HIGHLIGHTED ITEMS INDICATE EDITORIAL CHANGES

**4.00 Employment Policies, Terms and Procedures**

**4.01 Equality of Opportunity**

A. Western Carolina University emphatically states that it will provide equal employment opportunities for all persons regardless of race, color, national origin, creed, religion, sex, age, veterans’ status, sexual orientation, disabilities, or political affiliation, except where religion, sex, or age are bona fide job related employment requirements. This is in keeping with Title VII of the Civil Rights Act of 1964 as amended, Executive Order 11246, the Rehabilitation Act of 1973, the Civil Rights Restoration Act of 1988, NC G.S. 126-16 and 126-17, and other applicable federal and state laws.

B. Western Carolina University supports all applicable federal laws, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Sections 799A and 845 of the Public Health Service Act, the Equal Pay and Age Discrimination Acts, the Rehabilitation Act of 1973, and Executive Order 11246. For information concerning these provisions, contact the affirmative action officer.

**4.02 Academic Freedom and Responsibility of the University Community.**

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

B. Western Carolina University shall support faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth. It is the policy of Western Carolina University to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of this institution's academic staff. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with this institution and their position as men and women of learning. They should not represent themselves, without authorization, as spokespersons for Western Carolina University.

C. Western Carolina University shall not penalize or discipline members of the University because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

D. Faculty and students of this institution 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.

**4.03 Appointments**

**A. Considerations for Academic Appointments**

1. When recommendations and decisions on appointment, reappointment, promotion, and tenure are made, at least the following considerations must be assessed: The faculty member's demonstrated professional competence and potential for future contribution and the needs and resources of the institution. In making recommendations and decisions, administrators and committees shall use criteria and standards recommended by the faculty and approved by the Chancellor and shall comply with all applicable requirements of the *Code of the University of North Carolina*. General guidelines for colleges and departments to use in preparing criteria will be set forth by the Chancellor upon the recommendation of the University Tenure and Promotion Committee.

2. Candidates for tenure-track positions who hold or are pursuing a terminal degree from Western Carolina University may be considered for employment if they have established themselves at other institutions for a significant period of time, usually five years or more, or possess unusual qualifications of benefit to the University. Prior to pursuing their candidacy, department heads and deans must seek approval from the Provost. Should exceptions be made, contract language at the time of hire should document the exception.

**B. Terms and Conditions of Appointments Including Prior Service Credit**

1. The terms and conditions of each initial appointment and each reappointment to the faculty shall be set out in writing. A copy thereof, signed by the Chancellor or the Chancellor's designee and the faculty member, shall be delivered to the faculty member and a copy shall be retained by the Chancellor. The general terms and conditions of such appointments, including those provided herein, shall either be set out in the document of appointment or incorporated therein by clear reference to specified documents that shall be readily available to the faculty member.

2. Prior to the initial probationary appointment at Western Carolina University and upon the recommendation of the concerned departmental advisory committee and departmental head, credit for prior service may be granted by the Provost to be applied against the faculty member's probationary period. The extent of such credit shall be noted in the faculty member's employment contract. As a general rule, one year of service credit at Western Carolina University may be granted for every two years of full time service at other higher-education institutions.

**C. Types of Faculty Appointments**

Faculty appointments shall be of three kinds: appointments with tenure, probationary appointments, and fixed-term appointments. All recommendations for initial, full-time appointments shall be made by the department head after consultation with the departmental advisory committee.

1. Tenured appointments

1. Definition

An appointment with tenure is a continuing appointment to a professorial rank that is not affected by changes in such rank and continues until ended by resignation, by retirement, or by approved procedures as provided in Sections 4.08 and 4.09 of this document and in Sections 603 and 605 of the *Code of the University of North Carolina*. Only faculty members at the ranks of assistant professor, associate professor, and professor are eligible for tenure. Administrative personnel with professorial rank shall be eligible for tenure in rank as faculty members but not in their administrative positions. Although criteria may vary, an administrative officer shall be recommended for tenure by the same procedure prescribed for other faculty members, i.e., a recommendation must originate within the faculty member's academic department and receive consideration by the appropriate dean and the Provost. Faculty members with tenure who are appointed to administrative positions shall retain tenure in the academic rank.

1. Initial appointments with tenure

Outlined below are the minimum standards that shall apply when an individual is being considered for an initial tenured appointment.

* A file will be prepared by the administrative office to which the candidate would report if employed. The file will contain: (a) a copy of the individual's vita; (b) three letters of recommendation; (c) a letter from the administrator recommending professorial rank and requesting a favorable tenure recommendation. A copy of the file will be provided to the Provost.
* The departmental collegial review committee will review the file and recommend to the dean whether tenure should be recommended. A written report of this recommendation will be transmitted to the Provost through normal administrative channels with intervening administrative levels indicating their concurrence with the recommendations. The administrators recommending action will consult with their respective tenure and promotion advisory committees as necessary.
* In making their recommendation, the various collegial review committees will rely on current university standards and departmental criteria, but will, of necessity, base their judgment on the candidate's record of performance established prior to coming to Western Carolina University.
* Following receipt of this recommendation, the Provost will make a recommendation and transmit all information to the Chancellor for appropriate action.
* The recommendation for professorial rank and tenure can be made simultaneously with the offering of the position and can occur at any time during the year.

The recommendation from the Chancellor to the Board of Trustees can be made at any point in the academic year but normally would be made when all other tenure recommendations are forwarded.

c. Probationary appointments for tenure

A tenure-track appointment is a probationary appointment which has as its major purpose the determination of the suitability of the faculty member for a tenure appointment, consistent with the provisions of Section 602 (4) of the *Code of the University of North Carolina*. Probationary appointments are for a specific term of service and are subject to the reappointment provisions of Section 4.06.

d. Persons in the following categories shall not be eligible for tenure:

* Persons with non-probationary, fixed-term appointments.
* The director of athletics, head football coach, head basketball coach, assistant director of athletics, and other full-time members of the intercollegiate athletics staff, including assistant coaches of football and basketball. These persons may be appointed to a fixed term as instructors upon recommendation by an instructional department head, the dean, and the Provost. Reappointments may be made for an indefinite period.
* Persons subject to the State Personnel Act (SPA Appointments).
* Administrators exempt from the State Personnel Act (EPA Appointments).

2. SPECIAL FACULTY MEMBERS

(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, instructors, artists-in-residence, writers-in-residence or other special categories are regarded as “special faculty members”. 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. However, full-time appointees at the rank of instructor or above (including lecturers and visiting assistant/associate/full professors) shall be given the notice of non-reappointment specified in Section 4.09B1. if the conditions of appointment to the rank of instructor or above include a provision that the appointment is subject to renewal.

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

(4) During the term of their employment, special faculty members are entitled to seek recourse under the Faculty Grievance Procedures.

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

**D. Provision for Less than Full-Time Employment**

Faculty may be employed for less than full-time employment with commensurate compensation. Faculty on full-time employment may apply for relief from all or some employment obligations under the conditions of the Serious Illness and Disability Policy (which includes childbirth) or other compelling reasons.

**E. Externally Funded Positions**

The written statement of a faculty member's appointment, reappointment, or promotion 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 tenure, is contingent upon the continuing availability of such funds. This contingency shall not be included in either of these situations:

1. In a promotion to a higher rank if, before the effective date of that promotion, the faculty member had tenure and no such condition is attached to the tenure, or

2. If the faculty member held tenure in the institution on July 1, 1975, and the faculty member's contract was not then contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

**4.04 Western Carolina University Collegial Review**

**A. Overview**

Western Carolina University faculty members are responsible for evaluating each other’s contributions to the University, region, and profession and making recommendations to the administration on faculty performance decisions. Western Carolina University has four separate but related faculty evaluation processes: annual faculty evaluation (AFE), reappointment (R), tenure and promotion (T/P) and post-tenure review (PTR). This section explains the purpose of each review, defines each of these processes, and explains the roles and responsibilities of all participants.

**B. Types of Review**

1. **Annual faculty evaluation**. The purpose of annual faculty evaluations (AFE) is to provide faculty members with an annual evaluation, which includes written feedback concerning the extent to which they have met the departmental criteria and university standards for teaching, service, and scholarly/creative contributions. AFE is based on an annual record of performance.

2. **Reappointment**. The purpose of collegial review in the reappointment process (R) decisions is to indicate whether or not a faculty member is meeting the departmental criteria and university standards for teaching, service, and scholarly/creative contributions. Reappointment is based, in significant part, on a cumulative record of performance.

3**. Tenure and promotion**. The purpose of collegial review in the tenure/promotion (T/P) process is to determine whether or not an individual faculty member merits tenure or promotion. Each faculty member presents a dossier describing how he/she has met department criteria and university standards for tenure or promotion. Tenure and promotion are based, in significant part, on a cumulative record of performance.

4. **Post-tenure review**. The purpose of post-tenure review (PTR) is to determine the extent to which tenured faculty members have exceeded, met, or not met the department criteria for teaching, service, and scholarly/creative contributions in the five years since the last TPR/PTR action.

**C. University Standards for Collegial Review**

Faculty members at Western Carolina University are expected to be effective teachers, to be practicing scholars in their disciplines, and to provide meaningful service to the University and the community. The particular mix of these expected activities will vary as a function of departmental missions and the role of the faculty member in the department. Tenure-track or tenured faculty members should be active in all three areas. The following minimum university standards provide the groundwork for departments to establish specific criteria for collegial review.

1. Teaching

Faculty members at Western Carolina University are scholarly teachers who provide evidence that their teaching is effective, i.e. their students learn. Effective teaching will be documented through the use of student, peer, and self-evaluations. Students provide reports that teachers are organized, clear, and enthusiastic, provide frequent and fair evaluations, and maintain an appropriate level of communication. Peers provide reports that faculty members design their courses in ways that help students learn, are knowledgeable and reflective about both their subject matter and their teaching, and challenge their students intellectually. Faculty members will also self-report and evaluate their teaching.

2. Scholarship

Consistent with its mission and vision as a regionally engaged institution, Western Carolina University defines scholarship broadly through the Boyer Model which includes four categories of scholarship:

**Scholarship of discovery.**  Scholarship of this type includes original research that advances knowledge and may involve publishing journal articles, authoring/editing books, or presenting at conferences. This type of scholarship also includes creative activities such as artistic products, performances, musical, or literary works.

**Scholarship of integration**. Scholarship of this type involves synthesis of information across disciplines, across topics within a discipline, or across time. Textbooks, bibliographies, and book reviews are examples of this type of scholarship.

**Scholarship of application**. Sometimes called engagement, the scholarship of application goes beyond the provision of service to those within or outside the University. To be considered scholarship, there must be an application of disciplinary expertise with results that can be shared with and/or evaluated by peers such as technical reports, policy statements, guidebooks, economic impact statements, and/or pamphlets.

**Scholarship of teaching and learning**. Scholarship of this type is the systematic study of teaching and learning processes. It differs from scholarly teaching in that it requires a format that will allow public sharing and the opportunity for application and evaluation by others.

Faculty members should demonstrate that they are current and scholarly in their disciplines as reflected in the ways they teach and serve. They are also expected to demonstrate regular activity in one or more of the types of scholarship listed above. The relative emphasis on each type of scholarship will be determined in the context of departmental and university mission and needs. Expectations of scholarly activity should be consistent with peer institutions. Expectations for scholarship will be defined by the departmental faculty in the Collegial Review Document and approved by the department head, dean, and Provost.

Departments should recognize and evaluate a wide variety of scholarly activities consistent with the department’s and the University’s mission. Scholarly activities should not be rigidly categorized. Many activities and products can be classified as more than one type of scholarship.

3. Service

Faculty members are expected to participate in service. Service is expected to increase over a faculty member’s employment. Primarily, service requires general expertise and is done as an act of good citizenship. Service at the department, college/school and university levels, includes serving on committees (e.g., search committees, curriculum committees, and collegial review committees), recruiting students, mentoring new faculty members, and advising administrators.

Service may also require special expertise, unusual time commitments, or exceptional leadership. Examples of such service include exercise of special technological, research or pedagogical skills, involvement with students in extracurricular activities, leadership in university governance, or taking on special administrative assignments (e.g., being department head, directing a graduate program, administering a grant obtained by the University).

Service includes community engagement (e.g., providing disciplinary expertise to a professional, civic, economic, or educational entity at the local, regional, or national level).

Advising students is a significant form of service. Advisers are expected to be informed about curriculum and related processes, to be available to those they advise, and to help students in their academic and career planning.

**D. Procedures Guiding Collegial Review**

Collegial review is the responsibility of the faculty. All procedures for faculty evaluation should reflect the university standards as stated in Section 4.04C.

1. The rule of confidentiality will guide the operations of all collegial review committees.

2. Annually, each faculty member will receive information concerning departmental expectations. Departmental criteria should be specific and flexible – specific enough to provide guidance to new faculty and flexible enough to accommodate multiple types of teaching, service, and scholarship.

3. Collegial review/faculty evaluation (AFE statements, reappointment, tenure and promotion decisions, and post-tenure review feedback) should be based on the degree to which the faculty member meets the established departmental criteria.

4. Each faculty member has the right to receive annual written feedback as part of the AFE and reappointment procedures.

5. Each faculty member has the right to place a written response to the AFE and reappointment feedback in his/her AFE/TPR file.

6. All four faculty evaluation processes (AFE, reappointment, tenure and promotion, and post-tenure review) must include procedures and documentation that are consistent and aligned. One set of supporting documentation is sufficient for candidates up for both promotion and tenure, when they occur in the same academic year.

7. Reappointment, tenure, and promotion will utilize the departmental criteria that are in effect at the time of the review.

8. Should criteria for reappointment, tenure, and promotion be different from when the faculty member was previously reviewed, the individual may request special consideration by the appropriate department and/or college collegial review committee(s). The following procedures will be followed:

a) The appropriate department or college collegial review committee(s) may recommend extension of probationary period and/or reconsider the expectations. The committee should consider such things as the timing of the change in expectations relative to the candidate’s eligibility for review and the level of discrepancy between the expectations and the ones under which the candidate had been working.

b) The collegial review committee(s) shall make a written recommendation to accept or deny the request and specify any conditions.

c) The collegial review committee(s) shall forward the recommendation to the appropriate department head/dean.

d) The appropriate department head/dean must review the recommendation with the candidate.

e) The appropriate department head/dean may accept, modify, or reject any collegial review committee recommendations.

f) Any changes made to the recommendations of the collegial review committee(s) recommendations must first be discussed with the candidate before forwarding them to the Provost for action.

g) The Provost may seek the advice and counsel from the University Collegial Review Committee.

• The Provost will notify the candidate in writing specifying the conditions under which the candidate will be evaluated.

• This notification letter will be placed in the candidate’s personnel file.

• The candidate will be responsible for including this letter in the TPR dossier.

h) The faculty member may appeal any unfavorable action to the next level until it reaches the Provost.

i) The Provost’s decision for a review of an individual’s criteria for tenure and promotion shall be final

9. Department heads and deans should receive training regarding collegial review policies and procedures.

**E. Roles, Responsibilities, and Procedures**

This section outlines the respective responsibilities of all parties within the collegial review process.

1. Departments

* 1. Recommend criteria consistent with the university standards for teaching, scholarship, and service.
  2. Review departmental criteria according to established guidelines.

2. Faculty members

1. Provide evidence in a dossier for reappointment, tenure, and promotion reviews. The dossier should reflect their record of teaching, scholarship, and service activities that meet departmental criteria. The specific contents and format of the dossier are outlined by the Provost annually. See also Section 4.07.B
2. Acknowledge receipt of AFE and reappointment feedback.

3. Department collegial review committees

1. Evaluate dossiers against the departmental criteria.
2. Vote on candidate reappointment, tenure, promotion, and post-tenure review.
3. Provide each candidate with annual written reappointment statements describing, to the extent possible, the committees’ impression of the candidate’s progress toward tenure, promotion, and reappointment.
4. Provide each candidate with a written description of all the reappointment, tenure, promotion, and post-tenure review actions taken by the committee.
5. Work with department heads to develop procedures for making recommendations to the college collegial review committee.

4. College collegial review committees

1. Receive the recommendations from the department collegial review committee and department head. These documents may be combined or separate.
2. Evaluate dossiers against the departmental criteria.
3. Assure that departments appropriately followed the procedures specified in collegial review documents.
4. Develop written procedures to guide the review of candidate folders and voting.
5. Provide each candidate with a written description of all the reappointment, tenure, promotion, and post-tenure review actions taken by the committee.
6. Work with deans to develop a procedure for making recommendations to the University Collegial Review Committee

5. The University Collegial Review Committee

1. Receives the recommendations from the college collegial review committee and dean. These documents may be combined or separate.
2. Evaluates dossiers against the departmental criteria
3. Assures that departments and colleges appropriately followed the procedures specified in collegial review documents.
4. Provide each candidate with a written description of all the reappointment, tenure, promotion, and post-tenure review actions taken by the committee.
5. Make a recommendation to the Provost, concerning the extent to which candidates meet the departmental criteria and university standards that are the basis for tenure and/or promotion.
6. Assure that the departmental collegial review criteria and procedures comply with the university standards, principles, and roles established by the Collegial Review Council of the Faculty Senate.
7. Work with the Provost to establish a cycle for evaluating collegial review criteria and procedures.

6. Department heads

1. Provide faculty members with a copy of the departmental criteria and collegial review procedures.
2. Provide new tenure-track faculty with a copy of the current departmental criteria and procedures no later than when the position is offered.
3. Provide faculty members with annual written feedback (AFE summary statement and reappointment decisions), which describe the degree to which the faculty member met the departmental criteria.
4. Assure that faculty members are sufficiently informed regarding the collegial review process, including the format and required documentation.
5. Make recommendations to the dean for prior service credit to be granted toward tenure and/or promotion during the hiring process of new faculty members within their department.
6. Make recommendations to the dean on tenure, promotion and reappointment matters.

7. College deans

1. Meet with all faculty candidates for promotion and/or tenure to discuss process, criteria and documentation requirements.
2. Meet with department heads and college collegial review committee members to discuss department criteria and university procedures and standards.
3. Approve departmental criteria to assure they comply with university standards.
4. May establish procedures in consultation with the college collegial review committee and department heads for colleges with common disciplinary expectations and/or those containing professional programs guided by accrediting bodies.
5. Consult with the appropriate department heads; make recommendations to the Provost for prior service credit for new faculty members.
6. Make recommendations to the Provost on tenure, promotion and reappointment matters.

8. The Office of the Provost

1. Provides training for deans and department heads to assist them with the responsibilities involved in the collegial review process.
2. Hears appeals from departments concerning the appropriateness of the departmental criteria.
3. Consults with the appropriate department head and deans to grant prior service credit for new faculty.
4. Develops guidelines for the specific contents and format of the dossier annually.
5. Hears the initial appeal from candidates denied tenure or promotion by the Provost.
6. Make recommendations to the Chancellor on tenure and promotion.
7. Make decisions for reappointment.

9. The Chancellor

1. Hears appeals from candidates denied tenure or promotion by the Provost, following the Provost’s negative decisions on reconsideration of appeals.
2. Presents recommendations to the Board of Trustees for tenure and promotion.

10. The Board of Trustees

1. Grants tenure under the delegation of the President and Board of Governors
2. Approves promotions.

**4.05 Annual Faculty Evaluation**

**A. Overview**

The annual faculty evaluation (AFE) is the primary process for evaluating faculty member performance in teaching, service, and scholarship. The AFE process provides:

* Information for merit salary increases;
* Documentation for tenure, promotion, reappointment, and post-tenure review;
* Feedback to faculty members about their ongoing performance and the extent to which they have met applicable AFE documents.

AFE documents are developed by faculty members in accordance with guidelines provided by the Provost. After approval by departmental faculty, AFE documents are forwarded for approval to the dean of the college.. The departmental AFE documents should include multiple means for evaluating teaching, scholarship, and service.

**B. Evaluation of Teaching**

1. The seven dimensions of teaching

Through the Faculty Senate, the faculty at Western Carolina University has agreed upon a working definition of effective teaching that includes the following seven dimensions. For library faculty evaluation of teaching, see Section 4.05B.3 below.

1. Content expertise. Effectiveteachers display knowledge of their subject matters. Content expertise includes the skills, competencies, and knowledge in a specific subject area in which the faculty member has received advanced experience, training, or education.
2. Instructional delivery skills. Effectiveteachers communicate information clearly, create environments conducive to learning, and use an appropriate variety of teaching methods.
3. Instructional design skills.Effectiveteachersdesign course objectives, syllabi, materials, activities, and experiences that are conducive to student learning.
4. Course management skills**.**  Effectiveteachers give timely feedback to students, make efficient use of class time, and handle classroom dynamics, interactions, and problematic situations (e.g., academic dishonesty, tardiness, etc.) appropriately.
5. Evaluation of students. Effectiveteachers design assessment procedures appropriate to course objectives, ensure fairness in student evaluation and grading, and provide constructive feedback on student work.
6. Faculty/student relationships. Effectiveteachers display a positive attitude toward students, show concern for students by being approachable and available, present an appropriate level of intellectual challenge, sufficient support for student learning, and respect diversity.
7. Facilitation of student learning.Effectiveteachers maintain high academic standards, prepare students for professional work and development, facilitate student achievement, and provide audiences for student work.

Departmental AFE plans should include means for evaluating each of these dimensions, preferably in the multiple ways outlined below.

2. Sources of data for evaluating teaching

When evaluating an instructor's teaching for tenure, promotion, and reappointment, all departments must include data from at least the following three sources:

* Student assessment of instruction (SAI)
* Colleagues’ reviews of teaching (e.g. classroom observation and/or reviews of teaching materials)
* Instructor's self-report and evaluation

A. Student assessment of instruction (SAI)

Tenured faculty members are required to report SAIs during at least one semester each academic year. Those standing for promotion or reappointment may be required to provide more frequent evaluations as prescribed by the Provost. SAIs will be conducted using forms and procedures that have been departmentally approved and include one of the university-wide assessment forms approved by the Faculty Senate.

B. Colleagues’ review of teaching

Teaching Materials. Each department should designate a committee of at least two faculty colleagues, exclusive of the department head, to review and evaluate teaching materials prepared by the instructor being evaluated. Materials may include course syllabi, examinations, quizzes, reading lists, assignments, study guides, handouts, slides and media, computer programs, etc. In small departments, reviewers may be selected from outside the department. Each department should develop a protocol to guide the review of materials.

Direct Observation of Classroom Teaching. All tenure-track faculty members must be evaluated by direct observation of classroom teaching as required by the University of North Carolina General Administration (see UNC Policy Manual 400.3.1.1(G). Classroom observation should never be used as the sole measure of teaching effectiveness. Each department should develop protocols to guide classroom observation. Other faculty members may also include direct observations in support of their AFE.

C. Instructor's self-report and evaluation

The instructor's self-report and evaluation should address each of the seven dimensions of teaching (see Section 4.05B.1). The report should include items such as a statement of teaching philosophy, a description of goals, methods, and strategies used, and selected teaching materials for the courses taught during the period of the review.

3. Evaluating library faculty

Library faculty members’ contributions may or may not include formal classroom instruction. The “teaching quality and effectiveness” of the library faculty are identified by the following:

* Managing personnel and other resources effectively and/or ensuring unit goals are in concert with overall library and university goals.
* Acquiring, organizing, and creating means of access to library-related information resources.
* Developing library collections, both in physical and electronic form, to ensure that the collections meet the instructional and research needs of the University.
* Assisting patrons in the use of library services and collections either as individuals or groups.
* Applying and/or developing technology to enhance library services.
* Assessing and evaluating library operations, resources and services, strategic and tactical planning, and developing library promotional materials.

Library faculty members must include data from at least the following three sources:

* Client assessments
* Colleagues’ review of relevant materials
* Faculty member's self-report and evaluation

**C. Evaluation of Scholarship**

Scholarship is an ongoing activity with the goal of being shared with others and/or evaluated by peers. Faculty members should provide a list and description of their scholarship. Departments must develop criteria for evaluation of scholarship. Departmental criteria should be specific and flexible – specific enough to provide guidance to new faculty and flexible enough to accommodate multiple types of scholarship.

**D. Evaluation of Service**

Faculty members should provide a list and description of their service activities. Documentation of service may include letters, newspaper articles, advisee evaluations, evidence of service outcomes, etc. Because service varies widely, departments must develop methods of evaluating service.

**E. Evaluation of Grant Writing Activities**

Grant writing is an activity that requires faculty members to take initiative in matching resources to needs. Departments must develop criteria that evaluate the significance of grant writing activities. Faculty members should provide a list and description of all grants submitted and/or awarded.

**F.**  **Annual Evaluation of Instructors Who Are Non-Tenure Track**

With the exception of professorships whose responsibilities are specified by contract, annual evaluation of instructors who are non-tenure track is built on the following premises:

1. Teaching and learning are the primary focus.

2. All teaching will be formally evaluated based on the Seven Dimensions of Teaching (see Section 4.05B.1).

3. In addition to class meetings, instructors will schedule office hours to meet with their students. This could be in person, via email, phone, or electronically.

4. Departments will establish criteria for formally evaluating instructors, regardless of their title or type of appointment. All departments should include data from at least the following three sources:

* Student assessment of instruction
* Colleagues’ reviews of teaching (e.g. classroom observation and/or reviews of teaching materials)
* Instructor's self-report and assessment

5. All instructors will be told in writing at the time of their appointment how their work will be evaluated.

6. Instructors will receive written feedback on their performance from the department head.

7. In the event that problems are identified, the department head will meet with the instructor to address the problem. **4.06 Reappointment For Tenure Track Faculty**

**A. Overview**

The reappointment process is a review of a tenure–track faculty member’s annual progress toward meeting departmental criteria for tenure and promotion during the probationary period (See Section 4.07A.3). This process is a significant part of the basis of a tenure-track faculty member’s annual contract renewal. Reappointment recommendations are made at the department and/or college level and are forwarded to the Provost. Tenure review occurs no later than the final year of a faculty member’s probationary period. A decision not to reappoint a faculty member may be made for any reason that is not an impermissible reason.

**B. Application and Review Process**

**In the 1st, 3rd, and 5th year of the probationary period the candidate submits a Reappointment Application consisting of the completed AA12 form with the accumulated AFE letters from the department head during each year of the probationary period attached. The department head and dean may determine the candidate needs to submit a cumulative Reappointment Dossier during the 1st, 3rd, and/or 5th year of the probationary period.**

**In the 2nd and 4th year of the probationary period the candidate submits a Reappointment Dossier as determined by the Provost and the Collegial Review Council of the Faculty Senate. The Reappointment Dossier is a cumulative record documenting progress toward tenure.**

1. The Provost, in consultation with the Collegial Review Council, will provide instructions for the preparation of the Reappointment Applications and the Reappointment Dossiers in April for the next TPR cycle.

2. The Reappointment Application is reviewed by the departmental collegial review committee, the department head, the dean and the Provost. The Reappointment Dossier is reviewed by the department collegial review committee, department head, college collegial review committee (if appropriate), dean, and Provost. The department collegial review committee meets to vote on reappointment within the time frame established by the Annual TPR Calendar issued by the Provost, said time frame not to exceed 15 working days following the submission deadline. In accordance with the established procedures of each college, department heads submit recommendations directly to the dean or to the college collegial review committee. The recommendations then go to the Provost for final decisions.

3. The candidate is informed in writing of the recommendation decisions and the vote count at each level of review within 5 working days following the vote at each level.

4. Dossier submission deadlines

At the beginning of each academic year, the Provost distributes a collegial review calendar. Timely notice of a decision not to reappoint depends on candidate’s unbroken length of service at Western Carolina University in the same class of appointment. Therefore, deadlines for submission of a reappointment dossier vary according to the date of initial appointment. Important dates relating to the probationary period for reappointment purposes will be included in the hiring contract.

Deadlines for submission are as follows:

* In the 1st , 3rd and 5th years of the probationary period, the deadline for the submission of the Reappointment Application is the 1st working day of March. (The reappointment process must be completed by the last working day of March in order to comply with timely notice for 1st year candidates).
* In the 2nd year of the probationary period, the deadline for submission of the dossier is the1st working day of October.
* In the 4th year of the probationary period, the deadline for the submission of the dossier is the 10th working day of November.
* If a candidate is required to submit the reappointment dossier for the administrative review during the 1st, 3rd, or 5th year of the probationary period, the deadline for this submission is the 10th working day of January.

Those faculty who change from a fixed-term appointment to a tenure-track appointment, however, should contact the Provost’s office to find out the submission deadline for their reappointment application/dossier.

**C. Other Reappointment Considerations**

1. Decisions are based on the departmental criteria in effect during the year being reported. If departmental criteria have changed from the previous year, faculty members should refer to 4.04D8 for requesting special consideration.

2. Faculty members who choose to appeal negative reappointment decisions must meet the deadlines described in the section on hearings (See section 4.10)

3. A faculty member who asserts that the procedures followed to reach the non-reappointment decision materially deviated from the prescribed procedures such that doubt is cast on the decision not to reappoint may appeal from that decision to the Faculty Hearing Committee.

4. According to the *Code of the University of North Carolina* (604B): “In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran’s status, or other forms of discrimination prohibited under polices adopted by the Board of Trustees, or (c) personal malice.” For purposes of this section, the term “personal malice” means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See UNC Policy 101.3.1 II.B. for details.

\* The term "working days" as used in Section 4.00 means any day (excluding Saturdays and Sundays) on the undergraduate Academic Calendar that classes are scheduled to be in session during the faculty member's contracted employment term, not including summer sessions.

4.07 Academic Tenure and Promotion

**A. Overview of Tenure and Promotion**

**1. Tenure**

Academic tenure refers to the conditions and guarantees that apply to a faculty member's employment. Tenure provides protection against involuntary suspension or discharge from employment or reduction in rank except upon specified grounds and in accordance with the procedures provided in Sections 4.09 and 4.10. Tenure secures the academic freedom of faculty members and enables the institution to attract high quality faculty. The tenure decision shall include, but is not limited to, an assessment

of:

a. The faculty members demonstrated professional competence as evaluated by meeting or exceeding

departmental criteria;

b. The faculty member’s potential for future contributions and;

c. Institutional needs and resources.

**2. Promotion**

The University initially assigns faculty rank in accordance with degree preparation, experience, and performance record. Faculty members achieve a higher rank and earn a higher salary on the basis of a collegial review process that evaluates performance toward meeting departmental criteria.

**3. Probationary period**

a. Tenure-track faculty can be on probation for a maximum period of six years, subject to extensions as provided in Section 4.00.

b. The probationary period provides time for tenure-track faculty to establish a record of academic achievement and to demonstrate potential for future productivity. It also allows the University to adjust faculty resources in accordance with institutional needs.

c. Faculty may negotiate a shorter probationary period at the time of hire. Alternatively, faculty with exemplary performance and the endorsement of their department head and dean may apply for early consideration of tenure. Faculty who fail in their application for early tenure may reapply during the standard probationary period.

d. The review of tenure-track faculty must be conducted on a schedule that permits the timely notice requirements in Section 4.09B to be observed.

e. The probationary period is determined by the following guidelines:

1) The maximum probationary period shall be six years of continuous, full-time service at Western Carolina University. Faculty members whose probationary period has extended into the sixth year must be granted either a promise of tenure or, if tenure is denied, a fixed-term appointment for one academic year.

2) Nine-month tenure-track faculty employed for one academic year, beginning in the fall term, shall be counted as fulfilling one year of probationary period.

3) For nine-month tenure-track faculty who do not begin during the fall term, the probationary period will begin the subsequent academic year.

4) For faculty on twelve-month appointments, each successive year of full-time service beginning not later than September 15 of one calendar year and extending through June of the next calendar year shall be counted as fulfilling one year of the probationary period.

5) Summer school teaching/service, experience as a graduate assistant, graduate fellow, or other part-time employment does not count toward years of experience for purposes of determining the probationary period of a tenure-track faculty member.

6) In the event of serious illness, childbirth or other compelling reasons, the probationary period may be extended by the Provost through a university process established, in consultation with and endorsed by the Faculty Senate, and approved by the Chancellor.

**4. Awarding of tenure**

a. The Board of Governors of the University of North Carolina system has delegated the authority to award tenure to the Western Carolina University Board of Trustees.

b. The Western Carolina University Board of Trustees awards tenure based on the recommendation of the Chancellor or the Chancellor’s designee.

c. Tenure becomes effective upon the approval by the Board of Trustees.

**5. Rank**

a. Western Carolina University recognizes the following faculty ranks: 1) instructor, 2) assistant professor, 3) associate professor, and 4) full professor.

b. An earned master's degree from a regionally accredited institution is a minimal requirement for appointment to the rank of instructor. For appointments at the ranks of assistant, associate, and full professor, an earned doctorate from a regionally accredited institution is normally required. If specified in departmental criteria, the highest degree normally earned in the field (i.e. terminal degree) may be accepted in lieu of a doctoral degree. Exceptions can be granted in the departmental criteria with the Dean and Provost’s approval.

**6. Eligibility for promotion**

a. Candidates must be full-time employees, tenure-track or tenured, and hold an appropriate degree. Promotion is not based on a faculty member’s years of service. Instead, faculty promotions are based on earned degrees and cumulative records of performance that meet or exceed departmental criteria.

b. Required years in rank for promotion.

Tenured or tenured-track faculty must spend a minimum time in rank of five years. Exceptions may be made in cases where faculty have demonstrated extraordinary competence and have made significant contributions to the University.

c. Minimum university standards for assignment of rank are shown below. Definitions and explanations for standards are found in Section 4.04C.

1) Assistant professor

Evidence of achievement and promise for sustained contributions to the institution in teaching, service, and scholarship.

2) Associate professor

Evidence of high levels of achievement and contributions to the institution in teaching, service, and scholarship.

3) Professor

Evidence of superior teaching, service, and scholarship.

d. Experience as a graduate assistant, graduate fellow, summer school faculty, or any other part-time employment are not counted toward years of experience for purposes of determining the appropriate initial rank or promotion in rank.

**B. Application and Review Process for Tenure and Promotion.**

The tenure review process is a review of a tenure–track faculty member’s record in meeting departmental criteria for tenure and promotion during the probationary period.  Tenure is a continuing commitment by the University to the faculty member. Tenure and promotion recommendations are made at the department and/or college level, then to the University Collegial Review Committee before being forwarded to the Provost, Chancellor, and Board of Trustees. Tenure review occurs no later than the final year of a faculty member’s probationary period.

Each faculty member submits a dossier which is a cumulative record documenting progress toward tenure and/or promotion. Dossiers for tenure, promotion, and reappointment have a similar format but the review procedures are different.

1. The Provost, in consultation with the Collegial Review Council, will provide instructions for the preparation of dossiers in April for the next TPR cycle.

2. Faculty members prepare and submit tenure and promotion dossiers to department heads for review by department collegial review committees. These committees must meet and vote according to the deadlines in Section 4.07.C.3. Department heads’ recommendations and department collegial review committee votes are forwarded to the college collegial review committees and appropriate deans. These committees must meet and vote according to the deadlines in Section 4.07.C.3. Collegial review committees’ and deans’ recommendations are forwarded to the University Collegial Review Committee. This committee’s votes are forwarded to the Provost whose recommendations are submitted to the Chancellor and the Board of Trustees for final decision.

3. At each level of review candidates are informed in writing within 5 working days of recommendations and vote counts.

4. Dossier submission deadlines

At the beginning of each academic year, the Provost distributes a collegial review calendar. Timely notice of a decision not to reappoint depends on candidate’s unbroken length of service at Western Carolina University in the same class of appointment. (See Section 4.07A.3 for more on probationary periods.) Therefore, deadlines for submission of a tenure and promotion dossiers vary according to the date of initial appointment. Important dates relating to the probationary period for tenure purposes will be included in the hiring contract.

The deadline for the submission of tenure and/or promotion dossier is the 20th working day of September.

\* The term "working days" as used in these policies means any day (excluding Saturdays and Sundays) on the undergraduate Academic Calendar that classes are scheduled to be in session during the faculty member's contracted employment term, not including summer sessions.

**C. Other Tenure and Promotion Considerations**

1. If faculty apply for promotion or tenure prior to their last year of probation and receive a negative review at any level, the dossier will not be forwarded to the next level, except when a faculty member requests that it continue through the process. Such requests shall be made in writing to the committee chair or administrator at the negative review level and must be submitted no later than 5 working days after receipt of notification.

2. Faculty will be notified of their eligibility to apply for promotion and/or tenure on or before May 1st of the academic year prior to the year of eligibility.

3. Review deadlines

The Provost publishes a review schedule for promotion and tenure by the end of spring semester for the next academic year. Once the process begins, a date specified by the Provost’s Office, all levels of review must complete their work no later than the times indicated in the decision deadlines column as shown in the matrix below. Candidates must receive notification of the reviewer’s decision according to the time limits shown in the letter of notice deadlines column. All deadlines for letters of notice are counted from the end of the decision deadline.

|  |  |  |
| --- | --- | --- |
| **Decision Deadlines** | **Reviewer** | **Letter of Notice Deadlines** |
| 10 working days | Departmental Committee | 5 working days |
| 8 working days | Department Head | 5 working days |
| 10 working days | College Committee | 5 working days |
| 7 working days | Dean | 5 working days |
| **University Committee Review Begins 5 working days after Dean’s Decision Deadline** | | |
| 26 working days excluding finals week | University Committee | 5 working days |
| 8 working days | Provost | 10 working days |
| March BOT Meeting | Chancellor |  |

**D. Procedures Guiding Review Committees**

1. Departmental collegial review committee

a. Each department shall have a tenure and promotion advisory committee that shall be chaired by the department head (non-voting) and composed of up to six tenured faculty members elected by the department's full-time faculty. In departments with six or fewer tenured faculty members, the committee shall be composed of the department head and tenured faculty, provided the resultant committee shall consist of at least three tenured faculty members, exclusive of the head.

b. In departments with fewer than three tenured faculty, the Department Head in consultation with the department and dean), selects tenured faculty from similar departments to constitute a committee of at least three tenured faculty. If the department head is up for review then the departmental collegial review committee consults with the dean to finalize the committee.

c. Committee members may not be present when their own dossiers are being considered.

d. When the department head is the person being considered by the committee, the department head shall be excused, and the committee shall elect a pro tem chair (voting) from its membership. The pro tem chair shall submit the committee's recommendations directly to the appropriate dean.

e. The university library faculty shall function as a department, and the University Librarian shall serve as nonvoting chair of the Library Tenure and Promotion Committee.

2. College collegial review committees\*

a. Each college shall have a tenure and promotion advisory committee chaired by the dean (non-voting) and composed of not less than six nor more than 12 tenured faculty members to serve staggered three year terms. Each college shall determine the total number of faculty members to be included on the committee.

b. Half of the committee is elected by the college faculty and half is appointed by the dean.

c. In colleges with six or more departments, no more than one faculty member may be elected from a single department and no more than one member may be appointed from a single department. In colleges with fewer than six departments each department must be represented by at least one elected member.

d. When making appointments to this committee, the dean shall try to balance seniority, professorial rank, departmental representation, and continuity of membership. Deans may reappoint faculty members to consecutive terms in order to secure a degree of continuity in the committee membership.

e. Deans of other colleges and senior administrative officers are not eligible for appointment to a college committee.

\* Schools headed by a dean who reports to the Provost function as colleges as described in these procedures.

3. University Collegial Review Committee

a. The University Collegial Review Committee shall consist of the Provost as nonvoting chair; the Dean of the Graduate School, one tenured faculty member elected from each college by the faculty of the college, one tenured faculty member elected by the faculty of the university library, and tenured faculty members appointed by the Provost equal to the number of elected faculty members on the committee.

b. The elected members of the committee shall serve three-year terms, staggered so that one-third of the elected members are elected each year. Elected members may not serve consecutive terms. Appointed members shall serve one year terms without limitation on the number of consecutive terms.

c. When making appointments to this committee, the Provost shall try to balance seniority, professorial rank, college representation, and continuity of membership. The Provost may reappoint faculty members to consecutive terms in order to secure a degree of continuity in the committee membership.

4.08 Post-Tenure Review

**A. Introduction**

Post-tenure review (PTR) is a comprehensive, formal, periodic evaluation of all tenured faculty. The purpose of this review is to support continuing faculty development, to promote faculty vitality, and to encourage excellence among tenured faculty. This is achieved by recognizing and rewarding faculty performance, offering suggestions to enhance performance, providing a clear plan and timetable for improvement of faculty members whose performance is found less than satisfactory;,and providing for the imposition of appropriate sanctions for those whose performance remains deficient. Post-tenure review shall be consistent with the University of North Carolina Board of Governors' policy of giving teaching primary consideration.

**B. Faculty to Be Reviewed**

PTR is required of all tenured faculty whose primary responsibilities (50% or more) involve teaching, scholarship, and/or service. If faculty responsibilities are primarily only to one or two of these areas, post-tenure review and resulting recommendations should take this allocation of responsibilities into account.

**C. Timetable**

A tenured faculty member may elect to undergo PTR during any academic year. Faculty for whom PTR is required must undergo a review no later than the fifth academic year following the most recent of any of the following review events: award of tenure or promotion at Western Carolina University, prior post-tenure review, or return to faculty status following administrative service. Exceptions shall be made in the following cases: 1) when on leave from duties, that period shall not be included as part of the five years between mandatory review events and/or 2) when temporarily assigned to duties away from Cullowhee/Asheville during the period of a required review, PTR occurs upon return. In the event of serious illness, childbirth or other compelling reasons, the PTR timetable may be extended by the Provost through a university process established, in consultation with and endorsed by the Faculty Senate, and approved by the Chancellor.

**D. Materials to Be Submitted for Review**

A faculty member being reviewed will provide the four most recent annual faculty evaluations and a current curriculum vitae (CV).

**E. Procedures**

Performance to be reviewed is limited to the five years preceding review or to the period subsequent to the prior review event, whichever is less.

The tenured faculty of each department shall establish a procedure for post-tenure review. These procedures must be approved by the dean of the college and the Provost. Each department establishes a PTR committee (approved by the departmental faculty) with at least three tenured departmental colleagues, excluding the department head. Whenever a department finds it impossible to form a committee containing at least three tenured faculty, the matter will be referred to the Provost. The Provost, with the approval of the tenured faculty of the department and the dean of the college, will, by selecting tenured faculty from similar departments, constitute a committee of three tenured faculty for the department. Faculty members being reviewed are not permitted to select a member of the committee. However, this does not preclude such faculty members from voting on committee membership along with their colleagues.

Peer reviewers shall present their written evaluations to the department head. The department head shall provide a copy of this evaluation to the faculty member and shall meet with the faculty member to discuss the review. The department head shall then append his/her evaluation relative to the mission of the University, college/school/library, and program. The faculty member then has the option of attaching a written response. In the library the role of the department head will be performed by the University Librarian. When a department head is reviewed, the dean shall perform the roles ordinarily performed by the department head.

**F. Criteria**

Criteria for acceptable faculty performance include professional competence, conscientious execution of duties–taking into account distribution of workload as developed by the department head–and efforts to improve performance. Exemplary faculty performance, as determined by the department, involves sustained excellence in teaching, scholarship, and service.

**G. Outcomes**

Post-tenure review outcomes, including a faculty member’s response to a negative review, in an academic unit must be reviewed by the Dean. The Dean’s decision, along with the Department’s review will be sent to the Provost for information.

In the case of a satisfactory review, results are documented for university award and merit pay decisions. In addition, suggestions to enhance performance may be provided.

In the case of an unsatisfactory review, the department head, in consultation with the faculty member, PTR committee, and dean of the faculty member's college, will create a three-year development plan within one month of the review. The plan shall include (1) a statement of the faculty member’s primary responsibilities and specific descriptions of shortcomings as they relate to the faculty member’s assigned duties; (2) specific improvements to be accomplished within three years, (3) resources to be committed to the improvement efforts, and (4) other support provided by the administration. If duties are modified as a result of a less than satisfactory rating, then the development plan should so indicate and take into account the new allocation of responsibilities. The department head and PTR committee will monitor the faculty member's progress relative to the development plan and provide verbal and written feedback to the faculty member semi-annually. The development plan and the written feedback are to be copied to the Dean and the Provost. In the event of serious illness, childbirth or other compelling reasons, the PTR development period may be extended by the Provost through a university process established, in consultation with and endorsed by the Faculty Senate, and approved by the Chancellor.

The plan shall also include a clear statement of consequences should adequate progress not occur by the end of the third year. The consequences may range from suspension of pay raises to, in the most extreme cases, reduction in rank, temporary suspension of employment, or termination of employment.

**H. Appeals**

The Faculty Post-Tenure Review Appeals Committee shall consider problems and appeals that arise from PTR.

**I. Due Process**

"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 incompetence, neglect of duty or misconduct of such a nature as to indicate that an individual is unfit to continue as a member of the faculty" (*Code of the University of North Carolina*, Chapter VI, Section 603). Disciplinary actions for noncompliance with the development plan are limited to those established in Chapter VI of the *Code of the University of North Carolina*. Due process and the right of appeal as specified in the *Code of the University of North Carolina* and the "Tenure Policies and Regulations of Western Carolina University" in the Faculty Handbook shall be guaranteed.

4.09 Termination of Employment

**A. Types of Termination of Employment to the University**

1. Faculty members with permanent tenure or appointed to a fixed term can be terminated from employment because of:

* Resignation or retirement
* Discharge or the imposition of serious sanctions
* Financial exigency
* Major curtailment or elimination of a teaching, research, or public-service program

2. Non-reappointment

Non-reappointment decisions can apply to full-time, non-tenured, non-probationary faculty members whose appointment contract includes a provision that the appointment is subject to renewal. Decisions for non-reappointments for probationary or continuing faculty are based upon the procedures outlined in Sections 4.05 and 4.06.

**B. Timely Notice**

1. The minimum requirement for timely notice of non-reappointment shall be as follows:

|  |  |
| --- | --- |
| **Timely notice before faculty member’s employment contract expires** | |
| **Amount of Service** | **Notice given not less than** |
| First year or less | 90 calendar days |
| During second year of continuous service | 180 calendar days |
| More than two years of continuous service | 12 calendar months |

2. Credit for prior service shall not be counted as continuous service at Western Carolina University for purposes of timely notice.

3. Reappointment decisions will be in writing. If the decision is not to reappoint, then failure to give timely notice of non-reappointment will oblige the Chancellor thereafter to offer a terminal appointment of one academic year.

**C. Faculty Resignation and Retirement**

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

2. A faculty member resigning or retiring from the University should deliver written notice, containing an effective date, to the faculty member’s immediate supervisor. The University requests that it receive such written notice no later than 90 calendar days before a resignation becomes effective.

3. In order to receive retirement benefits or other benefits available at separation, if any, a faculty member must retire or otherwise separate from the University in accordance with legal requirements through the University’s Office of Human Resources.

4. The faculty member who has been approached with regard to another position should inform the department head and dean when such negotiations are in progress. When the faculty member enters into a binding agreement, he/she should promptly notify the department head and the dean of the college. Western Carolina University expects 90 calendar days notice before a resignation becomes effective.

**D. Discharge or the Imposition of Serious Sanctions**

1. A faculty member, who is the beneficiary of institutional guarantees of tenure, shall enjoy protection against unjust and arbitrary applications of disciplinary penalties. During the period of such guarantees, the faculty member may be discharged from employment, suspended, or demoted in rank only for reasons of

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

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

(c) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, including violations of professional ethics, mistreatment of students or other employees, research misconduct, financial fraud, criminal, or other illegal, inappropriate or unethical conduct. To justify serious disciplinary action, such misconduct should be either (i) sufficiently related to a faculty member’s academic responsibilities as to disqualify the individual from effective performance of university duties, or (ii) sufficiently serious as to adversely reflect on the individual’s honesty, trustworthiness or fitness to be a faculty member.

These sanctions may be imposed only in accordance with the procedures prescribed in this section.

2. For purposes of these regulations, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. Different procedures shall apply to non-reappointment or termination of employment.

3. The Provost shall send the faculty member a written notice of intention to discharge the faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of mail or delivery that requires signature for delivery. The statement shall include notice of the faculty member's right, upon request, to a hearing by the Faculty Hearing Committee.

4. If, within 14 calendar days[[1]](#footnote-1) after the faculty member receives the notice and written specifications referred to in paragraph 3 above, the faculty member makes no written request for a hearing, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure. Such a discharge or serious sanction shall be imposed by the Provost via letter sent to the faculty member by a method of mail or delivery that requires a signature for delivery. The discharge or serious sanction is imposed upon posting of the letter on the effective date identified in the letter.

5.

6. If the faculty member makes a timely written request for a hearing, the chancellor shall ensure a process is in place so that the hearing is timely accorded before the Faculty Hearings Committee. The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction. The hearing committee shall accord the faculty member 30 calendar days from the time it receives the faculty member’s written request for a hearing to prepare a defense. The Faculty Hearing Committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member. The Faculty Hearing Committee will ordinarily endeavor to complete the hearing within 90 calendar days except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled.[[2]](#footnote-2) The procedures for the hearing are set forth in Section 4.10B.3.

7. When a faculty member has been notified of the institution's intention to discharge the faculty member, the Chancellor may reassign the individual to other duties or suspend the faculty member at any time until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension shall be exceptional and shall be with full pay.

**E. Termination of a Position for Financial Exigency or Major Curtailment or Elimination of a 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) of the *Code of the University of North Carolina*, 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

1. Reasons for terminating employment

The employment of a faculty member with tenure or of a faculty member appointed to a fixed or probationary term may be terminated by Western Carolina University because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public service program.

2. Consultation with faculty and administrative officers

When it appears that the institution will experience an institutional financial exigency or when a major curtailment in or elimination of a teaching, research, or public service program is being considered, the Chancellor or the 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. The Chancellor shall assure that full discussion at all appropriate academic levels will precede a decision to eliminate positions as a result of either financial exigency or major curtailment or elimination of a teaching, research, or public service program. The Chancellor shall seek alternatives to the elimination of positions. After discussions with the affected department, the Chancellor shall consult the Chancellor's Advisory Committee before formulating the final decision.

3. Termination procedures

a. Considerations in determining whose employment is to be terminated

In determining which faculty member's employment is to be terminated for the reasons set forth above, consideration shall be given 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.

b. Termination

1) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. The 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.

2) 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 a program is not founded upon financial exigency, the faculty member shall be given timely notice as required by the *Code of the University of North Carolina (Section 605B)*.

3) When a faculty member's employment is to be terminated because of financial exigency, the institution shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources to give the same notice as set forth in Section 4.09B

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

c. Termination if reconsideration not requested

If, within 10 days after the faculty member receives the notice, the faculty member makes no written request for a reconsideration hearing, the faculty member's employment shall be terminated at the date specified in the notice given pursuant to Section 4.09E3b and without recourse to any institutional grievance or appellate procedure.

d. Request for a reconsideration hearing

Within 14 calendar days after receiving the notice of termination from the Chancellor, the faculty member may request by registered mail, return receipt requested, a reconsideration of the decision to terminate the faculty member's employment if he/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 employment was arbitrary or capricious, and shall include a short, plain statement of facts that the faculty member believes support the contention.

Submission of such a request shall constitute on the part of the faculty member: (1) a representation that the faculty member can support his/her contention by factual proof and (2) an agreement that the institution may offer in rebuttal of the faculty member's contention any relevant data within its possession.

e. Jurisdiction of the Faculty Hearing Committee

If the faculty member makes a timely written request for a reconsideration of the decision, the Chancellor or the Chancellor's delegate shall insure that the hearing is accorded before the Faculty Hearing Committee. The procedures for the reconsideration hearing are set forth in Section 4.10A below.

**F. Grounds for Non-Reappointment**

1. The decision not to reappoint a faculty member when a probationary term of appointment expires may be based on any factor considered relevant to the total institutional interests, but it must consider the faculty member's demonstrated professional competence, the potential for future contributions, and institutional needs and resources.

2. These considerations may form, in whole or in part, the basis of the ultimate decision, except that a decision not to reappoint may not be based upon (1) the faculty member's exercise of rights guaranteed by either the First Amendment to the United States Constitution or Article I of the North Carolina Constitution, (2) discrimination based upon the faculty member's race, color, sex, religion, creed, national origin, age, sexual orientation, disability, veterans’ status, 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. See UNC Policy 101.3.1 II.B. for details.

3. A faculty member has14 calendar days from receipt of the non-reappointment decision from the Chancellor within which to request the Faculty Hearing Committee to review the matter. The review request must be written, addressed to the chair of the Faculty Hearing Committee, and otherwise conform to the requirements of Section 4.10A. If a faculty member makes no request to the committee in the time allowed, further recourse to institutional grievance and hearing procedures is waived.

4.10 Hearings and Reviews Committees and Processes

Faculty members may seek review of negative decisions or address grievances in accordance with the policies described in the Faculty Handbook and the relevant sections of the *Code of the University of North Carolina*.

There are three main committees that deal with these types of issues: the Faculty Hearings Committee, the Faculty Post-Tenure Review Appeals Committee, and the Faculty Grievance Committee.

Here are set forth the administrative and committee reconsideration process for the appeal of negative decisions on reappointment, promotion, tenure, and post-tenure review. A reconsideration procedure 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 based on non-permissible reason as specified in Section 4.09F.2, a flawed process, or material procedural irregularity.

These review processes include the following:

* Review of non-reappointment decisions and decisions not to recommend for tenure when non-reappointment is involved
* Review for promotion and tenure decisions not involving reappointment (early tenure)
* Review of discharge or the imposition of serious sanction (for those with tenure)
* Reconsideration hearing for termination of a position for financial exigency or major curtailment/elimination of a program

**A. Administrative Reconsideration**

1. The administrative reconsideration process for review of the negative decisions/recommendations of the Provost on reappointment, promotion or tenure would include the following:

a. A faculty member who wants the Provost’s decision/recommendation to be reconsidered must file a written request for reconsideration with the Provost no later than 14 calendar days after receiving written notice of the negative recommendation. Failure to file the written request in a timely manner waives further recourse to institutional review, grievance, and hearing procedures. The written request for reconsideration shall consist of a short statement setting out the faculty member's specific reasons for believing that the negative decision/recommendation was inappropriate.

b. Review shall be limited to a reconsideration of the material and matters presented and considered during the original review in accordance with published criteria.

c. The reconsideration process is as follows:

1) Within five working days of receipt of the request for reconsideration, the Provost shall meet with the faculty member to discuss the request.

2) After meeting with the faculty member, the Provost shall seek additional advice and information. Among the options are the following:

a) Instruct the department head and/or dean to meet with the faculty member and to then reconsider the matter, after receiving advice from advisory committees and considering the statements of the faculty member

b) Consult with the university-level advisory committee

c) If a department, college, or university tenure, promotion, reappointment committee meets to reconsider the matter, the faculty member shall have the right to present in person the basis of the request for reconsideration.

d) Within 20 working days of the Provost’s receipt of the request for reconsideration, the Provost shall notify the faculty member and the Chancellor in writing of the results of the reconsideration process.

d. The Chancellor will inform the faculty member of his/her decision. A faculty member may request review of the Chancellor's negative decision on promotion, or tenure provided that 1) the negative decision was preceded by a positive recommendation from the Provost or 2) the faculty member had requested, in a timely fashion, reconsideration of the Provost’s negative recommendation.

**B. Faculty Hearings Committee**

This committee deals with the due process provisions of Chapter VI of the *Code of the University of North Carolina*. Election of the members of the Faculty Hearings Committee is set forth in the Bylaws of the Faculty in Article V.

1. Procedures for further review of non-reappointment decisions and decisions not to recommend for tenure when non-reappointment is involved.

a. Request for review by the Faculty Hearing Committee and initial consideration of the request.

1) A faculty member may request review by the Faculty Hearing Committee of the Chancellor’s negative decision if, and only, if (1) the negative decision was preceded by a positive recommendation from the Provost or (2) the faculty member had requested, in a timely fashion, reconsideration of the Provost’s negative recommendation.

2) A faculty member has 14 calendar days from receipt of the negative decision to request the Faculty Hearing Committee to review the matter. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by campus tenure policies, the non-reappointment is final without recourse to any further review by faculty committees, the institution, or Board of Governors.

3) The request to review the non-reappointment decision shall specify the grounds for which the faculty member contends that the decision is impermissibly based, with a short, plain statement of facts that the faculty member believes supports the contention. The request must be written and addressed to the chair of the Faculty Hearing Committee.

4) The purpose of the review is to determine (1) whether the decision was based on considerations that The Code provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint. Whether a material procedural irregularity occurred shall be determined by reference to those procedures that were in effect when the initial decision not to reappoint or not to confer tenure was made.

5) A request to review a non-reappointment decision constitutes on the faculty member's part (1) a representation that the faculty member can support the faculty member's contention by factual proof and (2) an agreement that the institution may offer in rebuttal of the faculty member's contention any relevant information within its possession.

6) The Faculty Hearing Committee shall consider the request and grant a hearing if it determines that (a) the request contains a contention that the decision was either impermissibly based under Section 4.09F.2 or attended by a material procedural irregularity and (b) the facts suggested, if established, will support the contention. A denial of the request finally confirms the decision. If the request is granted, a hearing shall be held within 10 working days after the request is received; the faculty member shall be given at least five working days' notice of the hearing.

b. Conduct of the hearing

The hearing shall be conducted informally and in private with only the members of the Faculty Hearing Committee, the faculty member, an academic administrator selected by the Chancellor, and such witnesses as may be called in attendance, except that the faculty member and the academic administrator may each be accompanied by a person of their choosing. Such person may not be an attorney. Committee members who hold appointments in the faculty member's department, or who will testify as witnesses, or who have any other conflict of interest are disqualified from participating in that hearing. A verbatim record of the proceedings shall be made and, upon request, provided to the faculty member. The committee may consider only such evidence as is presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by the committee members, the faculty member, the academic administrator, and the representatives of the faculty member and department head. Except as herein provided, the conduct of the hearing is under the committee chair's control that is charged with providing a full and fair hearing.

c. Hearing procedure

The hearing shall begin with the faculty member's presentation of contentions, which shall be limited to those grounds specified in the request for a hearing and supported by such proof as the faculty member desires to offer. When the faculty member has concluded the presentation, the committee shall recess to consider whether the faculty member has established a *prima facie* case. If the committee determines that the contention has not been so established, it shall so notify the parties to the hearing and thereupon terminate the proceedings. Such termination confirms the decision not to reappoint. If the committee determines that rebuttal or explanation is desirable, it shall so notify the parties and the hearing shall proceed. The academic administrator may then present in rebuttal of the faculty member's contentions, or in general support of the decision not to renew, such testimonial or documentary proof as the department head desires to offer, including his/her own testimony.

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

d. Procedure after the hearing

If the Faculty Hearing Committee determines that the faculty member's contention has not been established, it shall, by only a simple unelaborated written statement, so notify the faculty member, the department head, the dean, the Provost, and the Chancellor. Such a determination confirms the decision not to reappoint. If the committee determines that the faculty member's contention has been satisfactorily established, it shall so notify the faculty member, the department head, the dean, the Provost, and the Chancellor by a written notice that shall include a recommendation for corrective action by the Chancellor and a finding of facts that supports the recommendation. In either event, the Faculty Hearing Committee shall provide to the Chancellor a complete record of the hearing, including copies of all exhibits and documents introduced into evidence and an audio recording or transcription of the hearing.

While the conclusions and recommendations of the Faculty Hearing Committee are entitled to deference, the Chancellor is responsible for determining whether the evidence in the record supports the disposition. The Chancellor must base his or her decision on a thorough review of (i) the record evidence from the hearing and (ii) the written statement of the Faculty Hearing Committee.

Within 30 working days after receiving the recommendation of the committee, the Chancellor shall notify the faculty member, the department head and dean, and the Provost, and the Chair of the Faculty Hearing Committee of the Chancellor's decision with respect to the committee's recommendations and the original decision not to reappoint. The Chancellor’s notice must inform the faculty member: (1) of the time limit within which the faculty member may file a notice of appeal with the President requesting review by the Board of Governors, (2) that a simple written notice of appeal with a brief statement of its basis is all that is required within the 14-day period, and (3) that a detailed schedule for the submission of relevant documents will be established if such notice of appeal is received in a timely manner.

e. Appeals to the Board of Governors

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

2. Review for promotion and tenure decisions not involving reappointment (early tenure).

a. Further review is limited to that review available under the Grievance Procedures for University Faculty.

3. Review before discharge or the imposition of serious sanction (or the due process hearing before discharge or the imposition of serious sanction)

a. The hearing shall be on the written specification of reasons for the intended discharge or imposition of serious sanction. The parties to the hearing shall be the faculty member and an academic administrator designated by the Provost. The Faculty Hearing Committee shall accord the parties no less than 30 calendar days from the time the committee receives a written request for a hearing to prepare their presentations. The hearing committee chair may, upon either party’s written request and for good cause, extend this time by written notice to the parties.

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

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

d. In reaching decisions on which the written recommendations to the Chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written and oral arguments as the committee, in its discretion, may allow. The University has the burden of proof. In evaluating the evidence, the committee shall use the standard of “clear and convincing: evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action. The committee shall make its written recommendation to the Chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later.

e. If the Chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the Chancellor's decision shall be final. If the Chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs with a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the Chancellor's decision to the Board of Trustees. This appeal shall be transmitted through the Chancellor and be addressed to the Chair of the Board. Notice of appeal shall be filed within 14 calendar days after the faculty member receives the Chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board of Trustees. However, the Board may delegate the duty 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 Trustees. This decision shall be final except that the faculty member may, within 14 calendar days after receiving the Trustees' decision, by filing a written notice of appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, with the Board of Governors if the faculty member alleges that one or more specified provisions of the *Code of the University of North Carolina* has been violated. Any such appeal to the Board of Governors shall be transmitted through the President.

4. Reconsideration hearing for termination of a position for financial exigency or major curtailment or elimination of a program

This reconsideration shall be limited solely to a determination of the contentions made in the faculty member's request for reconsideration. The reconsideration hearing shall be held promptly, but the committee shall allow the faculty member at least five working days from the time it receives the faculty member's written request for a hearing to prepare for it. The jurisdiction of the committee shall be solely to consider whether the selection of the faculty member for termination was arbitrary or capricious and the committee's jurisdiction does not extend to a reconsideration of whether a financial exigency exists or a program should be curtailed or eliminated.

a. Conduct of hearing

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

A quorum for purposes of the hearing is a simple majority of the committee's total membership. No member of the faculty member's department, or anyone who participated directly in the decision to terminate this faculty member, or anyone with other substantial conflict of interest shall serve on the committee for this hearing.

b. Hearing procedure

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

At the end of this presentation, the Faculty Hearing Committee shall consider the matter in executive session and shall make its written recommendations to the Chancellor within 10 working days after its hearing concludes. The burden is on the faculty member to satisfy the committee that the faculty member's contention is true by the greater weight of the evidence.

c. Procedure after hearing

If the Faculty Hearing Committee determines that the faculty member's contention has not been established, it shall, by a simple, unelaborated written statement, so notify the faculty member and the Chancellor. The faculty member may then appeal the decision to terminate the faculty member's employment in the manner provided by the *Code of the University of North Carolina Section 605 C(6)*.

If the Faculty Hearing Committee determines that the faculty member's contention has been satisfactorily established, it shall so notify the faculty member and the Chancellor in writing. The committee shall also provide written recommendation for corrective action to the Chancellor.

Within 10 working days after receiving the recommendation, the Chancellor shall send to the faculty member and the Chair of the Faculty Hearing Committee written notice of what modification, if any, the Chancellor will make with respect to the original decision to terminate the faculty member's employment. If the Chancellor does not reverse the original decision, the faculty member may appeal the termination in the manner provided by the *Code of the University of North Carolina*. If the Chancellor concurs in a recommendation of the Faculty Hearing Committee that is favorable to the faculty member, the Chancellor's decision is final.

**C. The Faculty Post-Tenure Review Appeals Committee**

1. Membership and chair

a. The Faculty Post-Tenure Review Appeals Committee shall consist of nine elected faculty members, each of whom shall have tenure. No officer of administration shall serve on the committee. For purposes of this section, "offices of administration" shall be deemed to include department heads. Appointment to department head or to a higher-level administrative position during a committee member's term of service shall force resignation from the committee.

b. At least one faculty member from each of the colleges and the library of the University shall serve, but no more than one-third of the members shall be from any one college. At least two members from each of the academic ranks of professor and associate professor shall serve on the committee. A member's promotion in rank during a term of office shall not terminate membership.

c. Each member shall serve a three-year term, the terms staggered so that three members are elected each year.

d. The chair shall be elected by and from the membership of the committee and shall serve for one year. The chair may be elected to successive terms.

2. Duties and responsibilities

a. The committee is authorized to hear and advise with respect to the adjustment of grievances of faculty members of the general faculty who have concerns relating to the post-tenure review. The power of the committee is solely to hear representations by the persons directly involved in the appeal to hold a hearing if necessary, and to inform appropriate administrative officials. The mediation hearing shall be conducted by someone other than a member of the Faculty Post-Tenure Review Committee and be closed to the public unless the faculty member requests otherwise. The decision of the Post-Tenure Review Appeals Committee will be binding. Adjustment in favor of an aggrieved faculty member will 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.

b. Appeals within the province of this committee include all those matters related to the faculty member's post-tenure review status.

3. Principle procedures

a. Preface

Faculty members are encouraged to pursue an informal resolution of any matter that might be the subject of an appeal before utilizing these procedures.

b. Scope

These procedures are to be used only for post-tenure review appeals

c. Grievance policy and procedure

1) Initiation of grievance

A faculty member shall institute the appeal procedure by submitting a written appeal to the lowest level academic administrator with authority to correct or pursue adjustment of the situation precipitating the grievance. The appeal must be filed within 15 working days\*after the faculty member has been given written notification of the unsatisfactory results of the post-tenure review and/or improvement plan. If no grievance is filed within this period, the faculty member will have no further right to an internal appeal procedure. An appeal may be made upon each review of the faculty member's performance.

2) The appeal shall be a concise statement setting out the following:

* Description of the evidence which supports the faculty member's appeal.
* The specific corrective action requested by the faculty member.

3) Review of the statement

a) The administrator receiving the formal appeal shall immediately notify the Provost and shall immediately send the Provost a copy of the faculty member's appeal.

b) Within 10 working days after receipt of the grievance, the administrator shall meet with the faculty member to discuss the matter. The administrator may, with the faculty member's agreement, ask other administrators to attend the meeting.

c) Within 10 working days after the meeting with the faculty member, the administrator shall deliver to the faculty member a written response to the appeal. The written response shall notify the faculty member of the faculty member's right to appeal to the Post-Tenure Review Appeal Committee and opportunity to obtain assistance through the faculty member's own efforts and at the faculty member's own expense. Enclosing a copy of these procedures shall be adequate notification of appeal rights.

d. Appeal to the Post-Tenure Review Committee

1) If the faculty member desires to appeal the decision of the administrator, a written statement of appeal shall be delivered by the faculty member to the Chair of the Faculty Post-Tenure Review Appeal Committee within 10 working days following the faculty member's receipt of the administrative supervisor's decision. The statement of appeal shall include the original appeal, a written summary of any additional facts or arguments that are said to support the original grievance, and the written response from the administrator. If no appeal is filed within the prescribed period, the employee has no further right to internal appeal procedures.

2) Committee procedure

a) Members of the committee may decline to serve in a particular case for personal reasons. Members directly involved in an appeal shall not serve.

b) The committee shall meet and decide whether mediation will be attempted or whether the appeal merits a hearing.

c) Upon receipt of a petition, the committee first may offer its services as mediator, if the dispute apparently is amenable to such an approach and if the parties to the dispute express their willingness to cooperate with such an effort. Neither party is obliged to engage in mediation; it is a consensus undertaking.

The Faculty Post-Tenure Review Committee's offer to serve as mediator should be made no later than 20 working days after the committee chair receives the appeal from the grievant. As mediator, the committee's role is limited to efforts at facilitating communication between the parties and encouraging the discovery of a mutually agreeable basis for voluntary resolution of the dispute. Mediation does not entail evidentiary hearings, findings of fact, or recommendations to responsible administrators for resolving the dispute.

When mediation succeeds, the appeal is withdrawn and the parties may implement the solution they have achieved. When performing its mediation role, the Faculty Post-Tenure Review Committee should designate one or more of its members to serve as mediator, while insuring that a quorum of the committee membership is reserved to function as a hearing body in the event mediation does not succeed.

Mediation may be terminated by either party or the mediators by filing a simple written notice of termination with the chair of the Faculty Post-Tenure Review Appeal Committee.

d) If mediation is not deemed appropriate to the case or if it fails to produce a voluntary resolution, the Faculty Post-Tenure Review Appeal Committee must hold a hearing in response to the statement of appeal.

e) If a hearing is held, the following procedure shall apply:

1.) The hearing shall be held no later than 20 working days after the committee chair receives the appeal from the grievant unless mediation is attempted or an extension is issued by the Committee chair. The committee chair has authority to grant extensions on the chair's own motion or the motion of any of the parties. An extension may be issued only for good cause as determined by the committee chair. An extension may not exceed 10 working days in length; however, more than one extension may be granted.

2.) The committee shall serve a Notice of Hearing on the grievant, the administrator(s) who has been identified as a party to the grievance and/or the departmental peer committee no later than 10 working days before the hearing. The notice shall include the date, time and place of the hearing, the grievant's request for appeal, the composition of the hearing body after mediators have been excused and any potential conflicts have been resolved, the names of all parties to the grievance, and the issues to be considered by the committee.

3.) Each party shall have a maximum of two challenges without cause and an unlimited number of challenges with cause. Challenges shall be filed in writing with the committee chair at least five working days in advance of the hearing. The unchallenged committee members shall have the authority to decide whether a committee member challenged for cause should be disqualified. If the chair is thus removed, the committee shall elect a new chair after committee replacements, if any, have been appointed. A minimum of five members is required for any action taken. In the event that fewer than five members remain after challenges are allowed, the secretary of the faculty shall make temporary appointments in accordance with 1.7.2(e) of the *Faculty Constitution of Western Carolina University*.

The formal rules of evidence shall not apply; however, the committee chair has the authority to reject evidence that is repetitive or has no relevance to the issues. The issues to be heard are limited to those raised by the written grievance. The hearing will be open to the public unless any party to the grievance requests that it be private. Attorneys are not authorized to participate at the hearing on behalf of the parties. However, each party may select one faculty member to provide assistance; the assisting faculty member may not be an attorney. The parties may present the testimony of witnesses and other evidence may confront and cross-examine adverse witnesses and may examine all documents and other adverse demonstrative evidence. Committee members may question any witness and may call witnesses when the committee deems such action appropriate. A "record" of the hearing shall be kept. Upon request, a copy of the "record" shall be furnished to the appealing faculty member.

4.) The grievant presents evidence, through documentation or testimony, that is the basis for the appeal. The administrator(s) named as a party may then present documentation or testimony in response. Rebuttal may be allowed at the discretion of the committee.

5.) The committee chair shall have complete authority to ensure a full and fair hearing including, but not limited to, the authority to grant extensions, recesses and adjournments, require the taking of oaths, require witnesses to stay outside the hearing room before or after testifying, set time limits for arguments, and terminate or recess the proceeding if it becomes unproductive due to disruptive behavior. Normally, however, the hearing should be concluded no later than 10 working days after it begins.

6.) In developing its recommendations, 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 committee shall also make findings of fact to support its recommendation(s).

7.) The chair shall report the committee's findings of fact and recommendations to the grievant, the other parties and the Provost within five working days following the termination of the hearing.

8.) The administrator/party with authority to resolve the matters raised by the committee recommendations shall have five working days to serve a written response to the committee's recommendations upon the grievant and the committee chair.

f) If the grievant is not satisfied with the disposition of the grievance, the grievant shall have five working days to serve a simple statement of appeal upon the Chancellor and the Faculty Grievance Committee. Upon receipt of the statement of appeal, the committee chair shall forward to the Chancellor the record of the hearing, if a hearing was conducted, and all matters of record prepared and collected by the committee including the written grievance, the committee's findings of fact, the committee's recommendation(s), the administrator's written response and all evidence gathered. Upon review of the committee's recommendations, the Chancellor shall notify the faculty member, the committee, and the other parties of the Chancellor's decision in a timely fashion.

e. Outside appeal privilege

The faculty member may appeal pursuant the *Code of the University of North Carolina* provided that the appeal is transmitted through the Chancellor within 10 consecutive calendar days after receipt of written notice to the Chancellor.

f. Changes to the post-tenure review appeal procedures shall be made in the following manner:

1) Substantive changes (as defined by the Rules Committee of the Faculty Senate) shall be approved by the general faculty according to procedures in Article VII of the *Bylaws of the General Faculty of Western Carolina University*

2) Changes due to directives from general administration shall be made automatically with the general faculty being informed by the Chair of the Faculty.

3) Minor changes (as defined by the Rules Committee of the Faculty Senate) shall be made by the Faculty Senate with the general faculty being informed by the Chair of the Faculty.

**D. Faculty Grievance Committee**

See Article IV of the Bylaws of the General Faculty

1. 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. [↑](#footnote-ref-1)
2. 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. [↑](#footnote-ref-2)
3. See UNC Policy 101.3.1 for additional information [↑](#footnote-ref-3)