



NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY

FACULTY HANDBOOK

Appendix B-2

SEC. II—Faculty: Tenure 1. 0

UNIVERSITY POLICY

REGULATIONS ON ACADEMIC FREEDOM, TENURE AND DUE PROCESS

SECTION 1. FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY

A. North Carolina Agricultural and Technical State 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 or external restraints that would unreasonably restrict their academic endeavors.

B. N.C. A&T shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.

C. Faculty and students of 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.

SECTION 2. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY

A. It is the policy of North Carolina Agricultural and Technical State University to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of this institution. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with this institution and their position as men and women of learning. They should not represent themselves, without authorization, as spokesmen for N.C. A&T.

B. N.C. A&T will not penalize or discipline members of the faculty because of the exercise of academic freedom in the lawful pursuits of their respective areas of scholarly and professional interest and responsibility.

SECTION 3. ACADEMIC TENURE

A. In General

Academic tenure refers to the conditions and guarantees that apply to a faculty member's employment. More specifically, it refers to the protection of a faculty member against involuntary suspension without pay or discharge from employment or reduction in rank by N.C. A&T, except upon specified grounds and in accordance with the procedures provided in Section 4 of this policy, or against termination of employment except as provided for in Section 6. In all instances, the tenure conferred on a faculty member is held with reference to employment by N.C. A&T, rather than to employment by the University of North Carolina system.

The intended purposes of according the protection of academic tenure to faculty members are to secure their academic freedom and to help the institution attract and retain faculty members of the high quality it seeks. While academic tenure may be withheld on any grounds other than those specifically stated to be impermissible under Section 5.A., its conferral requires an assessment of the faculty member's demonstrated professional competence; his/her potential for future contributions; his/her commitment to effective teaching, research, and public service; and the needs, resources, and the mission of N.C. A&T State University.

B. In Relation to Faculty Ranks

Academic tenure, as herein defined, can only be earned by faculty members appointed to one of the following faculty ranks: Assistant Professor, Associate Professor or Full Professor. Once tenure is earned it is generally continuous until retirement, death, or resignation ("permanent tenure").

The faculty ranks to which appointments may be made and the incidents of academic tenure applicable to each are:

1. Assistant Professor. The initial appointment to the rank of assistant professor shall be for a probationary term of two years. Unless at any point the assistant professor is not reappointed, he/she will be reappointed to a second two-year term and then to a three-year term before a decision is made to recommend permanent tenure and promotion to higher rank, or not to reappoint.

At least 180 days before the end of the first two-year appointment (no later than November 15th), the assistant professor shall receive written notice whether he/she will be reappointed at that rank for an additional two-year term or not reappointed when his/her current term expires. At least 12 months before the end of the second consecutive two-year appointment, the assistant professor shall receive written notice whether he/she will be reappointed at the rank of assistant professor for a three-year term or not reappointed when his/her current term expires. If the decision is negative, the faculty member will be given a one-year terminal appointment at the rank of assistant professor. If reappointed to a three-year term, before the end of the second year of that term, the assistant professor shall receive written notice indicating whether he/she will be reappointed when his/her current term expires, recommended for permanent tenure at the higher rank, or not reappointed. If not reappointed, the faculty member's employment will cease at the end of the three-year term.

Should the Chancellor fail to meet the required deadline for the notice of the decision not to reappoint, the faculty member will receive a terminal one-year appointment at the same rank. The decision herein required shall be made as provided in Section 3. D.

2. Associate Professor. When a faculty member's initial appointment by the institution is to the rank of associate professor, the appointment is to a probationary term of two years. Unless at any point the associate professor is not reappointed, he/she will be reappointed to a three-year term before a decision is made whether to recommend permanent tenure at the same or higher rank or to give notice of a terminal one-year appointment. At least 180 days before the end of the two-year appointment, the associate professor shall receive written notice of whether, when his/her current term expires, he/she will be reappointed at the rank of associate professor for a three-year term or not reappointed. Before the end of the second year of the three-year term, the associate

professor shall receive written notice whether, when his/her current term expires, he/she will be recommended for permanent tenure at the same or higher rank or not be reappointed.

Should the Chancellor fail to meet the required deadline for the notice of the decision not to reappoint, the faculty member will receive a terminal one-year appointment at the same rank. The decision herein required shall be made as provided in Section 3.D.

A promotion at any time from the rank of associate professor to the rank of professor confers permanent tenure from the effective date of the promotion. Both the President and the Board of Governors must approve this action since the promotion confers tenure, unless this approval has been delegated to the Board of Trustees.

3. Professor. When a faculty member's initial appointment by the institution is to the rank of professor, the appointment is to a single probationary three-year term. Before the end of the second year of the three-year term, the professor shall receive written notice whether, when his/her current term expires, he/she will be recommended for permanent tenure or not be reappointed.

Should the Chancellor fail to meet the required deadline for the notice of the decision not to reappoint, the faculty member will receive a terminal one-year appointment at the same rank. The decision herein required shall be made as provided in Section 3. D.

New Hires with Exemplary Credentials. In exceptional cases an academic unit might hire a candidate with exemplary credentials to associate or full professor rank with tenure. In such a case, the candidate's credentials must be reviewed based on the University's tenure policy, and the process must result in a positive decision before an offer of permanent tenure can be made to the candidate. The candidate will be asked to prepare a package of his/her credentials and apply for tenure. The Provost will call upon the relevant tenure committees and the Dean to expedite the review process (as outlined in Section 3.D) and reach a positive or negative recommendation in a timely fashion. The decision of the tenure process will be communicated to the candidate and it may result in an offer for hire with or without tenure.

Policies concerning the minimum requirements and general criteria for promotion in rank and/or permanent tenure are given in the Policy Concerning the Minimum Requirements and General Criteria for Promotion in Rank and/or Permanent Tenure.

C. Committees of the Faculty—Elected

Any faculty member appearing before any committee at the University, which will make a decision or recommendation concerning that faculty member, has the right to an impartial consideration. Faculty have the right to challenge the participation of a committee member

based on showing of a conflict of interest that may affect the impartiality of that committee member. Such challenges should be made before the committee in question. That committee must decide, by majority vote, the validity of the challenge before consideration is given to the issue before the committee. The faculty member in question cannot participate in this vote.

The committee composition for faculty reappointments, promotion, and tenure may be found in the Faculty Handbook, Chapter V, Section 5.1 (Committees of the Faculty – Elected). The following additional guidelines are provided for the faculty Reappointments, Promotions and Tenure committees at all three levels, i.e., University, College (including the Joint School of Nanoscience and Nanoengineering and Library Services), and Department (including the School of Nursing):

- Where numbers permit, all committee members will be elected to two-year terms.
- The terms of the committee members will be staggered so that approximately half of the committee members will be newly elected each year.
- Where numbers permit, each member will be allowed to serve a maximum of two consecutive terms.
- For departments with limited number of tenured faculty members, to satisfy the requirement of one member per department on the College committee, an individual might be required to serve more than two consecutive two-year terms. In such a case, the requirement of one member per department on the College committee will not apply.
- A faculty member will be allowed to review a candidate only one time, as a member of only one of the three committees.
- No tenured faculty member who is an applicant for promotion will be allowed to serve on any of the three committees. If an individual has already been elected to one of these committees prior to his/her decision to apply for promotion, a replacement (only for that year) will be elected by the same faculty body that elected the original member.
- The above provisions, as they apply to various units, must be published by the corresponding unit and made available to all the faculty members in that unit.

D. Evaluation Procedures for Reappointments, Promotions, and Tenure Procedures for Reappointments, Promotions, and Tenure

1. **Initiation, Review, and Approval of Reappointments, Promotions, and Conferral of Tenure.** The applicant will initiate his/her candidacy for reappointment, promotion, and/or tenure by submitting an appropriate application to the department chairperson. The candidate may seek (1) an appointment with a fixed or probationary term for two years or longer, (2) promotion in rank, (3) reappointment to a fixed term,

and/or (4) reappointment as an assistant professor, associate professor, or professor, whether or not the reappointment recommends the conferral of permanent tenure. The relevant dates for the reappointment promotion and tenure process will be distributed by the Provost's office no later than May 1 of each year.

The department chairperson shall convene the department RPT committee. The committee will elect a chairperson. The committee will deliberate on the application, and reach a positive or a negative decision by a majority vote. The committee members will use the department's currently published standards for reappointments, promotion and tenure for their evaluations. The committee will also prepare a written recommendation, using the attached form that reflects the collective and individual evaluations of all committee members. The form, containing the voting record and the written recommendation, will be signed by all committee members and added to the candidate's application package. The department chairperson will provide a copy of the document to the applicant, who will be given an opportunity to give his/her response. The applicant's response will be uploaded to the portal by the department chairperson so that it can be accessed by the College Dean.

The Dean shall convene the College RPT committee. The committee will elect a chairperson. The committee will deliberate on the application, and reach a positive or a negative decision by a majority vote. The committee will use the College's currently published standards for reappointments, promotion and tenure for their evaluations. The committee will use the form provided to present the voting record and a written recommendation that reflects the collective and individual evaluations of all committee members. The document will be signed by all committee members, submitted to the Dean and uploaded to the portal.

The Dean shall review the applicant's package. In relation to applicants for reappointment and tenure, the Dean's review will not be limited to only judging the professional qualifications of the applicant, but also to determining whether the College will have the resources to support the application, and whether a positive recommendation concerning the application will be consistent with the current College goals. Such factors as the following will be considered in this review: tenure density, enrollment trends, needs in critical areas of specialization, and results of program audit and review. The Dean shall make his/her decision to approve or decline the application. A document containing this decision with statements of justification, and signed by the Dean, will be added to the application package.

Of the three bodies (the department RPT committee, the College RPT committee, and the Dean) who have evaluated the application, if two or all three bodies support the application, the application shall be forwarded to the Provost, with a positive

recommendation. If two or all three bodies do not support the application, the application shall be forwarded to the Provost with a negative recommendation. Any unit without three recommending bodies at the College level, in case of a tied vote, will undergo a third review by the elected standing committee as outlined in Section 5.1.4 of Chapter V of the Faculty Handbook. In either case, the Dean will provide the candidate copies of all the documentation leading to the recommendation within a week after the package is forwarded to the Provost.

If the College recommendation is negative, the Provost may ask for additional justification and reconsideration by the three College bodies. Through the process of justification and reconsideration, if the College recommendation is reversed, the Provost will forward the application to the University RPT Committee for review. If the College recommendation is still negative, the Provost will forward the application to the Chancellor, who will send an unelaborated written statement to the candidate denying his/her application. This decision is final except as it may later be reviewed in accordance with the provisions of Section 5.

If the recommendation is positive, the Provost shall convene the University Committee. The University Committee reviews all applications with positive recommendations in relation to the published university standards. The University Committee is to review the applicant's professional qualifications in relation to the published University standards. The committee will reach a decision by a majority vote of all its members and prepare a document (form provided) containing the voting record. A written recommendation signed by all the committee members will be submitted to the Provost.

The Provost shall review the application and the University committee's recommendation. In relation to applicants for reappointment and tenure, the Provost's review will not be limited to only judging the professional qualifications of the applicant, but also to determining whether the University will have the resources to support the application, and whether a positive recommendation concerning the application will be consistent with current University goals. Such factors, as the following will be considered in this review: tenure density, enrollment trends, needs in critical areas of specialization, and results of program audit and review. If the Provost decides not to support the application, a letter stating the recommendation, with a brief explanation, and signed by the Provost will be added to the package. If the Provost decides to support the application, a letter of support signed by the Provost will be added to the package. The package will then be presented to the Chancellor. In either case, the Provost will provide the candidate copies of all the documentation leading to the decision, within a week after the Provost's review. If the Provost's positive recommendation is in contradiction to the

University committee's recommendation, the Provost will send a letter to the University committee explaining the reasons for his/her decision. If a negative tenure decision is reached because of factors other than the professional qualifications of the applicant, the Provost might make a recommendation to the Chancellor, with special arrangements to prolong the employment of the applicant at the University.

If the Chancellor shall decide not to recommend a reappointment, promotion, or permanent tenure, he/she shall send the candidate a letter with a simple, unelaborated, statement of the decision. This decision is final except as it may later be reviewed in accordance with the provisions of Section 5.

If the Chancellor shall concur in a recommendation that will confer permanent tenure, he/she shall consult with the Board of Trustees and, unless dissuaded, forward the recommendation to the President and Board of Governors for final approval, unless approval has been delegated to the Board of Trustees. All other favorable recommendations by the Chancellor in regard to appointments, reappointments, and promotions shall be forwarded by him/her to the Board of Trustees for final approval. A letter approving appointment, reappointment, promotion or tenure will be sent to the candidate by the Chancellor.

The procedure outlined above applies to all resident tenure-track and tenured faculty, to candidates for new appointment at the ranks of Associate Professor or Full Professor, and to candidates for new appointments being considered for conferral of tenure. For a candidate for new appointment, timetable for review will be set consistent with the needs of the new appointment.

2. **Early Promotion and Tenure.** Nothing in these regulations shall be construed to preclude a faculty member from being recommended for permanent tenure and/or promotion at any time. However, each candidate will have just one opportunity to apply for tenure, and candidates at the rank of Assistant Professor must apply for both permanent tenure and promotion to the rank of Associate Professor at the same time.

3. **Terms and Conditions of Appointments.** The terms and conditions of each initial appointment and of each reappointment to the faculty shall be set out in writing. A copy of the terms, signed by the Provost, shall be delivered to the faculty member and the Provost shall retain a copy. The general terms and conditions of such appointments, including those provided herein, shall be either 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.

Any special terms and conditions shall be clearly stated in the written appointment. Except as herein provided, no special terms or conditions may be included that vary the general terms and conditions stated herein. The responsibility for initiating the inclusion of special terms and conditions in documents of appointment is with the Chairperson who recommends the appointment.

- 4. Continued Availability of Special Funding.** The appointment, reappointment, or promotion of a faculty member to a position funded in whole or in substantial part from sources other than continuing state budget funds or permanent trust funds shall specify in writing that the continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon the continuing availability of such sources. This contingency shall not be included in a faculty member's contract in either of the following situations:
- a. In a promotion to a higher rank, if before the effective date of that promotion, the faculty member had permanent tenure and no such condition is attached to the tenure,
 - b. If the faculty member held permanent tenure in the institution on July 1, 1975, and his/her contract was not then contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

The federal funds provided to the North Carolina Agricultural Extension Service through the Smith-Lever Act shall be considered to be permanent trust funds. Faculty who are funded in whole or in substantial part from these funds shall not be subject to the contingency provisions of this section.

- 5. Provisions for Less than Full-Time Employment.** Special terms for less than full-time employment with commensurate compensation, or for relief from all employment obligations for a specified period, may be included in an appointment or reappointment to any faculty rank or may be added by a written memorandum of amendment during the term of an appointment. For compassionate reasons of health, or requirements of childbirth or child care, or similar compelling reasons, such terms may, with the concurrence of the faculty member, include extensions of the period of a current probationary term of appointment to coincide with the extent and duration of the relief from the full-time employment obligation. Such special terms must be expressly stated in initial appointment documents or, if added by memorandum of amendment, must be approved by signature of the Provost and the faculty member, with a copy to be retained by each. Except as may be otherwise expressly provided in the document of appointment, all appointments to any faculty rank are on the basis of a full-time employment

obligation and confer the full incidents of academic tenure pertinent to the particular appointment.

These provisions do not apply to informal temporary adjustments of the regularly assigned duties of faculty members by the department Chairperson who is responsible for their direct supervision; nor to the university's granting of extended leaves of absence with or without compensation.

E. Resignation

A faculty member shall give prompt written notice of his/her resignation with its effective date to the Provost. Copies should go to the Chancellor, the College Dean, and his/her department chairperson. A professor or associate professor should ordinarily give at least four months' notice and an assistant professor or instructor at least three months' notice of resignation.

SECTION 4. DUE PROCESS BEFORE DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS

A. A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary penalties. During the period of such guarantees the faculty member may be discharged from employment, suspended without pay, or demoted in rank for reasons of:

1. incompetence, including significant, sustained unsatisfactory performance after the faculty member has been given an opportunity to remedy such performance and fails to do so within a reasonable time;
2. neglect of duty, including sustained failure to meet assigned classes or to perform other significant faculty professional obligations; or
3. misconduct of such 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. For purposes of this policy, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. These procedures shall not apply to non-reappointment (see Section 5) or termination of employment (see Section 6).

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

C. If, within fourteen (14) calendar days after receiving the notice and written specifications referred to in paragraph (B) 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.

D. 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 Hearing and Reconsideration Committee. The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction.

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

See the "Hearing Policy" for details of the hearing process.

SECTION 5. NON-REAPPOINTMENT OF FACULTY MEMBERS ON PROBATIONARY TERM APPOINTMENT

A. Permissible and Impermissible Grounds for Non-reappointment

The decision whether to reappoint a faculty member when a probationary term of appointment expires may be based on any factor considered relevant to the total institutional interests, but it must consider the faculty member's demonstrated professional competence, his/her potential for future contributions, and institutional needs and resources. Policies concerning the minimum requirements and some general criteria for promotion in rank and/or permanent tenure are given in the Policy Concerning the Minimum Requirements and General Criteria for Promotion in Rank and/or Permanent Tenure. These considerations may form, in whole or in part, the basis of the ultimate decision, except that in no event a decision not to reappoint may 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, , national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by the Board of Trustees; or (3) personal malice. For purposes of this section, the term "personal malice" means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. The burden of proof is upon the aggrieved faculty member to establish by the preponderance of the evidence that his or her contention is true.

See UNC Code 604A for the minimum time frame to provide notice of a non-reappointment.

B. Conference with Dean with Dean

Within fourteen (14) calendar days after receiving a written notice of non-reappointment, a faculty member may in writing request a private conference with the Dean of his/her college to discuss the reasons for non-reappointment. This request shall be granted and the conference held forthwith, within five days after receipt of the request, if possible.¹

Within five (5) days after the conference, the Dean shall give the faculty member a simple, unelaborated, written statement of whether the original decision remains in effect.

C. Conference with the Provost/Vice Chancellor for Academic Affairs with the Provost/Vice Chancellor for Academic Affairs

Within fourteen (14) calendar days after receiving notice that the original decision remains in effect, the faculty member may in writing request a conference with the Provost/Vice Chancellor for Academic Affairs. This request shall be granted and the conference held forthwith, within five (5) days after receipt of the request if possible.

Within ten (10) days after this conference, the Provost/Vice Chancellor shall send a written evaluation of the matter to the faculty member, the Dean, and the department chairperson. The evaluation may be in the form of an unelaborated concurrence with the decision; an expression of disagreement with the decision, with or without supporting reasons; or a recommendation for reconsidering the decision, with or without suggestions for specific procedures in doing so. Whatever form the evaluation may take, it is merely recommendatory and is not binding upon the Dean or final as to the faculty member.

¹ If the Provost/Vice Chancellor for Academic Affairs makes the initial decision not to reappoint, substitute her/his name for that of Dean wherever the latter appears. If the initial decision not to reappoint is made by the Chancellor or Board of Trustees, the faculty member who is not to be reappointed may seek review of that decision in accordance with the procedure set out in Section 604 of The Code.

Within five (5) days after receiving an evaluation that disagrees with the decision or recommends it reconsideration, the Dean shall give the faculty member and the Provost/Vice Chancellor for Academic Affairs his/her response in writing.

D. Request for Review by Faculty Hearing Committee; Scope of Review

Within fourteen (14) calendar days after he/she receives notice of an unfavorable action resulting from the conference with the Vice Chancellor, the faculty member may request that the Faculty Hearing Committee reviews the decision. This review is limited solely to determining whether the decision not to reappoint was based on any grounds stated to be impermissible in Section 5.

A. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by this paragraph, the non-reappointment is final without recourse to any further review by faculty committees, N.C. A&T, or the Board of Governors.

The request for review shall be written and addressed to the Chairperson of the Faculty Hearing Committee. Such a request constitutes on the faculty member's part: (1) a representation that he/she can support his/her contention by factual proof, and (2) an agreement that the institution may offer in rebuttal of his/her contention any relevant data within its possession.

[See the "Hearing Policy for details of the hearing process.]

SECTION 6. TERMINATION OF FACULTY EMPLOYMENT

A. Reasons Justifying Termination and Consultation Required

1. Reasons for Terminating Employment. The employment of a faculty member with permanent tenure or of a faculty member appointed to a probationary or fixed term may be terminated by North Carolina Agricultural and Technical State University because of (1) demonstrable, bona fide institutional financial exigency, or (2) major curtailment or elimination of a teaching, research, or public service program. Financial exigency is defined as a significant decline in the financial resources of the institution that is brought about by 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 6.A.2. This determination is subject to concurrence by the President and the 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 cannot be met, the employment of the faculty member may be terminated in accordance with the institutional procedures set out in Section 6.B.

2. Consultation with Faculty and Administrative Officers. When it appears that the institution will experience an institutional financial exigency or when it is considering a major curtailment in or elimination of a teaching, research, or public service program, the Chancellor or his/her 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.

B. Termination Procedure

1. Considerations in Determining Whose Employment is to be Terminated. In determining which faculty member's employment is to be terminated for the reasons set forth in Section 6. A (1), 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.

2. Timely Notice of Termination

a. When a faculty member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public service program and such curtailment or elimination of program is not founded upon financial exigency, he/she shall be given timely notice as follows:

i. One who has permanent tenure shall be given not less than twelve months' notice and;

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

b. 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 6. B.2a.

3. Type of Notice to be Given. The Chancellor or his/her designee shall send the faculty member whose employment is to be terminated a written statement of this fact by certified mail, return receipt requested. This notice shall include a statement of the conditions requiring termination of the faculty member's employment; a general description of the procedures followed in making the decision; a disclosure of pertinent financial or other data upon which the decision was based; a statement of the faculty member's right, upon request, to a reconsideration of the decision by the Reconsideration

Committee if he/she alleges that the decision to terminate him/her rather than another faculty member was arbitrary or capricious; and a copy of this procedure on termination of employment.

4. Termination if Reconsideration not Requested. If, within fourteen (14) calendar days after he/she receives the notice required by Section 6. B (3), the faculty member makes no written request for reconsideration hearing, his/her employment shall be terminated at the date specified in the notice given pursuant to Section 6. B (3), and without recourse to any institutional grievance or appellate procedure.

5. Request for Reconsideration Hearing. Within fourteen (14) calendar days after receiving the notice required by Section 6. B (3), the faculty member may request by certified mail, return receipt requested, a reconsideration of the decision to terminate his/her 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 the faculty member contends that the decision to terminate his/her employment was arbitrary or capricious and shall include a short, plain statement of facts that the faculty member believes support the contention.

Submission of such a request shall constitute on the faculty member's part:

- a. a representation that he/she can support his/her contention by factual proof;
- b. an agreement that the institution may offer in rebuttal of his/her contention any relevant data within its possession.

C. Assistance for Faculty Members and Rights to New Positions

1. Institutional Assistance to Employees who are Terminated.

The institution, when requested in writing by an employee whose employment has been terminated, shall give him/her reasonable assistance in finding other employment.

2. First Right of Refusal of New Positions. For two years after the effective date of termination of a faculty member's contract for any of the reasons specified in Section 6. A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be made by certified mail, return receipt requested, to the faculty member's last known address, and the faculty member will be given thirty calendar days after attempted delivery to accept or reject the offer.

[See the "Hearing Policy for details of the hearing process.]

SECTION 7. RETIREMENT OF FACULTY

A. Retirement Policy for Members of the Faculty

See <http://www.ncat.edu/hr/benefits/index.html> and Phased Retirement, at <http://www.ncat.edu/provost/docs/Phased%20Retirement%20Guidelines%20-%20Amended-Fall%202009.pdf>

SECTION 8. SPECIAL FACULTY APPOINTMENTS, NEW HIRES WITH EXEMPLARY CREDENTIALS, AND INSTRUCTORS

A. Special Faculty Appointments

Appointments may be made to non-tenure track positions with title designations including "adjunct professor, lecturer, etc. (see the Non-tenure Track Faculty (NTTF) Policy) and any faculty rank designation with the prefix-qualifier "clinical," or "research" under the conditions and with the incidents herein provided. These appointees are regarded as "special faculty members" for purposes of the University Code. Special faculty members may be paid or unpaid. Such an appointment, using any of the foregoing title designations, is appropriate for one who has unusual qualifications for teaching, research, academic administration, or public service, but for whom neither the professorial ranks nor the instructor rank is appropriate because of the limited duration of the mission for which the appointment has been made or because of concern for continued availability of special funding for the position, or for other valid institutional reasons.

Special faculty members who are paid shall be appointed for a specified term of service from one to three years, as set out in the letter of appointment. Subsequent appointments to fixed terms may be made either in direct succession or at intervals. 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, or the Internal Salary Authorization Form, constitutes full and timely notice that a new term will not be granted when that term expires. Each is considered an initial appointment.

Special faculty members who are not paid may be appointed for a specified term of service or at will. The terms of their appointment should be set out in the letter of appointment.

North Carolina Agricultural and Technical State University is not obliged to give any notice before a current term expires as to whether appointment will be offered for a succeeding term. Thus, the specification of the length of the appointment shall be deemed to constitute full and timely notice of non-reappointment when that term expires. But the appropriate college dean or division director, upon the faculty member's written request made not later than 90 days before a

current term expires, shall within 20 days after he/she received the request give the faculty member a written decision whether an offer of reappointment will be made and, if so, its terms. Failure to communicate a decision constitutes notice that no offer will be made. The decisions herein required shall be made as provided in Section 3.D.

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

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

Approved by the Board of Trustees

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