

## 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 or discharge from employment or reduction in rank by North Carolina Agricultural and Technical State University except upon specified grounds and in accordance with the procedures provided in Section 4 of these regulations or against termination of employment except as provided for in Section 6.

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, or public service; and the needs, resources, and the mission of the institution.

### B. In Relation to Faculty Ranks

Academic tenure, as herein defined, pertains exclusively to the employment of faculty members by appointment to specified faculty ranks. Such appointments may be for fixed terms of employment, automatically terminable when they expire ("fixed term appointment"); or they may be for probationary terms ("probationary term appointment"); or they may be continuous until retirement<sup>1</sup>, death, or resignation ("appointment with 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.

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<sup>1</sup> Retirement for reasons of disability shall be in accordance with the Federal Americans with Disabilities Act (ADA) and North Carolina Statutes and regulations governing retirement for faculty who are members of the state retirement system. A faculty member who is not a member of the state retirement system and who is mentally or physically disabled, but refuses to retire, may be discharged because of that disability only in accordance with the procedures of this section.

At least 180 days before the end of the first two-year appointment, the assistant professor shall receive written notice whether he/she will be reappointed at that rank for a two-year term or not reappointed when his/her current term expires. At least 180 days 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. Before the end of the second year of the three-year 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 same or higher rank, or not reappointed. If the assistant professor is reappointed with permanent tenure at the same rank, his/her status shall be reviewed at least once every three years.

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.

Promotion at any time from the rank of assistant professor to that of associate professor (without conferral of permanent tenure) constitutes an initial appointment to the three-year term at the latter rank, with the incidents described for that term in Section 3.B.3.

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 re-appointed, he/she will be re-appointed 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.

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.

### **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 a 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. An applicant for promotion who is serving on the promotion and tenure committee may not participate in the deliberation on his/her application.

The committee composition for faculty reappointments, promotion, and tenure may be found in Chapter V, Section A (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, School/College, and Department:

- 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 School/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 School/College committee will not apply.
- Where numbers permit, a faculty member will be allowed to review a candidate only on 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**

- 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 published in the annual academic calendar which is available 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 current published standards for reappointments, promotion and tenure for their evaluations. The committee will also prepare a written recommendation that reflects the collective and individual evaluations of all committee members. A document 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 added to the package, and the department chairperson, then, will submit the application to the School/College Dean.

The Dean shall convene the School/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 School's/College's current published standards for reappointments, promotion and tenure for their evaluations. The committee will prepare a document that includes 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 and submitted to the Dean.

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 School/College will have the resources to support the application, and whether a positive recommendation concerning the application will be consistent with the current School/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 School/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 School/College/Division level, in case of a tied vote, will undergo a third review by the elected standing committee as outlined in Section C-4. 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 School/College recommendation is negative, the Provost may ask for additional justification and reconsideration by the three School/College bodies. Through the process of justification and reconsideration, if the School/College recommendation is reversed, the Provost will forward the application to the University Committee for review. If the School/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.

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 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 will decide 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 will decide to support the application, a letter of support signed by the Provost will be added to the package. The package will then be submitted 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. 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 unless that Board delegates the authority to give 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.
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 Chancellor, shall be delivered to the faculty member and the Chancellor 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 Chancellor 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.

#### **D. Resignation**

A faculty member shall give prompt written notice of his/her resignation with its effective date to the Chancellor. Copies should go to the Provost, the School/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 or suspended from employment or diminished in rank only for reasons of incompetence, neglect of duty, or misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty. These penalties may be imposed only in accordance with the procedures prescribed in this section. For purposes of these regulations, 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 (Section 5) or termination of employment (Section 6).
- B.** The Provost/Vice Chancellor for Academic Affairs shall mail the faculty member, written statement of intention to discharge him/her. The statement shall include notice of the faculty member's right, upon request, to both written specification of the reasons for the intended discharge and a hearing by the Faculty Hearing Committee as provided for in the Faculty Handbook.
- C.** If, within ten days<sup>2</sup> after he/she receives the notice referred to in paragraph B above, the faculty member makes no written request for either a specification of reasons or a hearing, and he/she may be discharged without recourse to any institutional grievance or appellate procedure.
- D.** If, within ten days after he/she receives the notice referred to in paragraph B above, the faculty member makes written request, by registered mail,<sup>3</sup> return receipt requested, for a specification of reasons, the Chancellor or his/her delegate shall supply such specifications in writing by registered mail, return receipt requested, within ten days after receiving the request. If the faculty member makes no written request for a hearing within ten days after he/she receives the specification, the faculty member may be discharged without recourse to any institutional grievance or appellate procedure.
- E.** If the faculty member makes a timely written request for a hearing, the Chancellor or his/her delegate shall insure that the hearing is accorded before the Faculty Hearing Committee. The hearing shall be on the written specification of reasons for the intended discharge. The Hearing Committee shall accord the faculty member twenty days from the time it receives

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<sup>2</sup> The word "day" as used in Sections 4, 5, and 6, shall mean, except where calendar day is specified, any day except Saturday, Sunday, or an institutional holiday. In computing any period of time, the day which notice is received is not counted but the last day of the period so computed is to be counted.

<sup>3</sup> Acceptable delivery methods include those that must have a signature, with proper notification of unobtainable signatures to be retained in institutional records as outlined in Section 101.3.3 (A and C) of The Code of the Board of Governors of the University of North Carolina.