

Appalachian State University
Faculty Senate Minutes

February 9, 2009 (Approved)

The Faculty Senate meeting was called to order by Chair Ramey at 3:16 pm in the William Strickland Conference Room in I.G. Greer on Monday, February 9, 2009. Senators Marland, Napiorski, Pombo, Price, Raichle, Stallworth, and Werts were excused and Senators Newmark, M. Williams, and Winn were not in attendance.

I. Announcements:

- A. Chair Ramey welcomed senators and asked visitors to introduce themselves. Visitors were Dr. Tim Burwell (Academic Affairs), Dr. Kate Brinko (Hubbard Center), Dr. Sheila Phipps (HIS), Mr. David Larry (University Attorney), and Ms. Sheryl Mohn (Academic Affairs).
- B. Chair Ramey announced that the next Chancellor Advisory Meeting has been scheduled for Tuesday, March 17, 2009 at 3:00 pm in the Chancellor's Board Room, B.B. Dougherty Building. Senators Carpenter, Fischer, Reesman, and Short volunteered to attend. Chair Ramey commented that he will send an email soliciting additional volunteers and asking senators to submit questions.
- C. Chair Ramey updated the Senate on the searches for Dean of the College of Arts and Sciences and Associate Vice Chancellor for Enrollment Management noting that campus interviews will be scheduled this month. Dr. Aeschleman commented that the search committees are finalizing the Dean of Fine and Applied Arts and the Dean of the School of Music searches. The search for a new Registrar is underway.
- D. Chair Ramey remarked that Senator Davison is coordinating the evaluation and review process of Dr. Charles Duke (Dean, College of Education) and Dr. Edelma Huntley (Dean, Research and Graduate Studies).

II. Visitors' Reports:

- A. Chair Ramey reported that the audio-recording of the Diversity Taskforce presentation to the Faculty Senate on Monday, February 2, 2009 is available on the Faculty Senate website.

III. Minutes:

- A. Chair Ramey asked for a motion to approve January 12, 2009 Faculty Senate minutes. Senator Van Devender moved and Senator W. Williams seconded. Motion passed. (**Vote #1**).

IV. Provost's Report:

- A. Dr. Aeschleman reiterated Chancellor Peacock's remarks about the budget that were highlighted during last week's open forum. We were able to withstand this year's budget cuts largely due to our robust enrollment growth funding. One major concern regarding next year's budget is whether the Board of Governors will vote for a campus based tuition increase. Another concern pertains to enrollment growth funding. We have projected a robust enrollment growth for next year which will generate \$9.6M for the university and create sixty positions. If the university receives both campus based tuition and enrollment growth funding next year, we will be able to withstand budget cuts in the 5% range.
- B. Dr. Aeschleman stated that he and Dr. Carey have been working with Dr. Ramey on the Craft Model, specifically in terms of what the committee operations will look like. The Provost plans to bring this to the faculty for a vote this semester.
- C. Dr. Aeschleman commented that he will present a draft policy concerning criminal background checks to the Senate in March. Questions remain on how best to operationalize the decision-making process if a background check uncovers criminal activity on a potential employee.
- D. The university has been working for two year on establishing a more formal partnership with three community colleges in the Appalachian Learning Alliance which are located in the Hickory area—Western Piedmont, Catawba Valley, and Caldwell Community Colleges. Appalachian State is the fiscal agent for the Engineering Technology Center in Hickory. Caldwell Community College currently has a center dedicated for Appalachian programs and Western Piedmont is developing a center. The Hickory Metro Higher Education Center has an educational facility where we are delivering academic programs. The model we have developed is to have each of these three community colleges have an Appalachian Center (offices/classrooms) and an umbrella administrative organization that would serve as staff for the Hickory Metro Center. Currently we have about 40 programs in these four sites with 900 students. This model is a compromise among the political and business leaders who wanted a branch campus. We felt that this area was not ready at this time for a branch campus. Perhaps in eight to ten years if demand for academic programs continues, Appalachian State may consider establishing a branch campus in the Hickory area. Appalachian's partnership with these three community colleges should be finalized on March 3, 2009 and a press release will be issued.

V. **Committee Reports** (Committee Chair's name is in caps.)

A. Academic Policies (REESMAN, Marland, Miller, Stallworth, Waring)

Chair Ramey asked for a motion to approve General Education Council's request to transfer the duties and responsibilities of the Core Curriculum Committee to AP&P. Chair Ramey commented that the description of the Core Curriculum Committee will remain in the *Faculty Handbook* for informational purposes. Senator Reesman moved and Senator Rardin seconded. **Motion FS 08-09/02-1 passed. (Vote #2).**

[Previous Faculty Senate motions concerning the dissolution of the Core Curriculum Committee: **Motion FS 08-09/11-07** to refer the issue of dissolving the Core Curriculum Committee and transferring its authority to AP&P Committee to the Faculty Senate's Academic Policy Committee for review and recommendation. **Motion FS 08-09/11-07** passed.]

Motion FS 08-09/12-01 Dissolution of Core Curriculum Committee. The Academic Policy Committee moved to dissolve the Core Curriculum Committee and to transfer its duties to the General Education Council. **Motion FS 08-09/12-01** passed.]

B. Agenda Committee

No Report.

C. Budget Committee (WERTS, Geary, Newmark, Roggenkamp, Van Devender)

Senator Van Devender reported that the committee met on Monday, February 2, 2009 with Chair Ramey and discussed several pertinent items. The committee plans to serve in an advisory capacity to senior administration pending the receipt of information for their review and recommendations to academic affairs.

D. Campus Planning Committee (RARDIN, Brown, Mitchem, Pombo, Scharer)

No Report.

E. Committee on Committees (PRICE, Duryea, Sherman, Stoddard, B. Williams)

Chair Ramey stated that Senator Price is coordinating the upcoming election process for vacant Senate seats and university committees. Individual departments are being notified to conduct elections for their department's Senate representative.

F. Faculty Handbook Committee (RAMEY, Carey, Fischer, Gates, Marking, W. Williams)

1. **Motion FS 08-09/02-2** to approve the proposed changes to Section 4.3.3 (Post-Tenure Review) of the *Faculty Handbook* as stated in **Appendix A**. Chair Ramey commented that the university is required to update the *Faculty Handbook* in response to changes to the Code of the University of North Carolina. The Post-Tenure Review/Code 600 Taskforce presented recommendations to the Faculty Handbook Committee. The most noteworthy changes to the Code are: (a) the faculty member under review may not choose any membership of his/her Post Tenure Review Committee; (b) specific language describing the Post Tenure Review intent must be included in the policy; (c) The Post Tenure Review Committee's recommendations must be submitted to the Department Chair and the faculty member under review. The faculty member has the opportunity to respond. The Post Tenure Review Committee, department chair, and faculty member response must be reviewed by an administrator above the chair level; and (d) the faculty member must be provided a performance improvement plan with specific timelines for meeting proposed improvements, notified of consequences for failure to meet stated improvements, and informed that these consequences could result in demotion or discharge (in extreme cases).

Questions and comments expressed by Senators included: why Section 4.3.3.3 did not more closely follow the Craft Model, language as written focuses heavily on unsatisfactory rather than exemplary performance, a suggestion was made to include rewards for exemplary performance (such as salary adjustment, assistance for research, off campus scholarly activity), how and who defines unsatisfactory, satisfactory, and exemplary post tenure review ratings, and will dual disciplines have separate post tenure review committees. Chair Ramey remarked that Section 4.3.3 revisions/updates are in response to the changes in the Code and additional language can be added in the future. Departments can include language in their departmental handbooks indicating who they consider are allied disciplines and how they define exemplary or unsatisfactory performance. Section 4.3.3.4 states "All reviews must include a statement of the faculty member's primary responsibilities and delineate specific strengths and weaknesses..." Mr. Larry commented that Section 4.3.3.2 states "Exemplary faculty performance will be recognized and rewarded". Senator W. Williams, a member of the PTR/Code 600 Taskforce, added that the role of the post-tenure review is to provide feedback and sets up a model to improve work output. Receiving feedback from a smaller number of committee members is more considerate because the faculty member under review will not receive ten different suggestions from ten different committee members. Dr. Carey remarked that the *Faculty Handbook* is a statement of what has to be done in specific instances. It

would be worthwhile to develop uniform institutional practices or policies apart from the *Faculty Handbook* which delineates a reward system for exemplary performance. **Motion FS 08-09/02-2** to approve the proposed changes to Section 4.3.3 (Post-Tenure Review) of the *Faculty Handbook* passed. **(Vote #3)**.

2. A motion from the Faculty Handbook Committee to change several sections of Chapter III in the *Faculty Handbook* as required by changes to the Code of the University of North Carolina and additional changes proposed by the Faculty Handbook Committee related to Sections 3.6.2.2 and 3.6.3.1 (language concerning protected classes); Section 3.9.3.1 which states faculty members have one year to file a complaint; and Section 3.9.2.2 which is in conflict with Section 3.9.3.8. Senators expressed their concern about proposed changes to Section 3.9.3.1 specifically "...a complaint is delivered to the chair of the Faculty Grievance Committee within fourteen (14) calendar days after the faculty member receives notice of nonreappointment, or within **30 calendar days** after any other action being grieved..." Several Senators stated that a change from one year to 30 days is drastic, and more than thirty days is needed to process, reflect, and/or consult with others before a faculty member feels comfortable taking action. Senator Davison moved and Senator Stoddard seconded to amend Section 3.9.3.1 by deleting the phrase "30 calendar days" and inserting "90 calendar days". Motion to amend passed. **(Vote #4)**. **Motion FS 08-09/02-3** to approve changes to Chapter III as amended passed. **(Vote #5)**. **(Appendix B as amended)**.

G. Faculty Welfare and Morale Committee (DAVISON, Carpenter, Horst, Wangler)

No Report.

H. Welfare of Students Committee (WINN, Mamola, Sanders, Short, Ulmer, M. Williams)

No Report.

VI. Unfinished Business

A. None

VII. New Business

- A. Senator Horst and Dr. Sheila Phipps (HIS) presented a proposal for implementing a snow schedule (**Appendix C**) in lieu of cancelling 8:00 am and 9:00 am classes. In the advent of snow or inclement weather, all classes would meet at a slightly later time and for a shorter period of time. Senator Short commented that her department schedules three hour classes. Senator Stoddard asked what would happen if the snow schedule was invoked on a day when a test was scheduled thereby not allowing sufficient time for students to complete the test. Senator Rardin stated it is easier for faculty to accommodate students who could not attend classes on snow days rather than implement this snow schedule and this policy would disrupt meetings which were already scheduled. Senator Van Devender commented that his department schedules two, three, and four hour labs which would not fit into this snow schedule. Dr. Ginn, Council of Chairs, mentioned that two thirds of his department's classes are scheduled in four hour blocks. Senator Miller asked how many snow days have occurred in the past five years and what affect did it have on the university. Senator Rardin moved and Senator Stoddard seconded to postpone further discussion of this proposal until the April 27, 2009 Faculty Senate meeting. Motion passed. (**Vote #6**). Chair Ramey commented that he would find out how many snow days have occurred in the past and convey this information to the Senate.
- B. Chair Ramey informed the Senate that he received an email from the Student Government Association who is considering electing a liaison to the Faculty Senate. Chair Ramey asked the Senators to consider whether they would grant SGA a non-voting ex-officio seat on the Senate or allow them to attend as a visitor.

VIII. Adjournment

Chair Ramey asked for a motion to adjourn the meeting. Senator Duryea moved and Senator Waring seconded. Motion passed. (**Vote #7**). The meeting was adjourned at 5:01 pm.

Appalachian State University
FACULTY PRESENT AND VOTING SHEET for September 8, 2008

Y = Yes N = No A = Abstain

SENATORS	1	2	3	4	5	6	7
Rob Brown	Y	Y	Y	N	N	Y	Y
Ellen Carpenter	Y	Y	Y	Y	Y	Y	Y
Beth Davison			Y	Y	Y	Y	Y
Lynn Duryea	Y	Y	Y	N	Y	Y	Y
Craig Fischer	Y	Y	Y	N	Y	Y	Y
John Geary	Y	Y	Y	Y	Y	Y	Y
Rene Horst	Y	Y	Y	Y	Y	N	Y
Claire Mamola		Y	Y	N	A	Y	Y
Eric Marland	E	X	C	U	S	E	D
Ray Miller	Y	Y	Y	Y	Y	Y	Y
Pam Mitchem	Y	Y	Y	Y	Y	Y	Y
Patricia Napiorski	E	X	C	U	S	E	D
Adam Newmark	A	B	S	E	N	T	
Monica Pombo	E	X	C	U	S	E	D
Jammie Price	E	X	C	U	S	E	D
Brian Raichle	E	X	C	U	S	E	D
Patrick Rardin	Y	Y	Y	Y	Y	Y	Y
Karen Reesman	Y	Y	Y	N	N	Y	Y
Susan Roggenkamp	Y	Y	Y	Y	Y	Y	Y
Robert Sanders	Y	Y	Y	Y	Y	Y	Y
Katherine Scharer	Y	Y	Y	N	Y	Y	Y
Jim Sherman	Y	Y	Y	N	N	Y	Y
Glenda Short	Y	Y	Y	Y	Y	Y	Y
Lynn Stallworth	E	X	C	U	S	E	D

Jim Stoddard	Y	Y	Y	N	Y	Y	Y
Connie Ulmer	Y	Y	Y	Y	N	Y	Y
Wayne Van Devender	Y	Y	Y	Y	Y	Y	Y
Kim Wangler	Y	Y	Y	Y	Y	Y	Y
Doug Waring	Y	Y	Y	N	Y	Y	Y
Margaret Werts	E	X	C	U	S	E	D
Betsy Williams	Y	Y	Y	Y	Y	Y	Y
Maury Williams	A	B	S	E	N	T	
Wayne Williams	Y	Y	Y	Y	Y	Y	Y
Wendy Winn	A	B	S	E	N	T	

Vote Number	Action
1	Motion to approve January 12, 2009 Faculty Senate minutes. Motion passed.
2	Motion FS 08-09/02-1 to transfer the duties and responsibilities of the Core Curriculum Committee to AP&P. Motion passed.
3	Motion FS 08-09/02-2 to approve the proposed changes to Section 4.3.3 (Post Tenure Review) in the <i>Faculty Handbook</i> . Motion passed.
4	Motion to amend Section 3.9.3.1 in the <i>Faculty Handbook</i> by deleting the phrase “30 calendar days” and inserting “90 calendar days”. Motion passed.
5	Motion FS 08-09/02-3 to approve changes to Chapter III as amended. Motion passed.
6	Motion to postpone further discussion on the proposed snow schedule until the April 27, 2009 Faculty Senate meeting. Motion passed.
7	Motion to adjourn. Motion passed.

Appendix A: MOTION to update Post Tenure Review (*Faculty Handbook* Section 4.3.3)

Appalachian State University is required to update governance documents in response to changes to the Code of the University of North Carolina. One such area requiring an update is the ASU policy on Post Tenure Review (PTR). In response, the PTR/Code 600 Taskforce was formed to make recommendations in this area. Section 4.3.3 of the Faculty Handbook deals with PTR.

The task force was comprised of:

Tony Carey, Chair (Vice Provost for Faculty Affairs)
Wayne Williams (HLES, Senate Parliamentarian)
Beth Davison (Sociology, Senate)
Dawn Medlin (CIS)
Peg Werts (LRE, Senate)
Bill Harbinson (Dean, School of Music)
David Larry (University Attorney)

The task force recommendations were presented to the Faculty Handbook Committee. The Handbook Committee reviewed the recommendations and made grammatical/technical updates to their document. The most notable changes required by the Code include:

1. The faculty member under review may not choose any membership of his/her PTR committee. Proposed Section 4.3.3.3 (in red) are the recommendations of the PTR task force in this area and recommended by the Faculty Handbook Committee. This section has the most room for adjustment if deemed necessary by the Senate.
2. Specific language describing the PTR intent must be included in the policy. Proposed Section 4.3.3.2 provides this language from the Code. There is little room for adjusting this language.
3. The PTR committee recommendations must be provided to the Departmental Chair and faculty member under review. The faculty member is afforded the opportunity to respond to the review. The PTR, Departmental Chair, and faculty member response (if any) must be reviewed by an administrator above the chair level.
4. In the event that the higher level administrator confirms an unsatisfactory PTR report, the faculty member must be provided a performance improvement plan with specific timelines for meeting proposed improvements. Governance documents must include language that requires the faculty member to be notified of the consequences of improvement failure within the timeline and that these consequences (in an extreme case) could result in demotion or discharge.

The Faculty Handbook Committee **MOVES** that the following language replace the current Section 4.3.3 of the *Faculty Handbook*.

Proposed Section 4.3.3:

4.3.3 Post-Tenure Review

4.3.3.1 Post-tenure review is a comprehensive, formal, periodic evaluation of cumulative faculty performance, the prime purpose of which is to ensure faculty development and to support and encourage faculty excellence. Post tenure review requirements can be found in the UNC Policy Manual: 400.3.3.1[G].

4.3.3.2 In addition to the annual review for all faculty, described in Section 4.3.2, each tenured member of the teaching faculty will be subject to a comprehensive, cumulative review on a regular and systematic basis, no less frequently than every five years. (Note: a review undertaken to grant tenure or to decide on promotion qualifies as such a cumulative review.) This comprehensive review shall provide for the evaluation of all aspects of the professional performance of faculty whose primary responsibilities are teaching, and/or research, and/or service. If faculty responsibilities are primarily in one or two of these areas, post-tenure review and resulting recommendations should take this allocation of responsibilities into account. Faculty performance will be examined relative to the mission of the University, college, and program. Exemplary faculty performance will be recognized and rewarded. Because performance rewards are often part of the annual review process (described in Section 4.3.2), the post-tenure review may provide additional support for this form of recognition.

4.3.3.3 A post-tenure review committee for a department or academic unit will be elected by a vote of the tenured faculty in the department or academic unit. The tenured faculty will elect from among themselves three tenured faculty, who will serve staggered, non-renewable, three-year terms. In the initial election, one tenured faculty member will be elected for a one-year term, one for a two-year term, and one for a three-year term. After the initial election, the tenured faculty will elect one tenured faculty member to fill a vacancy each year. The tenured faculty may also fill vacancies caused by resignation or other contingencies. In the event that there are not three tenured faculty in the department or academic unit, the tenured faculty will make nominations and will elect from among those nominated a tenured faculty member or members from an allied discipline to serve on the peer review committee. The review of the committee as well as the recommendations of the department chair will be reviewed by the Dean. (In cases where the Dean functions as a department chair in an academic unit without departmental divisions, the higher administrative review will be performed by the Provost.)

4.3.3.4 The post-tenure review committee shall provide to the faculty member being reviewed and the departmental chair written feedback concerning its evaluation and will designate the faculty member's performance as unsatisfactory, satisfactory, or exemplary. The faculty member under review may provide a written response to the evaluation. The post-tenure review committee's feedback should include recognition for exemplary performance. All reviews must include a statement of the faculty member's primary responsibilities and delineate specific strengths and weaknesses as they relate to the faculty member's performance of assigned duties. A faculty member's response, if any, to the committee's review will also be forwarded to and reviewed by the Dean.

4.3.2.5 After review by the Dean, any faculty member who receives an unsatisfactory rating in the post-tenure review will be given the opportunity to improve performance. The faculty member's chair will: (a) consider the written feedback from the post-tenure review committee and the faculty member; and (b) prepare a written individual professional development plan for the faculty member. A specific timeline including steps for improvement must be included in the development plan, with a clear statement of consequences should improvement not occur within the designated time line [Consequences may include discharge or demotion for "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, pursuant to Section 3.8.1.1 of the *Faculty Handbook*.] The chair is encouraged to assign one or more mentoring peers to the faculty member, and the chair must hold a progress meeting with the faculty member on at least a semi-annual basis during the specified time line. If the faculty member's duties are modified as a result of a less than satisfactory rating, the development plan should indicate and take into account the new allocation of responsibilities.

Appendix B As Amended/Approved: MOTION to update *Faculty Handbook* Chapter III

In accordance with changes to the Code of the University of North Carolina, several sections of Chapter III of the Faculty Handbook are required to be changed. The following updates were constructed by David Larry (Assistant University Attorney), approved by the PTR/Code 600 Committee, and forwarded to the Handbook Committee. In addition to the required changes, the Handbook Committee also recommends three further changes:

1. In Sections 3.6.2.2 and 3.6.3.1, the committee recommends updating the language to reflect our current protected classes: “race, color, national origin, religion, creed, sex, gender identity and expression, political affiliation, age, disability, veteran status, or sexual orientation”.
2. In Section 3.9.3.1, the faculty member is required under the new Code to respond within 14 calendar days of notice of a non-reappointment if a grievance action is desired. We are free to choose a time frame for grievance issues not involving non-reappointment. Currently the Handbook gives a faculty member 1 year to file a complaint. **The Handbook Committee proposes a 30 calendar day time for this, as 1 year seems too lengthy to wait to file a complaint.**
3. Section 3.9.2.2 currently is in conflict with Section 3.9.3.8 which was passed to increase the membership of the Faculty Grievance Hearing Committee. The updated Section 3.9.2.2 now lists the membership of only the Faculty Due Process Committee and refers to Section 3.9.3.8 for the current regulations of the FGHC.

The Faculty Handbook Committee **MOVES** that the following sections replace, update, or delete existing Handbook sections. They are presented in their final proposed form and should be compared to the existing Handbook language if clarification is desired. If not mentioned below, the section remains as is in the current Handbook.

Chapter III: Section Changes Only

3.4.1.1 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 discharge from employment except for reasons of (i) incompetence, (ii) neglect of duty, or (iii) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, as specified in Code Section 603 and in accordance with the procedures provided in section 3.8.2, or against termination of employment except as provided for in section 3.7.

3.4.2.8 Special Faculty Appointments

3.4.2.8.1 See Appendix C (*The University of North Carolina Policy Manual*, Section 400.3.1.1) concerning required discussions relating to the primacy of teaching.

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

"special faculty members" for purposes of the University Code. Special faculty members may be paid or unpaid. Such an appointment characterized by 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 is made, or because of concern for continued availability of special funding for the position, or for other valid institutional reasons.

3.4.2.8.3 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. Appointments may be for a fixed term of one, two, three, four or five years. 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. This institution shall not be obliged to give any notice before a current term expires as to whether appointment will be offered for a succeeding term. The appropriate departmental chair,¹ upon the faculty member's written request made not later than 90 calendar days before a current term expires, shall, within 20 calendar days after receiving 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.

3.4.2.8.4 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.

3.4.2.8.5 During the term of their employment, special faculty members are entitled to seek recourse under Section 607 of the University Code and section 3.9.3 of this *Faculty Handbook* (relating to faculty grievances).

3.4.2.8.6 Special faculty members, whether paid or unpaid, are not covered by Section 604 of the University Code (relating to appointment, nonreappointment, and requirements of notice and review for tenure track faculty), 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.

3.4.2.8.4 Recommended to be DELETED

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

3.6.2.2 The decision to reappoint, promote or tenure a faculty member may be based on any factor(s) considered relevant to the total institutional interests, but those responsible for making the decision must consider the faculty member's demonstrated professional competence, potential for future contribution, and institutional needs and resources. A decision not to

¹ "Departmental" is used herein as a generic term with reference to departments and any other academic units to which faculty appointments are made; "chair" is used as a generic term for departmental chair and any other heads of academic units to which faculty appointments are made.

reappoint, promote or tenure 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) unlawful discrimination based upon the faculty member's race, color, national origin, religion, creed, sex, gender identity and expression, political affiliation, age, disability, veteran status, or sexual orientation; 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.

3.6.3 Nonreappointment of Tenure Track Faculty Members on Probationary Term Appointments

3.6.3.1 Permissible and Impermissible Grounds for Nonreappointment. 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 those responsible for making the decision must consider the faculty member's demonstrated professional competence, potential for future contribution, and institutional needs and resources. 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) unlawful discrimination based upon the faculty member's race, color, national origin, religion, creed, sex, gender identity and expression, political affiliation, age, disability, veteran status, or sexual orientation; 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.

3.8 Discharge or the Imposition of Serious Sanction

3.8.1 Grounds for Discipline

3.8.1.1 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, 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.

3.8.1.2 These sanctions may be imposed only in accordance with the procedures prescribed in section 3.8.2. For purposes of these regulations, a faculty member serving a stated term shall be regarded as having the protection of tenure until the end of that term. These procedures shall not apply to nonreappointment (*The Code* ' Section 604, *Faculty Handbook* ' 3.6.3) or termination of employment (*The Code* ' Section 604, *Faculty Handbook* ' 3.7).

3.8.2 Procedures for Review of Disciplinary Cases

3.8.2.1 A faculty member who is to be disciplined, as through discharge from employment, suspension, demotion in rank, diminishment in pay, or deprivation of some other substantial interest, may require that such discipline be imposed only in accordance with constitutionally mandated due process of law, as specified by section 603 of *The Code of The University of North Carolina*. Such a case will be referred directly to the Faculty Due Process Committee for a formal hearing to be conducted in accordance with the requirements of this section 3.8.2.

3.8.2.2 When disciplinary action against a faculty member is proposed, the Executive Vice Chancellor and Provost shall send to the faculty member by a method of mail or delivery that requires a signature for delivery, 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 shall include notice of the faculty member's right, upon request, to a hearing before the Faculty Due Process Committee, and shall direct the faculty member to this section of this *Faculty Handbook* for information about such review procedures. If within 14 calendar days after receiving the notice and written specification referred to above, the faculty member makes no written request for a hearing, the faculty member may be discharged or serious sanction may be imposed as proposed in the notice previously conveyed, without recourse to any institutional hearing or appellate (review) procedure.

3.8.2.3 If the faculty member makes a timely written request for a hearing, the Executive Vice Chancellor and Provost shall ensure that the hearing is timely held before the Faculty Due Process Committee. The committee shall accord the faculty member 30 calendar days from the time it receives the written request for the hearing to prepare a defense. The committee may, upon the faculty member's written request and for good cause, extend the time for such preparation. The Faculty Due Process 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 Committee cannot be assembled.² The hearing shall be closed to the public unless the faculty member and the Faculty Due Process Committee agree that it may be open.

3.8.2.4 The hearing shall be on the written specification of the reasons for the intended discharge or imposition of serious sanction. The Executive Vice Chancellor and Provost, or designee, and/or counsel first shall present the testimony of witnesses and other evidence in support of the proposed disciplinary action. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross examine adverse witnesses, to examine all documents and other adverse demonstrative evidence. The Executive Vice Chancellor and Provost, or designee, and/or counsel similarly shall be entitled to cross examine adverse witnesses, and to examine adverse demonstrative evidence. Both parties may present such arguments, either oral or written, as the committee may allow. The Executive Vice Chancellor and Provost, or designee, and/or counsel has the burden of showing, by clear and convincing evidence, that permissible grounds for serious sanction exist and are the basis for the recommended action. A written transcript of all proceedings shall be kept, and if the faculty

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, recognizing that the hearing may take two or more sessions.

member requests, the University shall furnish a copy thereof to the faculty member at the University's expense. When the hearing is concluded, the committee shall make its written recommendations to the Chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later. In reaching decisions on which its recommendations to the Chancellor are to be based, the Committee shall consider only the evidence presented at the hearing, and such written or oral arguments as the Committee may allow. In evaluating the evidence, the Committee shall apply the "clear and convincing" evidence standard in determining whether the University has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action. The "clear and convincing" standard of proof is greater than the preponderance of the evidence standard required in most civil cases but lesser than the beyond a reasonable doubt standard in criminal cases. *See, e.g., In re Montgomery*, 311 N.C. 101, 109-110, 316 S.E.2d 246, 252 (1984).

3.8.2.5 If the Chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the decision shall be final. If the Chancellor intends to reject the recommendation of the Faculty Due Process Committee, the Chancellor shall communicate that intention to the committee along with the Chancellor's reasons and provide an opportunity for committee response before taking final action. In such a case, the committee shall reconsider its recommendation, taking account of the Chancellor's stated objections. The committee shall transmit its response to the Chancellor within 14 calendar days of the committee's receipt of the Chancellor's communication. After considering the committee response, the Chancellor shall issue a decision either concurring in or declining to accept the committee's recommendation. The Chancellor's decision shall be conveyed in writing to the affected faculty member and to the committee. If the Chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the Chancellor's decision to the Board of Trustees. This appeal shall be transmitted through the Chancellor and be addressed to the chair of the Board of Trustees. 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 of Trustees 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 base its consideration of the appeal upon the written transcript of hearings held by the committee; but it may, at its discretion, hear such other evidence as it deems necessary. The Board of Trustees' decision shall be made as soon as reasonably possible after the Chancellor has received the faculty member's request for an appeal to the Board of Trustees. This decision shall be final except that the faculty member may, within 14 calendar days after receiving an adverse decision from the Board of Trustees, file a written notice of appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, with the Board of Governors if the faculty member alleges that one or more specified provisions of *The Code of The University of North Carolina* have been violated. Any such appeal to the Board of Governors shall be transmitted through the President.

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

3.9.1.2 A faculty member aggrieved about a term or condition of employment, other than a disciplinary action, is encouraged to discuss the matter informally with the departmental chair. If a satisfactory resolution is not obtained, the faculty member is encouraged to discuss the matter with the chair's superiors, up to and including the Provost and Executive Vice Chancellor. Independent of such consultation, the faculty member may invoke a grievance process that is intended to assure a comprehensive and fair assessment of the circumstances, to the end that an equitable resolution of the problem may be achieved. The proper subjects of such grievance inquiries may include, but are not necessarily limited to, reappointment, promotion, salary, permanent tenure, matters related to post-tenure review, and termination for financial exigency or program curtailment. In appropriate instances a formal hearing process may be conducted by the Faculty Grievance Committee in accordance with the requirements of section 3.9.3 of these regulations and section 607 of *The Code of the University of North Carolina*. Although constitutionally mandated procedural safeguards do not apply to such grievance cases, the University community separately has established appropriate safeguards by enacting these regulations.

3.9.2.2 The Faculty Due Process Committee shall be composed of five members and an alternate, all to be elected by the faculty. Nomination and election shall follow procedures for other at-large faculty elections. Membership of the Faculty Due Process Committee shall be composed of faculty with permanent tenure, regardless of rank. The term of office of a member of the Faculty Due Process Committee shall be three years; provided that the first election shall be for staggered terms, with two persons to be elected to three-year terms, two persons to be elected to two-year terms, and one person to be elected to a one-year term; the alternate shall be elected to a three-year term; as the respective terms of the first class of committee members expire, their successors shall be elected to regular three-year terms. The composition and membership of the Faculty Grievance Hearing Committee shall be as specified in Section 3.9.3.8.

3.9.3.1 A grievance may be considered pursuant to this formal hearing process only if it is based on the contention that some right or entitlement of the faculty member, derived either from University policies or from the provisions of state or federal laws, has been abridged by an administrator's action and a complaint is delivered to the chair of the Faculty Grievance Committee within fourteen (14) calendar days after the faculty member receives notice of nonreappointment, or within **90 calendar days** after any other action being grieved. Eligible grievances thus defined include matters directly related to a faculty member's employment status and institutional relationships, e.g., decisions not to reappoint, promote or recommend permanent tenure; termination for financial exigency or program curtailment under section 3.7 of this *Faculty Handbook*; decisions not to grant graduate faculty status; decisions regarding merit salary increases; matters related to post-tenure review; and decisions regarding teaching assignments and other workload matters. Review by the Faculty Grievance Committee of cases involving decisions not to reappoint, promote or recommend permanent tenure is limited to a determination of whether the administrative action was 1) based upon an impermissible ground identified in sections 3.6.2.2 and 3.6.3.1 of this *Faculty Handbook*, or 2) affected by a material procedural flaw. For purposes of this section, the date of a grievable action shall be the date of any written notice of such action addressed to the faculty member. If the faculty member does not file a grievance in a timely fashion, the administrator's decision or action is final without recourse to any faculty committees, the University, or the Board of Governors.

3.9.3.6 With respect to grievances concerning nonreappointment, the FGHC will schedule the matter for hearing [or will direct the parties to participate in mediation as provided in Section 3.9.3.7 below.] With respect to all other grievances, FGHC will review the petition and, by a vote of the majority of the committee membership, decide whether the petition sets forth sufficient grounds to warrant acceptance of the matter on the facts alleged. The FGHC shall grant a hearing with respect to any grievance other than a grievance concerning nonreappointment if it determines:

(a) that the request does contain a contention that a right or entitlement of the faculty member, conferred by University policy or practice, has been abridged; and

(b) that the facts alleged, if established, will support that contention.

If the committee votes not to consider the grievance, the matter is closed.

If the committee votes not to consider any grievance other than a grievance concerning nonreappointment, the matter is closed.

3.9.3.10 If the FGHC determines that the grievant's contention has not been established, it shall, by a written statement explaining the FGHC's reason(s), so notify the faculty member, the respondent(s), and the Provost and Executive Vice Chancellor. The FGHC's decision, as a determination of a body of the grievant's peers, shall be final with respect to all grievances except those challenging a nonreappointment decision. When the FGHC makes a recommendation unfavorable to a grievant challenging a nonreappointment decision, the appeal process for such a grievant is to the Chancellor, and if the Chancellor concurs in an FGHC recommendation unfavorable to the faculty member, the grievant may appeal to the Board of Governors, pursuant to 3.9.3.15.1 and 3.9.4.2, below.

3.9.3.15.1 If the FGHC makes a recommendation unfavorable to a grievant challenging a nonreappointment decision, the grievant may submit the FGHC report to the Chancellor for review. If the Chancellor concurs in the FGHC's recommendation, the faculty member may appeal by filing a written notice of appeal with the Board of Governors pursuant to 3.9.4.2.

3.9.3.16 If the Chancellor in a grievance not challenging a nonreappointment decision concurs in a recommendation of the FGHC that is favorable to the grievant, the decision shall be final. If the Chancellor declines to accept a committee recommendation that is favorable to the faculty member, the faculty member may appeal the Chancellor's decision pursuant to 3.9.4.1.

3.9.4 Appeal Beyond the Chancellor

3.9.4.1 With respect to a decision adverse to the faculty member in a grievance about a matter other than a nonreappointment decision, the line of appeal is as prescribed by Section 607 of The Code, and shall be guided by the following procedure:

(a) A grievant dissatisfied with the Chancellor's disposition of a grievance must file written notice of appeal with the Board of Trustees, by submitting such notice to the Chancellor, within ten (10) working days after the grievant's receipt of the decision by certified mail, return receipt requested. The appeal to the Board of Trustees shall be to a standing committee of five (5) members to be selected and agreed upon by the Chair of the Board of Trustees and the Chair of the Faculty Senate. The immediate Past Chair of the Faculty Senate may advise the current chair if the chair feels that it is necessary. The appeal shall be transmitted through the Chancellor and be addressed to the chair of the Board of Trustees. The Board of Trustees Appeals Committee shall base its consideration of the appeal upon the written record of the grievance. The Board of Trustees Appeals Committee will issue its decision within 120 calendar days after receipt by the Chancellor of the notice of appeal. The decision of the Board of Trustees Appeals Committee is final.

3.9.4.2 With respect to a decision adverse to the faculty member in a grievance about a nonreappointment decision, the line of appeal is as prescribed by Section 604 D(2) of The Code, and shall be guided by the following procedure:

If the Chancellor concurs in an FGHC 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. *See* Policy 101.3.1 for further information.

Appendix C: PROPOSAL FOR INSTITUTING A SNOW SCHEDULE AT ASU

RATIONALE:

1. A snow schedule would replace the current policy of canceling the first or first two classes of the day, thus assuring that the first two classes of the day do not continually miss out on instruction time.
2. Having a responsible schedule that allows for all classes to meet would make the decision to alter the university's schedule easier to make.
3. The university could possibly coordinate with AppalCart relative to their decision to postpone putting their buses on the roads, thus assuring that students would not be expected to get to class at times when no transportation is available.
4. As a courtesy, the snow schedule would allow time for faculty, staff, and students who have children to put alternative child care into place when public schools close or are on an alternate schedule.

M-W-F Classes

Snow Schedule (40 minute classes)

8:00 - 8:50	9:30 - 10:10
9:00 - 9:50	10:20 - 11:00
10:00 - 10:50	11:10 - 11:50
11:00 - 11:50	12:00 - 12:40
12:00 - 12:50	12:50 - 1:30
1:00 - 1:50	1:40 - 2:20
2:00 - 2:50	2:30 - 3:10
3:00 - 3:50	3:20 - 4:00
4:00 - 4:50	4:10 - 4:50
5:00 - 5:50	5:00 - 5:50

Night classes as scheduled, weather permitting. Monday/Wednesday classes that run for 75 minutes would need to reduce to 60 minutes as on the Tuesday/Thursday schedule below.

T-TH Classes

Snow Schedule (60 minute classes)

8:00 - 9:15	9:30 - 10:30
9:30 - 10:45	10:45 - 11:45
11:00 - 12:15	12:00 - 1:00
12:30 - 1:45	1:15 - 2:15
2:00 - 3:15	2:30 - 3:30
3:30 - 4:45	3:45 - 4:45
5:00 - 6:15	5:00 - 6:00

Night classes as scheduled, weather permitting.

This schedule is not meant to replace the current weather policy of students, faculty, and staff using their own best judgment for staying safe in inclement weather. In addition, faculty should be encouraged to put the snow schedule times for their classes on syllabi along with the regular times, thus reducing confusion for individual classes.