membership of the panel.

Within seven days after receiving this notification, the Faculty Member or the Provost (Chancellor if the Chancellor is an administrator who would be involved in the hearing) may request that the chair of the hearing panel consider substitution of another member of the Hearing Committee for any member of the panel believed to have a conflict of interest or bias, and the remaining members of the panel shall decide the issue. If the request is for substitution for the chair of the panel, the chair of the Hearing Committee shall review the request for substitution with the parties involved and shall decide the issue. After the final panel is established by the chair of the hearing panel or the chair of the Hearing Committee, the chair of the panel shall consult with the parties to schedule a hearing. The hearing

shall begin from seven to twenty-one days after notification from the chair of the Hearing Committee that it will conduct a hearing.

7.5 Conduct and Rules of the Hearing

The Hearing Committee is authorized to establish rules and procedures for conducting hearings, which shall be available on the Academic Affairs website. Such rules and procedures shall be consistent with this document [and Section 604D of The Code](#), and are subject to approval by the Chancellor or the Chancellor's designee.

Comment [JESH3]: Item 6; Code 604D(3).

7.6 Procedure After Hearing

7.6.1 Hearing Committee Actions After Hearing

If the Hearing Committee makes an unfavorable Hearing Committee decision as set forth in Section 7.1 above, or if the Hearing Committee concludes that the Faculty Member has established that an Unfavorable RPT Decision was based on Impermissible Grounds or Material Procedural Irregularities, it shall provide the Faculty Member and the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) written notice of the decision and the rationale for that decision, with a copy to the Provost (University Librarian if the Faculty Member is a Library Faculty Member holding an appointment described in Section 3.4.2; Chancellor if the Chancellor is an administrator involved in the hearing). An unfavorable Hearing Committee decision confirms the original Unfavorable RPT Decision. The Faculty Member may request that the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) review the Hearing Committee's decision.

7.6.2 Chancellor's Actions After Hearing

Upon receiving a Faculty Member's request for review of an unfavorable Hearing Committee decision, as set forth in Section 7.1 above; or upon receiving the Committee's decision that one or more contentions has been established by a preponderance of evidence, the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) shall thoroughly review the record of evidence from the hearing, if a hearing was held, and the decision and rationale of the Hearing Committee.

If the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) is considering taking an action that is inconsistent with a decision or recommendation of the Hearing Committee, the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) may first consult with the Hearing Committee in person or in writing, to discuss any concerns he or she (it) may have.

The Chancellor (or Board of Trustees if the Chancellor is an administrator involved in the hearing) shall provide written notice of his or her (its) decision. If the hearing process results in a determination that the decision was based on Impermissible Grounds or on Material Procedural Irregularities, and if the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) agrees with this determination, the Chancellor (Board of Trustees if the Chancellor is an administrator involved in the hearing) will decide on appropriate remedial action, typically reconsideration through a review process conducted by an individual or group who did not participate in the original Unfavorable RPT Decision.

7.6.3 Actions Subsequent to Chancellor's Decision

The Chancellor's written notice of decision in the case of a nonpromotion or nonreappointment decision for a Library Faculty Member holding an appointment described in Section 3.4.2, or for a nonpromotion decision **not** involving a question of reappointment for a Faculty Member in the Professorial Ranks, may be appealed to the Board of Trustees under procedures described in Section VIII.I of the UNC Charlotte "[Procedures for Resolving Faculty Grievances Arising from Section 607\(3\) of The Code of The University of North Carolina](#)." If the decision is made by the Board of Trustees, it is a final decision and may not be further appealed.

In a nonreappointment case involving a Faculty Member in the Professorial Ranks, the Chancellor (or Board of Trustees if the Chancellor is an administrator involved in the hearing) shall notify the

Faculty Member, the relevant administrators, and the Hearing Committee of his or her (its) decision in writing, by a method that produces adequate evidence of delivery.

If the Chancellor's decision (or Board of Trustees' decision if the Chancellor is an administrator involved in the hearing) does not modify the decision not to reappoint a Faculty Member in the Professorial Ranks, the notice of decision shall (1) state that the Faculty Member has the right to appeal to the Board of Governors from the Chancellor's decision (or Board of Trustees' decision if the Chancellor is an administrator involved in the hearing') not to reappoint the Faculty Member; (2) state that the Faculty Member's written notice of appeal must contain a brief statement of the basis for the appeal; (3) state that to be effective, such notice of appeal must be filed with the Office of the President, by certified mail, return receipt requested, or some other means that provides proof of delivery, within fourteen days after the Faculty Member's receipt of the Chancellor's decision (or Board of Trustees' decision if the Chancellor is an administrator involved in the hearing); and (4) that the Office of the President will subsequently inform the Faculty Member of the schedule for submission of the relevant documents.

The purpose of the appeal to the Board of Governors is to assure (1) that the University process for reviewing the decision in a nonreappointment case was not materially flawed, so as to raise questions about whether the Faculty Member's contentions were fairly and reliably considered, (2) that the result reached by the Chancellor (or Board of Trustees if the Chancellor is an administrator involved in the hearing) was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy. Faculty Members considering appeal to the Board of Governors from the Chancellor's decision in a nonreappointment case are encouraged to review Board of Governors' Policy 101.3.1, Part III.

8 Due Process Before Discharge or the Imposition of Other Serious Sanctions

8.1 Faculty Rights

A Faculty Member, who is the beneficiary of institutional guarantees of Tenure, shall enjoy protection against unjust and arbitrary application of disciplinary penalties. During the period of such guarantees the Faculty Member may be discharged from employment, suspended or demoted in rank only for reasons of:

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

These serious sanctions may be imposed only in accordance with the procedures prescribed in this Section 8. For purposes of this document, 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 (Sections 5 and 6) or termination of employment (Section 9).

8.2 Notice of Intent to Discharge or Impose Other Serious Sanctions

The Provost shall send the Faculty Member by Formal Notice (see Section 1.6) a written notice of intention to discharge or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of mail or delivery that requires a

signature for delivery. The statement shall include notice of the Faculty Member's right, upon request, to a hearing by the Hearing Committee described in Section 7.1.

8.3 Failure to Respond to Notice of Intent to Discharge or Impose Other Serious Sanctions

If, within fourteen days after receipt of the notice and written specifications referred to in paragraph 8.2 above, the Faculty Member makes no written request for a hearing, he or she may be discharged or sanctioned without recourse to any institutional grievance or appeal procedure.

8.4 Hearing Committee; Commencement of Hearing

If the Faculty Member makes a timely written request for a hearing, the Chancellor shall ensure a process is in place that the hearing is timely accorded before the Hearing Committee. Decisions and recommendations of the Hearing Committee shall be made by the full Committee. However, the Hearing Committee may delegate the duty of conducting a hearing and providing the Chancellor with recommendations on behalf of the Hearing Committee to a panel of at least three members of the Hearing Committee. The panel shall elect its chair. The hearing shall be on the written specification of reasons for the intention to discharge or to impose serious sanctions. The Hearing Committee or its panel shall accord the Faculty Member thirty days from the time it receives his or her written request for a hearing to prepare a defense. The Hearing Committee or its panel may, upon the Faculty Member's written request and for good cause, extend this time by written notice to the Faculty Member. The Hearing Committee will ordinarily endeavor to complete the hearing within ninety days except under unusual circumstances, such as when a hearing request is received during official University breaks and holidays or when, despite reasonable efforts, the Committee cannot be assembled. *(To meet this deadline, Faculty are encouraged to consider scheduling hearings during the evening, weekend or other non-class time. It is strongly recommended that several days and times be established for the hearing when scheduling the first day, for the eventuality that the hearing may take two or more sessions.)*

8.5 Procedures Required for Hearing

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

8.6 Provost's Role

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

8.7 Evidence and Recommendations

In reaching decisions on which its written recommendations to the Chancellor shall be based, the Hearing Committee shall consider only the evidence presented at the hearing and such written and oral arguments as the Committee or its panel may allow. The University has the burden of proof. In evaluating the evidence, the Committee shall use the standard of "clear and convincing" evidence in determining whether the University has met its burden of showing that permissible grounds for serious sanction exist and are the basis of the recommended action. The Hearing Committee shall make its written recommendations to the Chancellor within fourteen days after its hearing concludes or fourteen days after the full transcript is received, whichever is later.

8.8 Procedure After Hearing

If the Chancellor concurs in a recommendation of the Hearing Committee that is favorable to the Faculty Member, the Chancellor's decision shall be final. If the Chancellor either declines to accept a Committee recommendation that is favorable to the Faculty Member or concurs in a Committee recommendation that is unfavorable to the Faculty Member, the Faculty Member may appeal the Chancellor's decision to the Board of Trustees. This appeal shall be transmitted through the

Chancellor and be addressed to the chair of the Board. Notice of appeal shall be filed within fourteen days after the Faculty Member receives the Chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board of Trustees. However, the Board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members. The Board of Trustees, or its committee, shall consider the appeal on the written transcript of hearings held by the Faculty hearing committee, but it may, in its discretion, hear such other evidence as it deems necessary.

The Board of Trustees' decision shall be made as soon as reasonably possible after the Chancellor has received the Faculty Member's request for an appeal to the Board of Trustees. This decision shall be final except that the Faculty Member may, within fourteen days after receiving the Board of Trustees' decision, file a written notice of appeal by certified mail, return receipt requested, or by another means that provides proof of delivery, with the Board of Governors if the Faculty Member alleges that one or more specified provisions of *The Code of The University of North Carolina* have been violated. Any such petition to the Board of Governors shall be transmitted through the President.

8.9 Suspension Pending Final Decision

When a Faculty Member has been notified of the University's intention to discharge or impose other serious sanctions, the Chancellor may reassign the individual to other duties or suspend the individual at any time to conduct an investigation and/or until a final decision concerning discharge or other serious sanctions has been reached by the procedures prescribed herein. Suspension for such purposes as are set out in the preceding sentence shall be exceptional, shall be with full pay, and is not a sanction.

9 Termination of Faculty Employment

9.1 Reasons Justifying Termination and Consultation Required

9.1.1 Reasons for Terminating Employment

The employment of any member of the Faculty (see Section 1.3) may be terminated by The University of North Carolina at Charlotte because of (1) demonstrable, bona fide institutional Financial Exigency (as defined in Section 1.5); or (2) major curtailment or elimination of a teaching, research, or public service program. 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 9.1.2, subject to 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 University's contractual obligation to a Faculty Member cannot be met, the employment of the Faculty Member may be terminated in accordance with the institutional procedures set forth in Section 9.2.

9.1.2 Consultation with Faculty and Administrative Officers

When it appears that The University of North Carolina at Charlotte will experience an institutional Financial Exigency or when it is considering a major curtailment in or elimination of a teaching, research, or public service program, the Chancellor or 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.

9.2 Termination Procedures

9.2.1 Consideration in Determining Whose Employment Is to Be Terminated

When it has been determined that Faculty positions are to be terminated for the reasons set forth in Section 9.1.1, the Chancellor or Chancellor's delegate shall seek the advice and recommendations of the academic administrative officers and representatives of the faculties of the departments or other units that might be affected to determine which Faculty Member's employment is to be terminated.

In determining which Faculty Member's employment is to be terminated for the reasons set forth in Section 9.1.1, consideration shall be given to Tenure status, to years of service to the University, 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 University.

9.2.2 Timely Notice of Termination

When a Faculty Member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public service program and such curtailment or elimination of program is not founded upon Financial Exigency, the Faculty Member shall be given timely notice. A Faculty Member who has Permanent Tenure shall be given not less than twelve months notice. A Faculty Member 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 604A(1)(a)-604A(1)(c) of The Code~~[Section 604A\(1\)\(a\)-604A\(1\)\(c\) of The Code](#).

When a Faculty Member's employment is to be terminated because of Financial Exigency, the University shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give the same notice as set forth in the preceding paragraph.

9.2.3 Type of Notice to Be Given

The Chancellor or Chancellor's delegate shall send the Faculty Member whose employment is to be terminated a written statement of this fact by Formal Notice. This notice shall include: (1) a statement of the conditions requiring termination of employment; (2) a general description of the procedures followed in making the decision; (3) a disclosure of financial or other data upon which the decision was based; (4) a statement of the Faculty Member's right, upon request, to a reconsideration of the decision by the Hearing Committee if he or she alleges that the decision to terminate him or her rather than another Faculty Member was arbitrary or capricious; and (5) a copy of this procedure on termination of employment.

9.2.4 Termination If Reconsideration Is Not Requested

If, within fourteen days after receipt of the notice required by the previous paragraph, the Faculty Member makes no written request by Formal Notice for a reconsideration hearing, employment will be terminated at the date specified in that notice without recourse to any institutional grievance or appeal procedure.

9.2.5 Request for Reconsideration Hearing

Within fourteen days after receiving the notice specified above, the Faculty Member may request by Formal Notice a reconsideration of the decision to terminate employment if he or she alleges that the decision was arbitrary or capricious. The request shall be submitted to the Chancellor and shall specify the grounds upon which it is contended that the decision to terminate his or her employment was arbitrary or capricious and shall include a short, plain statement of facts that the Faculty Member believes support the contention.

Submission of such a request constitutes on the part of the Faculty Member: (1) a representation that he or she can prove the contention, and (2) an agreement that the University may offer in rebuttal of the contention any relevant data within its possession.

9.2.6 Jurisdiction of the Hearing Committee

If the Faculty Member makes a timely written request for a reconsideration of the decision, the Chancellor or Chancellor's delegate shall ensure that a reconsideration hearing is accorded before the Hearing Committee established as provided in Section 7.2, or a panel of that Committee. This reconsideration is limited solely to a determination of the contentions made in the Faculty Member's request for reconsideration. The reconsideration hearing shall be held promptly, but the Committee shall accord the Faculty Member seven days from the time it receives the written request for a hearing to prepare for it.

9.2.7 Conduct and Rules of Hearing; Procedure After Hearing

The Hearing Committee is authorized to establish rules and procedures for conducting reconsideration hearings and for treatment of cases after hearings consistent with this document and approved by the Chancellor. Such procedures shall provide that if the decision of the Chancellor after considering the report and recommendation of the Hearing Committee or its panel is unfavorable to the Faculty Member, the Faculty Member may appeal that decision to the Board of Trustees, which shall make the final decision.

9.3 Assistance for Faculty Members and Rights to New Positions

9.3.1 Assistance After Termination of Employment

The University, when requested in writing by a Faculty Member whose employment has been terminated, shall provide reasonable assistance in finding other employment.

9.3.2 First Right of Refusal of New Positions

For two years after the effective date of termination of a Faculty Member's employment for any of the reasons specified in Section 9.1, The University of North Carolina at Charlotte shall not replace the Faculty Member without first offering the position to the person whose employment was terminated. The offer shall be made by Formal Notice via a method of delivery that requires a signature for delivery, and the faculty member will be given thirty days after attempted delivery of the notice to accept or reject the offer. ~~The offer shall be made by Formal Notice to the address last furnished by the Faculty Member; the Faculty Member will be given thirty days after receipt of the notice to accept or reject the offer.~~

Comment [JESH4]: Item 4, Code 605B(3)

10 Implementation

10.1 Interpretation and Conflict with Other Policies

The Provost and Vice Chancellor for Academic Affairs ("the Provost") makes the authoritative interpretations of the Tenure Policies, Regulations, and Procedures of The University of North Carolina at Charlotte. In interpreting this document, the Provost will consult with the Faculty Executive Committee and University administrators familiar with the documents and the practices at The University of North Carolina at Charlotte. Objections to these interpretations can be appealed to the Chancellor. Such objections will not suspend requirements for Faculty Members or administrators to comply with time limits related to personnel action unless those time limits are extended in writing by the Chancellor.

This document is in conformity with Chapter VI of *The Code* and Policies of the Board of Governors of The University of North Carolina. If any part of this document is found to conflict with Chapter VI of *The Code* or the Policies of the Board of Governors, *The Code* and Policies shall prevail.

10.2 Effective Date

10.2.1 Date

These Tenure Policies, Regulations, and Procedures of The University of North Carolina at Charlotte shall be effective on ~~July xx 1, 2009~~4, as approved by the Board of Trustees of the University of North Carolina at Charlotte.

Comment [JESH5]: Item 5; will require revision after new approval.

10.2.2 Effect on Certain Appointments

A Faculty Member who was appointed to a Professorial Rank before the implementation of these policies and regulations and who does not meet the qualifications described in Section 3.2 shall retain the most recently conferred title for the duration of the current appointment.

10.3 Review of Document

The University of North Carolina at Charlotte Office of General Counsel shall review this document during the spring semester of each even-numbered year and shall recommend for approval by the Board of Trustees amendments necessary to respond to changes in law that affect this document. At intervals of not more than five years, the Chancellor shall review this document and shall report to the

President of the University of North Carolina whether or not amendments or revisions are appropriate.
The Chancellor shall involve the Faculty in this review.