

**FACULTY CONSTITUTION, BYLAWS, AND REGULATIONS ON ACADEMIC FREEDOM, APPOINTMENT, TENURE AND DUE PROCESS OF NORTH CAROLINA WESLEYAN COLLEGE**

**CONSTITUTION**

**ARTICLE I: PURPOSE**

This Constitution sets forth the policies and procedures whereby the Faculty of North Carolina Wesleyan College, acting as a corporate body, shall: (1) execute its delegated responsibility over all matters of an academic nature, including the establishment and evaluation of curricula, the methods of instruction, the standards for the admission of students, the standards for academic performance, the promotion of effective teaching, the enrichment of scholarship, the fostering of professional growth, the recommending of all degrees to be granted by the College; (2) advise through established procedures in decisions concerning faculty appointments, reappointments, promotions, tenure, and in other matters affecting faculty welfare; (3) advise in appropriate ways in the selection of presidents, chief academic officers, and other principal administrators; (4) advise through established procedures in decisions concerning the development of programs and long-range plans for the College, the allocation of resources, student affairs, alumni relations, and other matters as the President of the College shall determine; (5) choose a representative Faculty Council charged with exerting initiative and leadership in the responsibilities outlined above and in other matters affecting the College.

**ARTICLE II: MEMBERSHIP**

The College Faculty shall consist of (1) the President of the College, (2) the chief academic officer, (3) other academic administrators who hold the rank of Professor, Associate Professor, or Assistant Professor, (4) the Director of the Library and other professional librarians who have earned at least a master's degree from an American Library Association accredited program in library or information science, (5) those persons under full-time faculty contract, understood to include teaching responsibility, and who hold the rank of Professor, Associate Professor, Assistant Professor, or Instructor, and (6) Faculty Emeriti.

**ARTICLE III: FACULTY OFFICERS AND FACULTY COUNCIL**

The officers of the faculty shall include a chair and a vice chair. The chair and vice chair shall hold faculty contracts with academic tenure.

The Faculty shall have a representative council composed of the Faculty Chair, the Vice Chair, the immediate past Chair, a representative from each academic division, and one at-large representative. All Faculty Council members shall hold faculty contracts and shall be elected by faculty holding faculty contracts. Division chairmen may not serve. The immediate past chair shall serve as an *ex officio* voting member of the Faculty Council. The Council elects its Secretary from the division and at-large representatives

#### **ARTICLE IV: DUTIES OF FACULTY OFFICERS AND FACULTY COUNCIL**

- 1) The duties of the Chair of the Faculty shall be to preside at meetings of the Faculty in the absence of or at the invitation of the President and/or the chief academic officer, to preside at meetings of the Faculty called by the Faculty Council, to make reports to the Faculty and to submit recommendations from the Faculty Council to the Faculty, to call and preside at meetings of the Faculty Council, to meet regularly with the President and chief academic officer, and to perform other duties normally pertaining to this office.
- 2) The Vice Chair shall assume the duties of the Chair in her or his absence. Further, should the Chair no longer hold an appointment at the College, the Vice Chair shall assume the office of the Chair for the remainder of the term of office.
- 3) The Secretary shall be responsible for the records and correspondence of the Faculty Council.
- 4) The Faculty Council shall act as a representative body of the Faculty and shall lead the Faculty in carrying out the purposes stated in Article I. The Faculty Council shall deliberate on matters of general concern to the Faculty and shall serve as the primary liaison between the faculty and the administration of the College. The Faculty Council shall be able to place items on the agenda of regular faculty meetings and to call faculty meetings after proper notification has been given to the President of the College.
- 5) The Faculty Council shall recommend to the faculty, membership of standing committees of the Faculty and of the College and shall review and make recommendations concerning the structure and work of the faculty committees. These standing committees shall be responsible for academic, curricular, professional development, and faculty personnel issues.
- 6) At the beginning of each year, the Faculty Council, in consultation with the chief academic officer and the chairs of the standing faculty committees, shall prepare an agenda for the coming year, including a schedule of regular faculty meetings. The Faculty Chair shall report periodically to the Faculty as to progress in completing the agenda.

#### **ARTICLE V: ELECTIONS**

Faculty Council is elected at the March faculty meeting for three-year rotating terms. Faculty Hearing Committee members are elected at the April faculty meeting for staggered terms of five years. Other standing committee members are elected for three-year rotating terms at the April faculty meeting. Division and At-Large Representatives cannot serve consecutive terms in these

positions. Nominations for the committees elected at the April faculty meeting are brought to the faculty by the combined incoming and outgoing Faculty Councils, and may also come from the floor at the April faculty meeting.

#### **ARTICLE VI: RATIFICATION, AMENDMENTS, AND BYLAWS**

The Faculty Constitution shall become effective when approved by a two-thirds majority vote of faculty members present in a regular or called faculty meeting, by the President, and by a two-thirds majority vote of the Board of Trustees of North Carolina Wesleyan College. Amendments to this Constitution may be proposed by Faculty Council or by written petition signed by at least fifteen percent of the faculty membership. The proposal shall be submitted to the Faculty at least one month in advance of any regular meeting of the Faculty and shall become effective when approved by a two-thirds majority vote of faculty members present in a regular or called faculty meeting, by the President, and by a two-thirds majority vote of the Board of Trustees.

Operational procedures are defined in the Bylaws of the Faculty.

This Constitution supersedes all such constitutions.

## BYLAWS

### I. FACULTY MEETINGS

Section 1. **Regular Faculty Meetings.** The Faculty shall meet at least monthly during the academic year as determined by the Faculty Council and the chief academic officer.

Section 2. **Called Faculty Meetings.** Faculty meetings may be called through any one of the following procedures:

- 1) The President or the chief academic officer may call a meeting at any time with proper notification. Proper notification shall consist of notifying the faculty in writing at least three full days<sup>1</sup> before the meeting.
- 2) The Faculty Council may call a meeting, provided proper notification is given. Proper notification shall consist of (a) notifying the President of the College or her or his office in writing at least three full days before the meeting and (b) notifying the Faculty in writing at least three full days before the meeting.
- 3) The Faculty may call itself into session after presenting to the President a petition identifying the subject to be discussed at the meeting, signed by at least fifteen percent of its membership. Under these conditions, the President of the College, or the chief academic officer acting in her or his behalf shall set the time and place of the meeting and shall preside.

Section 3. **Quorum.** A quorum shall consist of a simple majority of the current membership of the Faculty, not including Faculty Emeriti.

#### Section 4. **General Voting Procedures**

- 1) Voting shall be by voice, except if any person so requests, it shall be taken by a show of hands or by standing; or, by either secret ballot or roll call if a majority of those present so request.
- 2) The question shall pass by a simple majority of those present and voting except in those cases where a greater majority is specified in the Constitution or Bylaws.

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<sup>1</sup> Wherever the word day is used in the Faculty Constitution, Bylaws, and Regulations on Academic Freedom, Appointment, Tenure and Due Process, except where a calendar day is specified, the word "day" shall mean any day except Saturday, Sunday, or an institutional holiday. In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted.

Section 5. **Recording Secretary.** At the first faculty meeting of the academic year, the faculty shall elect a recording secretary who keeps the minutes of the meetings.

## II. FACULTY OFFICERS AND COUNCIL MEMBERS

Section 1. **Basis for Faculty Council Representation.** In addition to the officers of the Faculty and the immediate past faculty Chair, the faculty council shall consist of one representative from each academic division in the College. All faculty officers and Faculty Council representatives shall be nominated and elected in a meeting of the Faculty.

Section 2. **Qualifications for Office.** Faculty officers and other Faculty Council members shall be elected from those who hold faculty contracts. The Faculty Chair and Vice Chair shall hold academic tenure.

### Section 3. **Terms of Office**

- 1) Faculty officers and other Faculty Council members shall assume their duties on the day elected and shall serve for terms of three years.
- 2) No member of the Faculty Council may be elected to serve more than three consecutive years and no faculty officer may be elected to the same office for consecutive terms.

### Section 4. **Election of Faculty Officers and Members.**

- 1) The annual election of Faculty Council members shall be held during a regular March Faculty meeting. The outgoing Faculty Chair shall preside during the election of the incoming Faculty Chair. Then the new Faculty Chair shall preside for the election of the remaining officers and representatives. Written nominations may be submitted prior to the election.
- 2) Oral nominations and secret ballots for each position shall be completed in sequence beginning with the Faculty officers.
- 3) If no nominee receives a simple majority of the votes cast, a subsequent runoff election shall be held between the two candidates receiving the highest number of votes.

Section 5. **Recall of Officers and Faculty Council Members.** Recall of Faculty officers and other Faculty Council members requires a two-thirds majority vote of the faculty present. Voting shall be by secret ballot.

Section 6. **Filling Vacancies of Officers or Faculty Council Memberships.** In the event of a vacancy in the office of Faculty Chair, the Vice Chair shall be declared the Chair of the Faculty for the remainder of the unexpired term. Vacancy in the office of Faculty Vice Chair and Secretary shall be filled by a special election. The Chair of the Faculty shall appoint the runner-up in the preceding election to fill any other Faculty Council or Faculty Hearing Committee vacancy. The Recording Secretary of the Faculty shall provide records of the preceding election in order to determine the runner-up. In the event that no runner-up is available, a special election shall be conducted at the next regular faculty meeting.

Section 7. **Placing Items on the Agenda of Faculty Meetings.** The Faculty Council or any member of the Faculty may place items on the agenda of Faculty meetings by notifying the chief academic officer in writing at least three full days prior to the meeting.

Section 8. **Rules of Order.** Except as otherwise provided in this Constitution or by a two-thirds vote of the members present, the current edition of *Robert's Rules of Order* shall govern all Faculty meetings.

### III. FACULTY COMMITTEES

Section 1. **Definition of a Committee of the Faculty.** A faculty committee is authorized by the Faculty Constitution to address matters relating to the educational program and to the professional status of the faculty. Voting members of the faculty committees are faculty members elected by the faculty. The faculty may also invite persons from outside the faculty to serve on its committees.

Section 2. **Committee Composition, Terms and Responsibilities.** Members of the Faculty Hearing Committee are elected to five-year staggered terms. Members of other committees are elected for three-year staggered terms. Committees elect their own chairs.

1) **Academic Policy Committee.** Composed of one voting faculty representative from each of the academic divisions and one member at-large. *Ex officio* members without a vote are the chief academic officer of the college and the registrar. Responsibilities of the committee are to monitor and address issues regarding the academic integrity of the educational programs and to bring proposals before the faculty and administration for consideration. The committee also considers the appeals of students placed on academic suspension or who have a grievance regarding a course grade.

2) **Curriculum Committee.** Composed of one voting faculty representative from each of the academic divisions and one member at-large. *Ex officio* members without a vote are the chief academic officer of the college, the registrar, and the Director of the Library. The responsibilities of the committee are to monitor the curriculum, to review proposed changes in courses or educational programs, and to make recommendations on curricular matters to the faculty for action.

3) **Professional Development Committee.** Composed of one voting faculty representative from each of the academic divisions and one member at-large. The committee is charged with the responsibility of providing professional development opportunities for faculty to enhance their teaching and scholarship. The committee also reviews the policies and procedures which govern faculty development. It recommends to the faculty guidelines for the awarding of professional development funds, to see the disbursement of funds is in accordance with guidelines, and to recommend to the chief academic officer of the College those faculty who should receive sabbaticals and course load reductions for scholarly or professional activities and other professional development awards.

4) **Faculty Personnel Committee.** Composed of five members of the tenured faculty. Responsibilities of the committee are to review and recommend candidates for promotion and tenure, to review faculty dossiers submitted for third-year review, and to review the professional development plans of faculty participating in post-tenure review with specific areas of concern. In the case of promotion and tenure, the committee makes its recommendation in writing to the chief academic officer of the College.

5) **Faculty Hearing Committee.** Composed of five faculty members with tenure. The committee shall perform the functions assigned to it in the Regulations on Academic Freedom, Appointment, and Tenure and Due Process. Request for review shall be submitted to the Chair of the Faculty Hearing Committee. If five qualified members of the Faculty Hearing Committee are unavailable, substitute members of the Hearing Committee shall come from the tenured members of the Faculty Council. Members of the Faculty Personnel Committee shall be precluded from serving on the Faculty Hearing Committee.

6) **General Education Committee.** The General Education Committee is comprised of one voting faculty member from each of the four academic divisions and one member at-large. At least two of the voting faculty members shall be tenured. The Dean of the College is an *ex officio* member (without vote) of the committee. Others may attend or be asked to attend at the discretion of the chair when appropriate. Examples of individuals who may be asked to attend a General Education Program Committee meeting include (but are not limited to) the Registrar, the Institutional Research Director, the College Librarian, the Writing Program Director, Division Chairs and individual faculty members.

The Committee assesses the General Education Program and addresses issues relevant to the General Education Program and brings these before the Faculty for debate and action.

7) **Technology Committee.** The committee monitors and addresses issues regarding technology and its use as it relates to the Faculty. The committee serves as a liaison between the faculty and the IS department.

The committee is comprised of one faculty representative from each of the four academic divisions and one member at-large. *Ex officio* members (without vote) are the Director of

IS, the Vice-President of Finance and the Director of Distance Learning.

#### **IV. RELATIONS WITH THE BOARD OF TRUSTEES**

Section 1. **Faculty Representation.** The Chair of the Faculty shall attend all open meetings of the Trustees and may speak upon invitation of the Chair of the Board. The Chair of the Faculty shall attend open meetings of the Education and Enrollment Management Committee. Faculty Council shall elect one faculty member to represent the faculty at open meetings of each of the following Board committees: Development, Finance, Building and Grounds, and Technology.

Section 2. **Communication with the Trustees.** By a majority vote of its total membership, the Faculty, as authorized by the Bylaws of the College Charter, may petition the Trustees for direct action in respect of any matter substantially affecting the fundamental interests of the College. Prior to submission to the Trustees the petition must be presented in writing to the President by the Chair of the Faculty at least two weeks before the next regular meeting of the Board of Trustees. The President and the Faculty shall make every reasonable effort to resolve such matters amicably in advance of a Trustees' meeting. It shall be the duty of the President to transmit such report or petition to the Trustees at the next meeting.

#### **V. REVISION OF BYLAWS**

Amendments to the Bylaws may be proposed by Faculty Council or by written petition signed by at least fifteen percent of the faculty membership. The proposal shall be submitted to the Faculty at least one month in advance of any regular meeting of the Faculty and shall become effective when approved by a two-thirds majority vote of faculty members present in a regular or called faculty meeting, by the President, and by a two-thirds majority vote of the Board of Trustees.

These Bylaws supersede all other bylaws to the Constitution.

## **REGULATIONS ON ACADEMIC FREEDOM, APPOINTMENT, TENURE AND DUE PROCESS**

### **SECTION 1. FREEDOM AND RESPONSIBILITY IN THE COLLEGE COMMUNITY**

- A. North Carolina Wesleyan College is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of this goal. Academic freedom, as used in this document, involves the freedom to conduct research and publish the results, to teach and otherwise to conduct discussion and debate without external restraint, and to seek the truth and speak freely. The College shall protect faculty (both full-time and adjunct), students, and staff in their exercise of these rights.
- B. Faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the College and their position as persons of learning. Faculty should strive for accuracy, show respect for others' rights of free expression, and never claim to act on behalf of the College if they are not so authorized. Faculty should join the College in seeing that the freedom of each member of the academic community is respected.
- C. Faculty members understand that the exercise of freedom and responsibility require that all faculty members, whether tenured or not, participate in regular evaluations to insure continued professional growth and effective performance of duties.

### **SECTION 2. ACADEMIC RANK AND TENURE**

- A. Instructional faculty appointments are assigned and evaluated according to the following academic ranks. Where time requirements are specified, a leave of absence shall not count toward time spent in rank unless a different arrangement has been made.
  - 1. An Instructor holds at least a Master's degree and has demonstrated special knowledge and academic achievement in the relevant academic discipline.
  - 2. An Assistant Professor normally holds the doctoral degree, or other appropriate terminal degree, in the relevant academic discipline.
  - 3. An Associate Professor, holding the first senior rank of the Faculty, normally will have earned the doctoral degree, or other appropriate terminal degree, in the relevant academic discipline and will have achieved a distinguished record in teaching, professional activity, and service to the College and the community.
  - 4. A Professor will have earned the doctorate or other appropriate terminal degree in the relevant discipline and will have achieved a distinguished academic career. Promotion from associate professor will be awarded not only in recognition of past accomplishments in teaching, professional activity, and service, but also in the expectation of continued excellence. Individuals promoted to this rank must have at least ten years of tenure-track college teaching experience with at least five years on the tenure track at North Carolina Wesleyan College.

To be considered for tenure and promotion, individuals must provide evidence in support of the following criteria, in order of importance:

- Five years of full-time college teaching experience at the rank of Instructor or above with at least three years on the tenure track at North Carolina Wesleyan College.
- Excellence in teaching.
- Professional growth and scholarship.
- Service to the College and community.

- B. Academic tenure refers to the conditions and guarantees that apply to a faculty member's professional employment. It may be conferred only by action of the President and the Board of Trustees.
- C. The purpose of granting academic tenure is to protect the academic freedom of faculty members while providing a reasonable degree of economic security. North Carolina Wesleyan College recognizes that tenure is a vital aid in attracting and retaining faculty members of high quality because it represents a commitment between the college and the faculty member. Accordingly, a faculty member who holds academic tenure may be discharged or suspended only for 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, or for reasons of financial exigency or program curtailment as provided in Section 5 and 7 below. The academic freedom of all faculty members will be protected.
- D. Appointment with academic tenure pertains exclusively to the employment of faculty members with a rank of Associate Professor or Full Professor. Such appointments may be for fixed terms of employment, or they may continue until resignation, retirement, or death.
- E. Decisions on appointment, reappointment, promotion, and academic tenure shall be made without regard to race, age, gender, sexual orientation, religion, national origin, or disability that does not prevent the individual from performing the essential functions of her or his job with or without reasonable accommodation.
- F. Assistant professors and Associate professors will normally become eligible for academic tenure after five years as full-time faculty members. The candidate must have completed at least three years as a tenure-track faculty member at the College before being considered for tenure. Credit for up to three years of previous teaching experience may be granted at the time of initial appointment if the candidate has taught full-time at an accredited college or university at the rank of instructor or above. Credit will be awarded at the discretion of the College. A faculty member may apply for an earlier tenure decision. Individuals appointed to the rank of professor will have academic tenure.

### **SECTION 3. PROCEDURES IN REGARD TO APPOINTMENT, PROMOTION, AND TENURE**

- A. Decisions with regard to appointment, reappointment, promotion, and tenure shall be made in accordance with the College's established procedures and criteria for service in the respective ranks, as approved by the Board of Trustees.
- B. Appointments
1. All full-time faculty positions will be tenure-track, with the exception of special appointments clearly limited to a brief association with the College explicitly and in writing termed non-tenure-track in the contract for initial appointment. Positions may be declared non-tenure-track only for clear and demonstrable good cause, such as temporary, visiting, or adjunct appointment, or a one-year visiting appointment.
  2. Upon joining the College, a tenure-track faculty member will be offered a continuing tenure-track appointment.
  3. Annually, division chairs shall review the performance of each tenure-track and non-tenure track faculty member in their academic division and (in the case of tenure-track faculty) make written recommendations to the chief academic officer concerning continuation of appointment. If the division chair's recommendation is negative, the chief academic officer shall submit the finding to the Faculty Personnel Committee for an additional recommendation. The chief academic officer will also review the faculty member's performance and all recommendations received and forward her or his own recommendation to the President. The faculty member under review shall receive copies of the recommendations from the division chair, the Faculty Personnel Committee, and from the chief academic officer.
  4. Notification of non-reappointment of tenure-track faculty shall be made according to the following schedule:
    - a. Not later than March 1st for faculty in the first academic year of service with the College.
    - b. Not later than December 15th for faculty in the second academic year of service with the College.
    - c. At least twelve months before expiration of the appointment after two or more years of service with the College.
  5. Non tenure-track faculty are contracted on a year-to-year basis as needed. Their contracts are limited to a term of one year, and do not include any implication of continued employment.
- C. Third-Year Review for Promotion and Tenure
1. By February 1 of the third year of a tenure-track appointment, each faculty member will submit a dossier for review by a committee consisting of his or her division chair and two

representatives of the Faculty Personnel Committee, neither of whom shall be members of the applicant's division. The purpose of such review is to guide the faculty member towards eventual promotion and tenure. The dossier should include the following:

- A statement of the teaching philosophy, discussing pedagogical methods and the special role of the faculty at a small liberal arts college;
- Evidence to allow an assessment of teaching competence, which might include course evaluations by students, letters from faculty peers, report or reports of classroom observation by a faculty member, and syllabi;
- Two annual self-evaluations;
- A vita updated to the end of the fall term of the third year.

By May 1 the Committee shall provide the faculty member with a written evaluation of the dossier, including suggestions for improvement. A copy of the evaluation will be added to the faculty member's personnel file.

#### D. Promotion and Academic Tenure

1. Not later than May 1st of the year preceding a candidate's review for promotion and tenure, the Dean of the College will notify the candidates, the appropriate division chair, and the chair of the Faculty Personnel Committee of the upcoming review.
2. Tenure-track faculty members in the sixth year of their appointment must submit their dossier for promotion and academic tenure to the appropriate Division Chair no later than October 1st. Failure to submit the dossier by October 1<sup>st</sup> will result in a terminal contract the following year. A dossier is a compilation of written materials providing detailed support of a candidate's request for promotion and tenure. It is put together by the candidate and must address his or her teaching service to the College and community, and scholarship.

Dossiers should be specific to the candidate's discipline, and, therefore, they will vary one from another. However, all dossiers should be set up as follows, and should fulfill these criteria:

##### I. Table of Contents

##### II. Statement of Educational Philosophy (This is a formal statement of 200-250 words.)

##### III. Curriculum Vitae, including:

1. Name, rank, division, and area
2. Education and teaching experience
3. All courses taught
4. Research and scholarship, including that relevant to teaching (course revisions and development, for example)
5. Publications

6. Grants received (and proposed)
  7. Honors
  8. Service to the College (committees, for the division, etc.)
  9. Membership in professional organizations
  10. Community service
- IV. Evidence of scholarship, including off-prints or reprints, summaries of grant proposals, copies of speeches or lectures, etc.
- V. Letters of Endorsement. A minimum of 3 letters from College personnel familiar with the candidate's work and at least one letter from another scholar in the candidate's field outside the College are required. No more than 5 letters total may be submitted. Division colleagues and other members of the Faculty typically provide the in-house letters. Students may also submit letters. All Letters of Endorsement must be sent directly to the Dean of the College. Neither the Personnel Committee nor the College will consider any letter forwarded by a candidate or another person.
- VI. Summary of course evaluations and any other evidence of teaching effectiveness.
- VII. Any other relevant and useful documentation.
3. The division chair of each faculty member under consideration for promotion and/or academic tenure will review the dossier and submit it, along with a written evaluation of the candidate to the chair of the Faculty Personnel Committee by October 15th.
  4. The Faculty Personnel Committee and the appropriate division chair shall submit a written recommendation concerning each applicant for promotion and/or academic tenure to the chief academic officer and a copy to the division chair by December 15th.
  5. The chief academic officer will confer with the Faculty Personnel Committee and submit his or her recommendation to the President by January 15th.
  6. If the President decides to recommend that academic tenure, with or without promotion, be conferred, he or she shall forward that recommendation to the Board of Trustees for final approval. If the President decides to recommend promotion without academic tenure, he or she shall forward that recommendation to the Board of Trustees for final approval.
  7. Any full-time tenure-track faculty member employed beyond seven years shall have academic tenure.

#### **SECTION 4. POST-TENURE REVIEW**

##### **A. The Purpose of Post-Tenure Review**

Post-tenure review helps senior faculty members evaluate their continued professional development. The purpose is to help faculty members improve their performance in the areas of teaching, scholarship and service. Nothing in the post-tenure review process modifies or diminishes the College's commitment to academic freedom. The post-tenure review process does not modify or diminish the status of academic tenure for the individual faculty member being reviewed. Nothing in the post-tenure review process modifies the grounds for, or the procedures for, discharge or the imposition of serious sanctions as described in Section 8.

#### B. Review Procedure

In the first year following the granting of tenure and in each year thereafter, faculty members will include in their annual self-evaluations a list of activities that indicate continued professional development. This would include books and articles read; workshops, professional meetings, and conferences attended; and any other relevant enterprises. Division chairs and the Academic Dean will pay special attention to these activities when reviewing the self-evaluations.

When the individual being reviewed is the division chair, the Academic Dean will appoint another division chair to join him or her as the reviewer.

#### C. Professional Development Plan

If the post-tenure review process identifies specific areas of concern, the Faculty Personnel Committee, in consultation with the chief academic officer, may request a professional development plan. The faculty member in consultation with his or her division chair shall write a plan which indicates specific remediation activities within a specific time. Both the Faculty Personnel Committee and the chief academic officer must approve the professional development plan. At the end of the specified time, the individual and his or her division chair will report to the Faculty Personnel Committee and to the chief academic officer on progress in meeting the goals specified in the plan. The Faculty Personnel Committee and the chief academic officer may terminate the review process at that point, or they may direct an extension of the professional development plan.

## **SECTION 5. NON-REAPPOINTMENT OF FACULTY, DENIAL OF PROMOTION, OR DENIAL OF TENURE**

If the President decides not to recommend reappointment, promotion, or academic tenure, he or she shall notify the faculty member of that decision in writing by February 1st. The faculty member may then seek review of that decision in accordance with the procedure set forth in this section. In the event of a decision not to grant reappointment or academic tenure, copies of each recommendation will be provided to the faculty member.

### **A. Grounds for Non-reappointment**

The decision whether to reappoint, promote, or tenure a faculty member may be based on any factor considered relevant to the total institutional interest, but the College must consider the faculty member's demonstrated professional competence, her or his potential for future contributions, and institutional needs. A decision (1) may not be based upon the faculty member's race, gender, sexual orientation, religion, national origin, physical disability that does not prevent the individual from performing the essential functions of her or his job with or without reasonable accommodation, or upon personal malice; and, (2) may not violate any rights and privileges set forth in this document for faculty members on tenure-track appointments.

### **B. Conference with the Chief Academic Officer and Division Chair**

1. Within five days after receiving written notice from the President of non-reappointment, denial of promotion, or denial of tenure, a faculty member may, in writing, request a private conference with the chief academic officer and her or his division chair to discuss the reasons for the non-reappointment. This request shall be granted and the conference held forthwith, within five days after the receipt of the request, or as mutually agreed.
2. Within five days after this conference, the chief academic officer and the division chair shall prepare and send to the faculty member a written evaluation of the matter.

### **C. Request for Review by Faculty Hearing Committee: Scope of Review**

1. Within five days after he or she receives this written evaluation, the faculty member may submit a written request to the chair of the Faculty Hearing Committee to review the decision. Failure to submit a request for a review within five days after receipt of the written evaluation shall terminate the faculty member's right to appeal.

The request for review shall be written and addressed to the Chair of the Faculty Hearing Committee. It shall specify the grounds upon which the faculty member contests the decision, with a short, plain statement of facts that he or she believes supports the contention.

2. The Chairs of the Faculty Hearing Committee and of the Faculty will receive a list of all witnesses prior to the convening of the Faculty Hearing Committee. Faculty members who will testify as witnesses, hold appointment in the faculty member's division, or who have any other conflict of interest, are disqualified from serving on that Hearing Committee. The Faculty Council shall elect eligible replacements from its tenured members. If sufficient replacements are not available, the Faculty Council shall elect eligible replacements from tenured members of the faculty.
3. Within ten days of receiving the request, the Faculty Hearing Committee shall conduct a hearing. The faculty member shall be given written notice at least five days in advance of the hearing.

#### D. Conduct of Hearing

Only the members of the Faculty Hearing Committee, the faculty member, the chief academic officer, and such witnesses as may be called may attend the hearing, except that the faculty member and the chief academic officer may each be accompanied by a College employee or an attorney of her or his choosing. A quorum for the hearing requires four members of the Hearing Committee. The Hearing Committee may consider only such evidence as is presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by committee members, the faculty member, the chief academic officer, and the representatives of the faculty member and chief academic officer. Except as herein provided, the conduct of the hearing is under the committee chair's control. At the faculty member's request, an audio tape recording of the proceeding shall be made and provided to the faculty member.

E. Hearing Procedure

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

At the end of this presentation, the committee shall consider the matter in executive session. The burden is upon the aggrieved faculty member to convince the committee that her or his contention is valid.

F. Procedure After Hearing

1. If the Faculty Hearing Committee determines that the faculty member's contention has not been established, it shall, by a written statement, so notify him or her and the chief academic officer. Such a determination confirms the original decision. If the committee determines that the faculty member's contention has been satisfactorily established, it shall so notify him or her and the chief academic officer by a written notice that includes a recommendation for corrective action by the chief academic officer. The committee will reach its decision within five days.
2. Within five days after receiving a recommendation for corrective action, the chief academic officer shall notify the faculty member and the Chair of the Faculty Hearing Committee of any modification he or she will recommend with respect to the original decision.
3. If the chief academic officer fails to recommend a modification of the original decision, the Faculty Hearing Committee shall submit a written report to the President containing the committee's findings and recommendation and a statement of what it considers to be appropriate action by the President to resolve the matter.
4. If the President decides not to modify the original decision, he or she shall notify the faculty member of that decision by a written statement. If the President decides to modify the original decision, he or she shall submit that recommendation to the Board of Trustees for final approval as provided in Section 3, paragraph C, part 4.

## **SECTION 6. LEAVES OF ABSENCE DUE TO ILLNESS OR DISABILITY**

When a faculty member becomes ill or disabled and is unable to carry out his or her duties, the faculty member or representative will inform his or her division chair and the chief academic officer in writing. The division chair will identify appropriate faculty who will be asked to fill in temporarily. If it has been determined that the illness or disability will be extended, the division chair and the chief academic officer will attempt to find an adjunct faculty member or full time faculty member who will be paid on an overload basis, if appropriate. The College reserves the right to have the faculty member examined by a physician of its choice and at its expense to substantiate the claim of illness or disability before an extended medical leave is granted.

The salary of the incapacitated faculty member will be continued by the college until such time as the faculty member becomes eligible for the Salary Continuation Plan offered under TIAA, but under no circumstance will the college be liable for the salary of an incapacitated faculty member beyond the first six months of the illness or disability. The Salary Continuation Plan does not apply unless the faculty member has selected it as a benefit option and been approved by the carrier.

## **SECTION 7. TERMINATION OF APPOINTMENT FOR REASONS OF FINANCIAL EXIGENCY, PROGRAM CURTAILMENT, ILLNESS OR DISABILITY**

### **A. Reasons for Termination of Appointment**

#### **1. Financial Exigency and Program Curtailment**

The employment of a faculty member with a term contract, academic tenure, or with a tenure-track appointment may be terminated because of (1) demonstrable, *bona fide* institutional financial exigency or (2) major curtailment or elimination of an academic or public service program.

- a. **Definition of Financial Exigency.** Financial exigency may occur if a *bona fide* imminent financial crisis threatens the survival of the institution as a whole and which cannot be alleviated by less drastic means.
- b. **Determination of Financial Exigency.** Determination of whether a condition of financial exigency exists shall be made by the Board of Trustees, in consultation with the President who will have consulted with the Faculty Council.
- c. **Declaration of Financial Exigency.** After financial exigency has been determined the President will inform and clarify the intent of the institution to all parties immediately affected, the chief academic officer and the Faculty Council.

- d. **Declaration of the Need for Program Curtailment or Elimination.** Curtailment and/or the elimination of academic programs not contingent on financial exigency may be formally and institutionally declared only after the findings and recommendations of the determination are brought to the attention of all division chairmen and parties concerned for additional advisory findings, and finally to the faculty for open discussion in good faith and secret ballot before the President seeks confirming approval by the Board of Trustees. Upon such approval the Chief academic officer will inform and clarify the intent of the institution to all division Chairmen and parties immediately affected, and to the Faculty Council.
- e. **Program Curtailment and/or Elimination.** The formal recommendation to discontinue an academic program or major will be determined by the president only after consideration by and with advice of the faculty and be based essentially upon educational considerations which are not cyclical or temporary variations in enrollment. An educational consideration, which may include issues of affirmative action, must reflect the long-term mission of the College and benefit the entire institution. The Academic Policy Committee, the Curriculum Committee, and other concerned parties will bring recommendations to the faculty for their approval.

## 2. Illness or Disability

Termination of an appointment for medical reasons, will be based upon clear and convincing medical evidence that the faculty member cannot continue to fulfill the terms and conditions of the appointment. The decision to terminate will be reached only after there has been appropriate consultation and after the faculty member concerned, or someone legally authorized to represent the faculty member, has been informed of the basis of the proposed action and has been afforded an opportunity to present the faculty member's position and response to the evidence. If the faculty member so requests, the evidence will be reviewed by the Faculty Hearing Committee before a final decision is made by the Board of Trustees on the recommendation of the President.

## 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 paragraph A, part 1 above, consideration shall be given to tenure status, to years of service to the institution, and to other factors deemed relevant, including affirmative action, but the primary considerations 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

When a faculty member's employment is to be terminated because of major curtailment or elimination of an academic or public service program and such curtailment or elimination of program is not founded upon financial exigency, he or she shall be given timely notice as follows: a) one who has academic tenure shall be given not less than twelve months' notice; and b) one who was appointed to a fixed term and does not have academic tenure shall be given notice as early as possible.

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 financial resources, to give the same notice as set forth immediately above.

## 3. Type of Notice to be Given

The President or her or his delegate shall send the faculty member whose employment is to be terminated a written statement of this fact. This notice shall include:

- a statement of the conditions requiring termination of the faculty member's employment;
- the date of termination;
- 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; and
- a statement of the faculty member's right, upon request, to a reconsideration of the decision by the Faculty Hearing Committee, if he or she alleges that the decision to terminate her or his employment was improper.

## 4. Termination if Reconsideration Not Requested

If, within ten days after she or he received the notice required, by paragraph B, part 3 above, the faculty member makes no written request for a reconsideration hearing, her or his employment shall be terminated at the date specified in the notice given pursuant to paragraph B, part 3, without recourse to any further review of the termination.

## 5. Request for Reconsideration Hearing

Within ten days after receiving the notice required by paragraph B, part 3, the faculty member may request in writing a reconsideration of the decision to terminate her or his employment if he or she alleges that the decision was improper. The request shall be submitted to the President, shall specify the grounds upon which the faculty member contends that the decision to terminate her or his employment was improper, and shall include a concise statement of facts that he or she believes supports the contention.

Submission of such a request shall constitute on the faculty member's part: a) a representation that he or she can prove her or his contention, and b) an agreement that the institution may offer in rebuttal of her or his contention whatever relevant data it may have.

6. Jurisdiction of the Faculty Hearing Committee

If the faculty member makes a written request in accordance with Section 7, Paragraph B, Part 5 for a reconsideration of the decision, the President or her or his delegate shall insure that a hearing is accorded before the Faculty Hearing Committee. This reconsideration shall be limited solely to a determination of the contentions made in the faculty member's request for reconsideration. The reconsideration hearing shall be held promptly, but this Committee shall accord the faculty member five days from the time it receives her or his written request for a hearing to prepare for it.

7. Conduct of Hearing

The hearing shall be closed to the public. The faculty member and the President or his or her designee have the right to legal counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, and to examine all documents and other adverse demonstrative evidence. The faculty member and the Hearing Committee shall have access, upon request, to documents of North Carolina Wesleyan College that were used in making the decision to terminate the faculty member's appointment. The Hearing Committee may consider only such evidence as is presented at the hearing and need consider only the evidence offered that it considers fair and reliable. All witnesses may be questioned by the Hearing Committee members. Except as herein provided, the conduct of the hearing shall be under the control of the Hearing Committee chair. Upon the faculty member's request, an audio tape recording of the proceedings shall be made and given to him or her at the institution's expense.

A quorum for the hearing requires four members of the Hearing Committee. No one shall serve on the Hearing Committee for this hearing who holds appointment in the faculty member's academic division or who participated directly in the decision to terminate this faculty member's appointment or who has any other conflict of interest. The Faculty Council shall elect eligible replacements from its tenured members. If sufficient replacements are not available, the Faculty Council shall elect eligible replacements from tenured members of the faculty.

## 8. Hearing Procedure

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

At the end of this presentation, the Faculty Hearing Committee shall consider the matter in executive session and shall make its written recommendation to the President within ten days after its hearing concludes. The burden is on the faculty member to satisfy the Committee that her or his contention is valid.

## 9. Procedure After Hearing

If the Faculty Hearing Committee determines that the faculty member's contention has not been established, it shall, by a written statement, so notify him or her and the President.

If the Committee determines that the faculty member's contention has been satisfactorily established, it shall notify him or her and the President by a written notice that may also include a recommendation for corrective action by the President.

In either case, within ten days after receiving the notice of the Faculty Hearing Committee's determination, the President shall send written notice to the faculty member and the Chair of the Faculty Hearing Committee what modification, if any, he or she will make with respect to the original decision to terminate the faculty member's employment. Subsequently, the president shall submit her or his decision to the Board of Trustees for final action.

## 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 one whose employment has been terminated pursuant to Section 7, Paragraph A, shall give him or her reasonable assistance in finding other employment.

2. First Right of Refusal of New Positions

For two years after the effective termination date of a faculty member's contract for any reason specified in Section 7, paragraph A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer, sent to the faculty member's last known address, shall be made by registered mail, return receipt requested. The faculty member shall have thirty calendar days after he or she receives the notice to accept the offer.

**SECTION 8. DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS**

- A. A faculty member who is the beneficiary of institutional guarantees of academic tenure or a term contract 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 provided in Section 2, paragraph C, above. These penalties may be imposed only in accordance with the procedures prescribed in this document. 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.A) or termination of employment (Section 7.A or Section 3.B).
- B. The President or her or his delegate shall send the faculty member a written statement of intention to discharge him or 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.
- C. If, within ten days after he or 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, he or she may be discharged without recourse to any further review of such discharge.
- D. If, within ten days after he or she receives the notice referred to in paragraph B above, the faculty member makes written request for a specification of reasons, the President or her or his delegate shall supply such specification in writing within ten days after receiving the request. If the faculty member makes no written request for a hearing within ten days after he or she receives the specification, the faculty member may be discharged without recourse to any further review of such discharge.
- E. If, within ten days, the faculty member makes a written request for a hearing, the President or her or his 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 Faculty Hearing Committee shall accord the faculty member ten days from the time it receives her or his written request for a hearing to prepare her or his defense. The Committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member.

A quorum for the hearing requires four members of the Hearing Committee. No one shall

serve on the Hearing Committee for this hearing who holds appointment in the faculty member's academic division or who participated directly in the decision to discharge this faculty member or who has any other conflict of interest. The Faculty Council shall elect eligible replacements from its tenured members. If sufficient replacements are not available, the Faculty Council shall elect eligible replacements from tenured members of the Faculty.

- F. The hearing shall be closed to the public unless the faculty member and the Committee agree that it may be open. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, and to examine all documents and other adverse demonstrative evidence. The conduct of the hearing shall be under the control of the Hearing committee chair. An audio tape recording of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the institution's expense.
- G. The President, or her or his designee or counsel, must participate in the hearing to present evidence, cross-examine witnesses, and make argument. The burden of proof that adequate cause exists rests with the institution and will be satisfied only by clear and convincing evidence in the record, considered as a whole.
- H. In reaching decisions on which its written recommendations to the President shall be based, the Committee shall consider only the evidence presented at the hearing and such written or oral arguments as the Committee, in its discretion, may allow. The Committee shall make its written recommendations to the President within ten days after its hearing concludes.
- I. If the President concurs in a recommendation of the Hearing Committee that is favorable to the faculty member, her or his decision shall be final. If the President 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 President's decision to the Board of Trustees. This appeal shall be transmitted through the President and addressed to the Chair of the Board. Notice of appeal shall be filed within ten days after the faculty member receives the President's decision. The appeal to the Board of Trustees shall be decided by the Board of Trustees. However, the Board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members. The Board of Trustees, or its committee, shall consider the appeal on the audio tape recording of hearings held by the Faculty Hearing Committee, but it may, in its discretion, hear such other evidence as it deems necessary. The Board of Trustees' decision shall be made at the next regularly scheduled Trustees meeting after the President has received the faculty member's request for an appeal to the Trustees. This decision shall be final.
- J. When a faculty member has been notified of the institution's intention to discharge him or her, the President may suspend him or her at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension shall be exceptional and shall be with full pay.

## **SECTION 9. IMPLEMENTATION OF THESE REGULATIONS**

- A. These regulations supersede all such regulations concerning academic freedom, appointment, tenure, and due process.
- B. Except as otherwise provided below, all provisions of these policies and regulations shall become operative (with respect to all existing and all future faculty appointments) when these policies and regulations are approved by the President and the Board of Trustees of North Carolina Wesleyan College.

The provisions of Section 5 shall apply with respect not only to those who receive notices of non-reappointment after the operative date but also to those who are given such notices during the ninety calendar days next preceding the operative date. Instructors, assistant professors, and associate professors to whom notices of non-reappointment are given during the ninety calendar days next preceding the operative date shall have twenty calendar days after the operative\_date within which to initiate the review procedures provided in Section 5.

#### **SECTION 10. AMENDMENT**

Amendment of these regulations may be proposed by a 2/3 majority vote of faculty members present in business session, provided that the proposed amendment in the regulations has been submitted in writing to the Faculty either by administrative officers, the Faculty Council, or by at least fifteen percent of the total faculty membership at least five full days prior to the meeting. If approved by the faculty, the proposed amendment shall be sent to the President for her or his approval. If the President approves the proposed amendment, a copy will be sent to the Board of Trustees for final action.