

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES
MAY 2017 SPECIAL CALLED MEETING

3:30pm EDT
Monday
May 8, 2017

Telephonic Meeting
Johnson City, TN

ORDER OF BUSINESS

- I. Call to Order
- II. Roll Call
- III. [Approval of the Minutes of March 24, 2017](#)Tab 1
- IV. [Transfer of FCC License for WETS-FM](#)Tab 2
- V. [Policy Recommendations from the Academic and Student Affairs Committee](#)Tab 3
- VI. [Adoption of Policies](#)Tab 4
 - A. [Appeals to the Board of Trustees](#)
 - B. [Uniform Procedures for Cases Subject to UAPA](#)
- VII. President’s Report
- VIII. Adjournment

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES

ACTION ITEM

DATE: May 8, 2017
ITEM: Approval of Minutes of March 24, 2017 Meeting
RECOMMENDED ACTION: Approval
PRESENTED BY: David Linville, Secretary

The minutes of the March 24, 2017 meeting of the Board of Trustees are included in the meeting materials.

MOTION: I move that the Board of Trustees adopt the resolution, approving the minutes as outlined in the meeting materials.

RESOLVED: The reading of the minutes of the March 24, 2017 meeting of the Board of Trustees is omitted, and the minutes are approved as presented in the meeting materials, provided that the Secretary is authorized to make any necessary edits to correct spelling errors, grammatical errors, format errors, or other technical errors subsequently identified.

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES

MINUTES OF THE INAUGURAL MEETING

March 24, 2017
Johnson City, Tennessee

The inaugural meeting of the East Tennessee State University Board of Trustees was held at 1 p.m. on Friday, March 24, 2017, in the East Tennessee Room of the D.P. Culp University Center on ETSU's main campus in Johnson City, Tennessee. The meeting was also livestreamed for those who could not be in attendance.

I. Call to Order

At the direction of Governor Bill Haslam, ETSU President Brian Noland called the meeting to order.

Dr. Noland thanked Mike Krause and the Tennessee Higher Education Commission for the morning orientation session for new Trustees. He also welcomed Governor Haslam, who commented on it being a historic day and reinforced to the Trustees the importance of ETSU being a part of the higher education system in Tennessee.

II. Roll Call

Secretary Linville called the roll, and all Trustees were in attendance:

Fred Alsop
Janet Ayers
Steven DeCarlo
David Golden
Dorothy Grisham
Linda Latimer
Scott Niswonger
Jim Powell
Ron Ramsey.

III. Adoption of Bylaws

Bylaws outlining operations for the Board of Trustees were presented. Developed by the institution's Governance Transition Committee, they include elements derived from specific sections of the FOCUS Act and others derived from best practices of the Association of Governing Boards of Universities and Colleges. The bylaws are outlined in six sections, including delineation of the authority and responsibilities of the Board of Trustees; the process through which the operations of the Board of

Trustees will transpire; a detailing of the committee structure of the Board of Trustees; the process for the selection, appointment, evaluation and other responsibilities prescribed to the President of the University; prescription of general parliamentary procedures to define the business and operations of the Board of Trustees; and the procedures through which the bylaws become effective and affiliated amendment procedures.

A motion was made to approve the bylaws as outlined in the meeting materials by Mr. Niswonger. The motion was seconded by Mr. Golden. The motion passed unanimously.

Dr. Noland presented an amendment to the bylaws that included a change to Section 5 (Item E) in the materials related to the role of the board secretary. The amendment clarified the process in which members of the Board will be notified of the creation of special committees. The amendment also included a change to the language in Article 1, Section 4.D to indicate the Chair of the Board shall designate an acting chair to preside at a meeting in which both the Chair and Vice Chair are absent.

A motion was made to approve the amended version of the bylaws by Ms. Grisham and seconded by Mr. Niswonger. The motion passed unanimously.

IV. Adoption of Code of Ethics and Conflict of Interest Policy

The Code of Ethics was presented to the Board for approval. The Code of Ethics outlines the requirements of Trustees in holding a position of public trust, delineating expectations that Trustees carry out their governance responsibilities in an honest, ethical, and diligent manner. Pursuant to Tennessee Code Annotated (TCA) § 49-8-204, the presented policy applies to and governs the conduct of all appointed members of the Board of Trustees of East Tennessee State University. The Code of Ethics with embedded Conflict of Interest Policy addresses conflicts of interest for board members and procedures whereby members can be dismissed for appropriate reasons by a fair process.

Mr. Powell made a motion to adopt the Code of Ethics Policy with the embedded Conflict of Interest Policy as outlined in the meeting materials. Dr. Alsop seconded the motion. The motion passed unanimously.

V. Election of Chair and Vice Chair

Dr. Noland presented recommendations for Mr. Niswonger to serve as chair of the Board of Trustees and Mr. Golden to serve as vice chair.

Dr. Alsop made a motion to adopt the slate of officers as proposed by Dr. Noland. Ms. Ayers seconded the motion. The motion passed unanimously.

Chairman Niswonger thanked Governor Haslam for his leadership with the FOCUS Act and noted that the governing board's role is to help develop the university and be of help with the strategic plan.

VI. Selection of the Student Trustee

Dr. Noland recommended to the Board of Trustees that Nathan Farnor serve as the inaugural student representative.

The student trustee was identified through a process whereby the Student Government Association solicited nominations and applications for the role, interviewing several students before narrowing the applicant pool to three nominees. Those three students were interviewed by Dr. Joe Sherlin, vice president of Student Affairs, and members of his staff, who returned the recommendation to Dr. Noland that Mr. Farnor serve in the role.

Mr. Farnor is a Roan Scholar and a leader on campus. He serves as the vice president of the SGA and also is part of several other organizations on campus.

Ms. Ayers made the motion to accept the recommendation that Mr. Farnor serve as the student member of the Board of Trustees for a term ending in March 2018. Mr. Golden seconded the motion. The motion passed unanimously.

VII. Standing Committee Membership

Secretary Linville distributed to Board of Trustees a committee leadership and membership list for consideration. The four standing committees as prescribed by the Bylaws are the Academic and Student Affairs Committee; the Finance and Administration Committee; the Audit Committee; and the Executive Committee. Proposed membership:

Academic and Student Affairs Committee

Linda Latimer (chair)
Janet Ayers
Fred Alsop
David Golden.

Finance and Administration Committee

Steven DeCarlo (chair)
Dorothy Grisham
Ron Ramsey
Jim Powell
Nathan Farnor.

Audit Committee

David Golden (chair)

Dorothy Grisham

Ron Ramsey

As called for in the Bylaws, it was noted members of this committee have the financial background and expertise required to serve on the Audit Committee.

Executive Committee

Scott Niswonger

David Golden

Linda Latimer

As outlined in the bylaws, members of the Executive Committee shall be the Board of Trustees Chair, Vice Chair, and the Chair of the Academic and Student Affairs Committee

Mr. Ramsey made a motion to adopt the proposed standing committee membership. The motion was seconded by Mr. Powell. The motion passed unanimously.

VIII. Adoption of the Calendar for Board of Trustees Meetings

The Board of Trustees will meet on a quarterly basis, with meetings starting at 9:30 a.m. Committees will meet prior to lunch and the formal board meeting will begin at 1 p.m. In addition to quarterly meetings, interim meetings will take place as needed.

Dates for meetings:

Friday, June 9, 2017

Friday, September 8, 2017

Friday, November 10, 2017

Friday, February 23, 2018

Friday, April 27, 2018

Motion to adopt the meeting calendar as outlined was made by Ms. Ayers and was seconded by Ms. Grisham. The motion passed unanimously.

IX. Adoption of Policies

As provided by the FOCUS Act, the Board of Trustees establishes and approves major policies that govern the university. A Governance Transition Committee at the institution spent approximately eight months working with faculty and staff across campus to undertake the transition of policies from the TBR to the Board of Trustees.

The Board was presented with policies in the categories of Academic, Human Resources, Student, Financial and Technology. For many of the policies, the committee, for all intents and purposes, removed the TBR phrase and replaced it with the Board of Trustees. The policies presented to the Board of Trustees include:

Academic Policies
Posthumous Degrees
Off-Campus Instructional
 Facilities and Operations
Awarding Honorary Degrees
General Policies Regarding
 Research
Cost of Textbooks
Academic Calendar and Student
 Registration
Delivery of Services to
 International Students
Definition of Credit
Reverse Transfer Policies
Commitment to Teacher
 Preparation
Collaborative Academic
 Arrangements
Transfer of Credit
Distance Education
Graduate Admissions
Graduate Student Retention
 Standards
Graduate Degree and Certificate
 Requirements
General Education
Learning Support
Undergraduate Admissions
Undergraduate Academic
 Retention Standards
Undergraduate Degree
 Requirements
Approval of Academic Programs,
 Units, and Modifications
Development & Operation of
 Study Abroad Programs
Substantive Change

Human Resources Policies
Guidelines for Filling Faculty,
 Administrative, and
 Clerical/Support Vacancies

Student Policies

Alcoholic Beverages, Smoking
 and Tobacco Use
Confidentiality of Student
 Records
Student Organizations
Student Rights and Freedoms
Student Scholarships, Grants,
 Loans & Financial Aid
 Programs
General Policy on Student
 Conduct and Disciplinary
 Sanctions
Student Due Process Procedure

Finance and Administration
Policies

Approval of Agreements
Approval of Fees
Budget Control
Budget Principles
General Personnel
General Travel
Payment of Student Fees &
 Enrollment

Technology Policies

Calendar of Events
Closed Captioning for Video
 Recordings
Complaint Resolution Process
Computer Policy for Post-
 Retirees
Desire2Learn Administrator
 Access
Desktop/Laptop Computer &
 Printer Installation Policy
Electronic Mail
Enterprise Resource Planning
 (ERP) Access
ETSU Sponsored Desktop
 Computers
Firewall
Hardware Maintenance
HEOA Compliance in online
 courses

Inclement Weather Policy for
Students in Online Courses
Instructor Access to Course Sites
Copyright Protection Guidelines
Personal Information Security
Breach Policy
Portable Computational Device
Security Guideline

Strong Password Requirement
University Computing Standards
Virtual Private Network (VPN)
Web Accessibility
Web Design & Publishing Policy
Web Based Courses
Wi-Fi

Dr. Noland briefly outlined suggested changes to policies received from the Trustees after their review of the meeting materials. These included:

- The addition of “and all subsequent related Executive Orders and Regulations” to Academic Policy related to technology transfer in section III.B
- The removal of two invalid hyperlinks in the Academic Policy sections III and IV – “Commitment to Teacher Preparation”
- The change of “employer” to “employee” in the “Commitment to Teacher Preparation” section of the Academic Policy
- Clarification to the Student Policy on “Student Rights and Freedoms,” Section I.b. The clarification changes wording to read: “The admissions policies of East Tennessee State University make clear the characteristics and expectations of students which it considers relevant to success in the institution’s program. Under no circumstances should a student be barred from admission to a particular program on the basis of any category or class protected under state and/or federal law.”

It was noted that a number of other major policies will be brought to the Board at the June quarterly meeting.

A motion was made by Dr. Alsop to adopt these university policies as outlined in the meeting materials, with the discussed changes included. Ms. Grisham seconded the motion. The motion passed unanimously.

X. Confirmation of the Director of Internal Audit

Tennessee Code Annotated (TCA) § 49-14-102 requires that the Board of Trustees employ a qualified individual to serve as the Director of Internal Audit. The internal auditor reports directly to the Board of Trustees through the Audit Committee.

Chairman Niswonger recommended Rebecca Lewis, the university’s director of Internal Audit since 2011, be named the Director of Internal Audit for the Board of Trustees.

Vice Chairman Golden made a motion to endorse Rebecca Lewis as the Director of Internal Audit. The motion was seconded by Ms. Grisham. The motion passed unanimously.

XI. Delegation of Authority to the President

Chairman Niswonger presented a resolution that delegates authority to the president to manage the day-to-day operations of the university and to make necessary expenditures, personnel hires or obligations on behalf of the university. The Bylaws indicate the Board of Trustees may delegate such powers and duties as necessary to ensure the efficient administration of the institution.

Ms. Grisham moved adoption of the following resolution.

RESOLVED: The East Tennessee State University Board of Trustees delegates the following authority to the President of the University. The authority:

- 1. for day-to-day operations, management, and control of the University;**
- 2. to make necessary expenditures, personnel hires, or obligations on behalf of the University;**
- 3. to establish policies and procedures for the educational program and other operations of the University. The Board of Trustees retains approval authority for policies that directly involve the Board including the Board of Trustees Code of Ethics Policy; policies related to the promotion and tenure of faculty; and any policies, rules, or authority as statute, governmental directives, or custom requiring action by the Board. These reserved Board of Trustees powers include but are not limited to:**
 - a. Approval of the budget**
 - b. Approval of tuition and fees**
 - c. Banking, depositor, or investment contracts**
 - d. Purchase, sale, exchange, or gifts of real property**
 - e. Personnel matters involving the President**
 - f. Designation of a name for University buildings or facilities**
 - g. Approval of the University Strategic Plan**
- 4. to approve the granting of honorary degrees;**
- 5. as outlined in TCA § 49-8-203, to establish reserve officers training corps units; and to execute and deliver bond, with or without surety, in such manner and on such terms and conditions as may be required by the United States, for the care and safekeeping of the transportation animals, arms, ammunition, supplies, tentage, and equipment that may be necessary or desirable for the operation, conduct, and training of any reserve officers training corps units of the Armed Forces of the United States authorized by law at any time, to be conducted in conjunction with East Tennessee State University.**

Dr. Latimer seconded the motion. The resolution passed unanimously.

XII. Committee for 125 Review

Dr. Noland presented a PowerPoint slide presentation titled, “Past, Present and Future – A Committee for 125” that addressed the evolution of the university, its values and its mission. It also explained the purpose and goals of the Committee for 125 as well as the vision that group created for the university.

The Committee for 125 was established to explore and develop a strategic vision for the University in anticipation of its 125th anniversary in 2036. Commissioned by President Noland, the group emerged with a visioning plan that included the following major themes:

- Academically, ETSU will be nationally recognized for its outstanding undergraduate and graduate education so that the entire region achieves higher educational attainment, knowledge and skills vital to their lives, careers and a thriving economy.
- The Health Sciences Center will be the premier national model for community-based health care, one that improves the health and well-being of the region and those who benefit from its far-reaching innovations.
- With a powerful university brand, ETSU will be recognized nationally as a student-centered university fostering a transformative educational experience that affirms the value and richness of diversity.
- ETSU will be a model “Education Corridor” renowned for its constituent-based relationship, in which each individual has access to the knowledge each needs, and for the “learning exchange” it has developed with governments, businesses and other schools and colleges for shared resources and collaboration.
- Bringing the campus to the community and the community to campus, ETSU will be an even more significant partner in the region’s thriving business and intellectual center, which serves as the foundation for a stronger economy and vitality in all areas of life in East Tennessee and neighboring states.
- Adopting a front-porch philosophy, ETSU athletics will significantly engage the campus and the region so that a “culture of success” permeates its character and provides an inclusive community-building experience through recreation and competitive sports.

The vision established a baseline for planning and policy development at the university and yielded direct and tangible outcomes that shaped the work of the campus and framed the 2016-26 Strategic Plan for ETSU.

Dr. Noland discussed the dynamic policy landscape in higher education, particularly in recruitment, retention and finance. He addressed the importance of enrollment growth as a critical focus as the landscape becomes even more competitive. He set a goal of 2,100 freshmen in the upcoming fall class and said the University has an aggressive portfolio of activities aiming to reach this objective. The president noted

that the University must also be prepared to react not only to Tennessee Promise, but to the North Carolina Promise.

Mr. Ramsey asked whether this fall will be the first fall for Tennessee Promise students to transfer to four-year institutions. Dr. Noland said this fall will be the first fall for those who go to community colleges through Tennessee Promise and graduate with an associate's degree before transferring to a four-year institution.

Furthering Dr. Noland's discussion regarding retention, Vice Chairman Golden noted the importance of school-level advisory boards in retention. Dr. Noland said this would be an important place to focus.

In terms of finance, Dr. Noland said fundraising is central to our mission today, much like a private institution. Other areas he discussed included the athletics landscape, alumni giving, research funding, and health care. Also in his presentation, Dr. Noland discussed public enrollment trends. He acknowledged a first-time freshman class that has an average high school GPA of 3.5 and an average ACT score of 23.2, noting the more traditional freshman class hopefully will lend itself to higher retention and graduation rates.

Governor Haslam noted two positives in the challenges being faced: (1.) The pipeline provided by Tennessee Promise and (2.) A stronger freshman class that should yield more juniors and seniors.

Dr. Noland emphasized the need to make improvements in the graduation rates for students of color in particular. He also addressed the shift from being more heavily funded by state support to being more heavily funded by students' tuition and fees.

Dr. Richard Rhoda, Executive Director Emeritus of the Tennessee Higher Education Commission and interim dean of ETSU's Clemmer College of Education, spoke about policy landscape from a national perspective. He presented the top 10 higher education policy issues in 2008 and in 2016 (as compiled by AASCU). Common themes between the lists, he noted, are student access, affordability, successful completion and safety.

Dr. Rhoda said Tennessee is recognized as a national leader in higher education and higher education policy. He called it "unprecedented" to have two back-to-back governors who have an appreciation for higher education in how it can contribute to the state's agenda. He called the FOCUS Act a bold and wise move.

XIII. University Strategic Plan

Dr. Noland introduced the Strategic Plan presentation. The Strategic Plan sets forward a vision for the institution that keeps the university focused on its mission.

Dr. Mike Hoff, associate vice president of Planning and Decision Support and chief planning officer, presented an overview of the university's 2016-26 strategic plan. He detailed for the Board the process in which the Strategic Plan was created and reviewed. This process began with a scan of the environment and strategy development prior to building the plan, which focuses on decentralizing decision making. A SWOT analysis was conducted and results from the analysis were used to establish a draft strategic agenda that was presented in two town halls, made available online and presented to several university groups. Based on feedback, a final draft was developed and submitted to the Interim University Council for approval in February 2017.

The 2016-26 Strategic Plan is built around the following core areas:

- Supporting a strategic growth agenda that maximizes the student experiences both inside and outside the classroom.
- Ensuring the diversity and inclusion of people and ideas.
- Empowering employees to make ETSU a great place to learn, work and grow.
- Supporting excellence in teaching.
- Expanding the foundation for scholarly (research and creative activity) excellence and innovation in all disciplines.
- Leading the region forward through community engagement and service.

Dr. Hoff shared the strategic goals set forth in the document, which includes increased enrollment numbers, increased salary and equity for employees, improved graduation rates and more external funding for research.

Vice Chairman Golden noted the importance of connecting to real-world needs. He said many students come to school and, by the time they graduate four years later, there are job fields that didn't even exist when they started college. Mr. DeCarlo noted that it can't all be done at once and questioned where the university is going to start. Dr. Hoff said the first step is growth, which gives the ability to be more effective. Ms. Ayers made a motion to accept the Strategic Plan and work at each meeting on updates to the plan. Vice Chairman Golden seconded the motion and all voted in favor.

Gov. Haslam was asked to give an update on legislation and activities in Nashville. He commented that, as Medicaid has grown in funding from the state budget, higher education was the one thing that had another payer (unlike jails, for example) and began seeing cuts in state funding. He said that has turned around in the last three years with increased funding. Gov. Haslam said what happens in health care at the national level will directly impact ETSU, noting that the state's budget only has so much room for growth and health care costs squeeze higher education. He noted that one of the roles of Board of Trustees members is to lobby for higher education.

XIV. SACSCOC Accreditation – Substantive Change Process Update

Dr. Bert Bach, Provost and vice president for Academic Affairs, presented information related to the policies and procedures entailed in the substantive change requirements of SACS.

Dr. Bach shared five observations:

1. ETSU has been fully accredited by SACS since 1921. The accreditation was most recently reaffirmed in 2013. ETSU will submit a fifth-year interim report to SACSCOC in March 2019 and the next comprehensive visit scheduled for reaffirmation is set for 2023.
2. SACSCOC recognizes institutions change over those five- and 10-year intervals. Some of those changes, including a change in university governance, require an out-of-cycle on-site campus review by peers.
3. Bach went over the steps accomplished since becoming aware of the change of governance. A prospectus was submitted to SACSCOC in August 2016, with additional information being submitted since then. On March 15, 2017, he received confirmation that the executive council had approved the governance change. On May 15-17, 2017, SACSCOC will send a team to conduct its on-site visit. On the morning of March 24, 2017, he received the names of the people coming to conduct the visit.
4. The university will submit a comprehensive report to the on-site team documenting compliance with 20 standards. (Pages 272-273 of meeting materials)
5. About a month after the May 15-17 visit, the university will receive the team's final report. If there are any recommendations, the university will be required to give a response by October. Formal action will take place at the December 2017 meeting of SACSCOC.

XV. Receipt of Financial Audit

Dr. B.J. King, acting chief financial officer, reported to the Board regarding the university's audit process. A state auditor remains with the university for approximately seven months of the year, generally completing his or her work around November. Each March, the audit report is released in final form. This year, it was released early, in January, so it could be submitted to SACSCOC. The audit is presented as a component unit of the state's audit.

For the past four years, the audit has had no findings. This year, the audit had no findings as well as nothing to be discussed at an exit conference with auditors.

Dr. King said she would not go into more detail on the financial statements today, but shared a little about the budget as a segue way for Dr. Noland's upcoming discussion and as valuable information regarding the fiduciary responsibility of the Board of Trustees. She explained that at the university there is an educational and general budget for each of the following: Main Campus (approx. \$200 million per year); College of Medicine (approx. \$53 million per year); Family Practice (approx. \$16 million per year); and College of Pharmacy (approx. \$11 million per year).

XVI. President's Report

In discussing the budget overview, Dr. Noland said the desire to improve faculty and staff salaries as well as ensuring student success undergird everything that is done at the institution. He noted that a process is underway that aligns budget and strategic plan and said it has been a very open process. In terms of facilities and a capital update, Dr. Noland presented updates on construction and renovation projects including the Martin Center for the Arts and the D.P. Culp University Center. Dr. Noland also gave a legislative update, first addressing the match requirement of 25 percent for renovations to Lamb Hall and the hope to garner legislative support for a match of 10 percent instead of 25 percent. He also talked about opioid research funding and hoping to get seed money to jumpstart activity from a research perspective. Dr. Noland also talked about legislation currently being discussed regarding in-state tuition for DACA students.

XVII. Adjournment

Chairman Niswonger thanked THEC for the morning training and thanked the presenters. He then adjourned the meeting.

Respectfully submitted,

David Linville, Secretary of the Board

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES

ACTION ITEM

DATE: May 8, 2017

ITEM: Transfer of FCC License for WETS-FM

RECOMMENDED ACTION: Approval

PRESENTED BY: David Linville, Secretary

WETS-FM is a public radio station operated by East Tennessee State University in partnership with the station's listeners. Operating 24-hours a day at 89.5 MHz in the Tri-Cities Tennessee/Virginia region, the station is heard everywhere on the internet through the World Wide Web. As a condition of holding an FM broadcast license, the university must report the names and select biographical information regarding the control group for the university. Historically that group has been the Tennessee Board of Regents. With the implementation of the FOCUS Act, the university will now be reporting to the FCC the required information about the members of the ETSU Board of Trustees. With the transfer of authority from TBR to the Board of Trustees, an application for transfer of control with the FCC will be filed. The application is included in the meeting materials.

MOTION: I move that the Board of Trustees authorize the submission of the application for transfer of control of WETS-FM from the Tennessee Board of Regents to the Board of Trustees.

Federal Communications Commission Washington, D.C. 20554 FCC 315	Approved by OMB 3060-0031 (June 2014) FOR FCC USE ONLY
APPLICATION FOR CONSENT TO TRANSFER CONTROL OF ENTITY HOLDING BROADCAST STATION CONSTRUCTION PERMIT OR LICENSE Read INSTRUCTIONS Before Filling Out Form	FOR COMMISSION USE ONLY FILE NO. -

Section I - General Information

1. Legal Name of the Licensee/Permittee
 EAST TENNESSEE STATE UNIVERSITY

Mailing Address
 P.O. BOX 70630

City: JOHNSON CITY State or Country (if foreign address): TN Zip Code: 37614 -

Telephone Number (include area code): 4234396440 E-Mail Address (if available): WINKLER@ETSU.EDU

FCC Registration Number: 0020762571 Call Sign: WETS-FM Facility ID Number: 18253

2. Contact Representative (if other than licensee/permittee)
 DAVID G. O'NEIL, ESQ.

Mailing Address
 1200 NEW HAMPSHIRE AVENUE, NW
 SUITE 800

City: WASHINGTON State or Country (if foreign address): DC ZIP Code: 20036 -

Telephone Number (include area code): 2029553931 E-Mail Address (if available): DONEIL@RINIONEIL.COM

3. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):

4. Governmental Entity Noncommercial Educational Licensee/Permittee Other
 N/A (Fee Required)

Purpose of Application:
 Transfer of control of licensee
 Transfer of control of permitte
 Amendment to pending application

File number of pending application: -

5. If an amendment, **submit as an Exhibit** a listing by Section and Question Number of the portions of the pending application that are being revised. [Exhibit 1]

Were any of the authorizations that are the subject of this application obtained through the Commission's competitive bidding procedures (see 47 C.F.R. Sections 1.2111(a) and 73.5001)? Yes No

If yes, list pertinent authorizations in an Exhibit.

[Exhibit 2]

6.	<p>a. Were any of the authorizations that are the subject of this application obtained through the Commission's point system for reserved channel noncommercial educational stations (see 47 C.F.R. Sections 73.7001 and 73.7003)?</p> <p>b. If yes to 6(a), have all such stations operated for at least 4 years with a minimum operating schedule since grant pursuant to the point system?</p> <p>If no, list pertinent authorizations in an Exhibit and include in the Exhibit a showing that the transaction is consistent with the holding period requirements of 47 C.F.R. Section 73.7005(a).</p> <p>c. LPFM Licenses Only: Has the licensor held the station license and operated the station for at least three years?</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p>[Exhibit 3]</p> <p><input type="radio"/> Yes <input type="radio"/> No</p>
7.	<p>a. Were any of the authorizations that are the subject of this application obtained after award of a dispositive Section 307(b) preference using the Tribal Priority, through Threshold Qualifications procedures, or through the Tribal Priority as applied before the NCE fair distribution analysis set forth in 47 C.F.R. § 73.7002(b)?</p> <p>b. If yes to 7(a), have all such stations operated for at least 4 years with a minimum operating schedule since grant?</p> <p>c. If no to 7(b), do both the assignor/transferor and assignee/transferee qualify for the Tribal Priority in all respects?</p> <p>If no, list pertinent authorizations in an Exhibit and include in the Exhibit a showing that the transaction is consistent with the established Tribal Priority holding period restrictions, or that the policy should be waived.</p>	<p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p>[Exhibit 4]</p>

Section II - Transferor(s)

1.	<p>Certification. Transferor(s) certify that it (they) have answered each question in this application based on its (their) review of the application instructions and worksheets. Transferor(s) further certify that where it (they) have made an affirmative certification below, this certification constitutes its (their) representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>						
2.	<p>Legal Name of the Transferor EAST TENNESSEE STATE UNIVERSITY (OLDBOARD)</p> <p>Mailing Address P.O. BOX 70630</p> <table border="1" data-bbox="196 1577 1453 1734"> <tr> <td>City JOHNSON CITY</td> <td>State or Country (if foreign address) TN</td> <td>Zip Code 37614 -</td> </tr> <tr> <td>Telephone Number (include area code) 4234396440</td> <td colspan="2">E-Mail Address (if available) WINKLER@ETSU.EDU</td> </tr> </table>		City JOHNSON CITY	State or Country (if foreign address) TN	Zip Code 37614 -	Telephone Number (include area code) 4234396440	E-Mail Address (if available) WINKLER@ETSU.EDU	
City JOHNSON CITY	State or Country (if foreign address) TN	Zip Code 37614 -						
Telephone Number (include area code) 4234396440	E-Mail Address (if available) WINKLER@ETSU.EDU							
3.	<p>Contact Representative (if other than transferor) DAVID G. O'NEIL, ESQ.</p> <p>Firm or Company Name RINI O'NEIL, PC</p> <p>Mailing Address 1200 NEW HAMPSHIRE AVENUE, NW SUITE 600</p> <table border="1" data-bbox="196 1892 1453 2047"> <tr> <td>City WASHINGTON</td> <td>State or Country (if foreign address) DC</td> <td>Zip Code 20036 -</td> </tr> <tr> <td>Telephone Number (include area code) 2029553931</td> <td colspan="2">E-Mail Address (if available) DONEIL@RINIONEIL.COM</td> </tr> </table>		City WASHINGTON	State or Country (if foreign address) DC	Zip Code 20036 -	Telephone Number (include area code) 2029553931	E-Mail Address (if available) DONEIL@RINIONEIL.COM	
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If more than one transferor, submit the information requested in questions 2 and 3 for each transferor.	[Exhibit 5]
4. Changes in interests as a result of transfer.	
[Enter Changes in Interests Information]	
or [Exhibit 6]	

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.

Typed or Printed Name of Person Signing MARY MOODY	Typed or Printed Title of Person Signing GENERAL COUNSEL AND SECRETARY OF TENNESSEE BOARD OF REGENTS
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III - Licensee/Permittee

1.	<p>Certification. Licensee/permittee certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Licensee further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No																									
2.	<p>Authorizations to be Assigned. List the authorized stations and construction permits to be assigned. Provide the Facility Identification Number and the Call Sign, or the Facility Identification Number and the File Number of the Construction Permit, and the location, for each station to be assigned. Include main stations, FM and/or TV translator stations, LPTV stations, FM and/or TV booster stations.</p> <p>[Enter Station Information]</p> <hr/> <p>List the authorized stations and construction permits to be transferred. Provide the Facility Identification Number and the Call Sign, or the Facility Identification Number and the File Number of the Construction Permit, and the location, for each station to be transferred. Include main stations, FM and/or TV translator stations, LPTV stations, FM and/or TV booster stations.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Facility ID Number</th> <th style="width: 15%;">Call Sign</th> <th style="width: 15%;">OR Construction Permit File Number</th> <th style="width: 20%;">City</th> <th style="width: 35%;">State</th> </tr> </thead> <tbody> <tr> <td>18253</td> <td>WETS-FM</td> <td>-</td> <td>JOHNSON CITY</td> <td>TN</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <th>Facility ID Number</th> <th>Call Sign</th> <th>OR Construction Permit File Number</th> <th>City</th> <th>State</th> </tr> </tbody> </table>	Facility ID Number	Call Sign	OR Construction Permit File Number	City	State	18253	WETS-FM	-	JOHNSON CITY	TN											Facility ID Number	Call Sign	OR Construction Permit File Number	City	State	
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18255	W218BW	-	LENOIR	NC																							

3.	Agreements to Transfer Control of Station. Licensee/permittee certifies that: a. it has placed in its public inspection file(s) and submitted an exhibit to this item copies of all agreements to transfer control of the station(s); b. these documents embody the complete and final understanding between transferor(s) and transferee(s); and c. these agreements comply fully with the Commission's rules and policies. Exhibit Required	<input type="radio"/> Yes <input checked="" type="radio"/> No See Explanation in [Exhibit 7]
4.	Other Authorizations. List call signs, locations and facility identifiers of all other broadcast stations in which licensee/permittee or any party to the application has an attributable interest.	<input checked="" type="checkbox"/> N/A [Exhibit 8]
5.	Character Issues. Licensee/permittee certifies that neither licensee/permittee nor any party to the application has or has had any interest in, or connection with: a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or any party to the application; or b. any pending broadcast application in which character issues have been raised.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 9]
6.	Adverse Findings. Licensee/permittee certifies that, with respect to the licensee/permittee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 10]
7.	Local Public Notice. Licensee/permittee certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.	<input checked="" type="radio"/> Yes <input type="radio"/> No
8.	Auction Authorization. Licensee/permittee certifies that more than five years have passed since the issuance of the construction permit for the station being assigned, where that permit was acquired in an auction through the use of a bidding credit or other special measure.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 11]
9.	Anti-Drug Abuse Act Certification. Licensee/permittee certifies that neither licensee/permittee nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
10.	Anti-Discrimination Certification. Licensee/permittee certifies that neither licensee/permittee nor any party to the application have violated the Commission's prohibition against discrimination on the basis of race, color, religion, national origin or sex in the sale of commercially operated AM, FM, TV, Class A TV or international broadcast stations.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 12]

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations.

Typed or Printed Name of Person Signing MARY MOODY	Typed or Printed Title of Person Signing GENERAL COUNSEL AND SECRETARY OF TENNESSEE BOARD OF REGENTS
Signature	Date

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Section IV - Transferee(s)

1.	<p>Certification. Transferee(s) certify that it (they) have answered each question in this application based on its (their) review of the application instructions and worksheets. Transferee(s) further certify that where it (they) have made an affirmative certification below, this certification constitutes its (their) representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No									
2.	<p>Legal Name of the Transferee(s) EAST TENNESSEE STATE UNIVERSITY (NEWBOARD)</p> <p>Mailing Address P.O. BOX 70630</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 45%;">City</td> <td style="width: 30%;">State or Country (if foreign address)</td> <td style="width: 25%;">Zip Code</td> </tr> <tr> <td>JOHNSON CITY</td> <td>TN</td> <td>37614 -</td> </tr> <tr> <td>Telephone Number (include area code) 4234396440</td> <td colspan="2">E-Mail Address (if available) WINKLER@ETSU.EDU</td> </tr> </table>	City	State or Country (if foreign address)	Zip Code	JOHNSON CITY	TN	37614 -	Telephone Number (include area code) 4234396440	E-Mail Address (if available) WINKLER@ETSU.EDU		
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4.	<p>If more than one transferee, submit the information requested in questions 2 and 3 for each transferee. [Exhibit 13]</p> <p>Nature of Applicant. Each transferee is:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"><input type="radio"/> an individual</td> <td style="width: 33%;"><input type="radio"/> a general partnership</td> <td style="width: 33%;"><input type="radio"/> a for-profit corporation</td> </tr> <tr> <td><input checked="" type="radio"/> a limited partnership</td> <td><input type="radio"/> a not-for-profit corporation</td> <td><input type="radio"/> a limited liability company (LLC/LC)</td> </tr> </table>	<input type="radio"/> an individual	<input type="radio"/> a general partnership	<input type="radio"/> a for-profit corporation	<input checked="" type="radio"/> a limited partnership	<input type="radio"/> a not-for-profit corporation	<input type="radio"/> a limited liability company (LLC/LC)				
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5.	<p>other</p> <p>a. If "other", describe nature of transferee in an Exhibit.</p> <p>Agreements to Transfer Control of Station. Transferee certifies that:</p> <p>a. the written agreements in the licensee/permittee's public inspection file and submitted to the Commission embody the complete and final agreement to transfer control of the station(s) specified in Section III, question 2; and</p> <p>b. these agreements comply fully with the Commission's rules and policies.</p>	<input type="radio"/> Yes <input checked="" type="radio"/> No [Exhibit 14] [Exhibit 15]									
6.	<p>Parties to the Application.</p> <p>a. List each transferee, and, if other than a natural person, its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in any transferee, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>(1) Name and address of the transferee and each party to the application holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the transferee first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.</p> </td> <td style="width: 50%; vertical-align: top;"> <p>(2) Citizenship.</p> <p>(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's equity/debt plus standard, etc.</p> <p>(4) Percentage of votes.</p> <p>(5) Percentage of total assets (equity plus debt).</p> </td> </tr> </table>	<p>(1) Name and address of the transferee and each party to the application holding an attributable interest (if other than individual also show name, address and citizenship of natural person authorized to vote the stock or holding the attributable interest). List the transferee first, officers next, then directors and, thereafter, remaining stockholders and other entities with attributable interests, and partners.</p>	<p>(2) Citizenship.</p> <p>(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, investor/creditor attributable under the Commission's equity/debt plus standard, etc.</p> <p>(4) Percentage of votes.</p> <p>(5) Percentage of total assets (equity plus debt).</p>								
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[Enter Parties/Owners Information]

b. Applicant certifies that equity interests not set forth above are non-attributable.

Yes No

N/A

See Explanation in
[Exhibit 17]

7. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which transferee or any party to the application has an attributable interest.

N/A

[Exhibit 18]

8. **Multiple Ownership.**

a. Is the transferee or any party to the application the holder of an attributable radio or television joint sales agreement or an attributable radio or television time brokerage agreement for the subject station(s) or any other stations in the same market as the station (s) subject to this application?

Yes No

[Exhibit 19]

If "Yes," radio applicants must submit as an Exhibit a copy of each such agreement for radio stations.

b. Transferee certifies that the proposed transfer complies with the Commission's multiple ownership rules and cross-ownership rules.

Yes No

[Exhibit 20]

AM and/or FM Radio Applicants only: If "Yes," submit an Exhibit providing information regarding the market, broadcast station(s), and other information necessary to demonstrate compliance with 47 C.F.R. § 73.3555(a).

All Applicants: If "No," submit as an Exhibit a detailed explanation in support of an exemption from, or waiver of, 47 C.F.R. § 73.3555.

c. Transferee certifies that the proposed transfer:

Yes No

See Explanation in

[Exhibit 21]

1. does not present an issue under the Commission's policies relating to media interests of immediate family members;
2. complies with the Commission's policies relating to future ownership interests; and
3. complies with the Commission's restrictions relating to the insulation and nonparticipation of non-party investors and creditors.

d. Does the Transferee claim status as an "eligible entity," that is, an entity that qualifies as a small business under the Small Business Administration's size standards for its industry grouping (as set forth in 13 C.F.R. § 121-201), and holds (1) 30 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet; or (2) 15 percent or more of the stock or partnership interests and more than 50 percent of the voting power of the corporation or partnership that will own the media outlet, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interests; or (3) more than 50 percent of the voting power of the corporation that will own the media outlet (if such corporation is a publicly traded company)?

Yes No

See Explanation in
[Exhibit 22]

All applicants: If "Yes," submit as an Exhibit a detailed showing demonstrating proof of status as an eligible entity.

e. Does this transfer include a grand-fathered cluster of stations?

Yes No

All applicants: If "Yes", applicant certifies that it will come in compliance by divesting the necessary station(s) within 12 months of the consummation of this transaction to:

~~A. An Eligible Entity (as defined in Item 8d, above).~~

~~Yes No~~

~~B. An Irrevocable Trust that will transfer the station(s) to an Eligible Entity.~~

~~Yes No~~

	All applicants: If "Yes" to Item 8e A or B: Submit as an Exhibit a copy of the form of irrevocable trust agreement providing for the transfer of the station(s) to an Eligible Entity.	See Explanation in [Exhibit 23]
9.	Character Issues. Transferee certifies that neither transferee nor any party to the application has or has had any interest in, or connection with: a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or any party to the application; or b. any pending broadcast application in which character issues have been raised.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 24]
10.	Adverse Findings. Transferee certifies that, with respect to the transferee and each party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 25]
11.	Alien Ownership and Control. Transferee certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 26]
12.	Financial Qualifications. Transferee certifies that sufficient net liquid assets are on hand or are available from committed sources to consummate the transaction and operate the station (s) for three months.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 27]
13.	Program Service Certification. Transferee certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	<input checked="" type="radio"/> Yes <input type="radio"/> No
14.	Auction Authorization. Transferee certifies that where less than five years have passed since the issuance of the construction permit and the permit had been acquired in an auction through the use of a bidding credit or other special measure, it would qualify for such credit or other special measure.	<input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A See Explanation in [Exhibit 28]
15.	Anti-Drug Abuse Act Certification. Licensee/permittee certifies that neither licensee/permittee nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
16.	EEO. Does the applicant propose to employ five or more full-time employees? If the answer is Yes, the applicant must include an EEO program called for in the separate Model EEO Program Report (FCC Form 396-A)	<input type="radio"/> Yes <input checked="" type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing DAVID LINVILLE	Typed or Printed Title of Person Signing SECRETARY
Signature	Date

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Exhibits

Exhibit 5

Description: TRANSFERORS

SEE RESPONSE TO SECTION II, QUESTION 4, EXHIBIT 6.

Attachment 5

Exhibit 7

Description: AGREEMENTS

AS DESCRIBED IN EXHIBIT 6, THE PROPOSED TRANSFER IS PURSUANT TO LEGISLATION PASSED BY THE STATE OF TENNESSEE. CONSEQUENTLY, THERE IS NO WRITTEN AGREEMENT.

Attachment 7

Exhibit 14

Description: DESCRIPTION

EAST TENNESSEE STATE UNIVERSITY IS A NONPROFIT EDUCATIONAL INSTITUTION.

Attachment 14

Exhibit 15

Description: AGREEMENTS

SEE RESPONSE TO SECTION III, QUESTION 3, EXHIBIT 7.

Attachment 15

Exhibit 16

Description: PARTIES TO THE APPLICATION

SEE RESPONSE TO SECTION II, QUESTION 4, EXHIBIT 6.

Attachment 16

Exhibit 20

Description: MULTIPLE OWNERSHIP COMPLIANCE

PER FCC RULE 73.3555(F), THE ATTRIBUTION RULES DO NOT APPLY TO NONCOMMERCIAL EDUCATIONAL STATIONS EXCEPT IN SITUATIONS THAT DO NOT APPLY TO THIS APPLICATION.

Attachment 20

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES

ACTION ITEM

DATE: May 8, 2017

ITEM: Policy Recommendations

COMMITTEE: Academic and Student Affairs Committee

RECOMMENDED ACTION: Approval

PRESENTED BY: Bert C. Bach, Provost and
Vice President for Academic Affairs

As provided by the FOCUS Act, ETSU is governed by a Board of Trustees which sets policies and guidelines for the operation of the university. The authority, purpose, duties, and responsibilities of the Board and Trustees are delineated in TCA § 49-8-101.

Academic policies, previously promulgated by the Tennessee Board of Regents, have been drafted and reviewed by the Provost and his staff to ensure the University's compliance with the rules of the Tennessee Higher Education Commission. The policies related to faculty rank, academic freedom, promotion, and tenure have been reviewed and approved through the shared governance process in Academic Council.

The Academic Freedom and Responsibility policy provides that the faculty members are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties and subject to conditions of a sponsored grant or contract, if any, supporting the research and the university's financial conflict of interest policy.

The Definitions of Faculty and Types of Appointments policy defines the types of faculty members and the positions they may hold within the university.

The Faculty Ranks and Promotion policy defines faculty ranks and provides the principles, guidelines, and process of faculty promotion. Likewise, the Tenure policy defines tenure and provides the principles, guidelines, and process of faculty tenure.

Committee Recommendation: (serves as the motion)
At its meeting on April 24, 2017, the Academic and Student Affairs Committee recommended adoption of the following Resolution by the Board of Trustees:

RESOLVED: The policies on Academic Freedom and Responsibility; Definitions of Faculty and Types of Appointments; Faculty Ranks and Promotion; and Tenure are approved as presented in the meeting materials.

Policy Title: Academic Freedom and Responsibility

Policy Type: Human Resources **New/revised:** New

Old Policy #: 5:02:03:30

Approval level: Board of Trustees [Select box for appropriate level of anticipated final approval]
 President
 Vice President
 Other (specify here)

Purpose

The purpose of this policy is to define the exercise of academic freedom and responsibility.

Policy

East Tennessee State University endorses the 1940 Statement of Principles on Academic Freedom and Tenure of the American Association of University Professors as revised and refined since 1940, and also the Statement on Professional Ethics of the same organization, insofar as these are not limited by state law. The university recognizes the principle of academic freedom, pursuant to which: The faculty member is entitled to freedom in the classroom in discussing his or her subject, being careful not to introduce into the teaching unrelated subject matter.

The faculty member is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his/her other academic duties and subject to conditions of a sponsored grant or contract, if any, supporting the research and the university's financial conflict of interest policy. Research for financial gain must be based upon an understanding with the authorities of the university, which is documented, reduced to writing and signed by the faculty member and the appropriate academic officer(s).

The faculty member is a citizen, a member of a learned profession, and an officer of an educational university/college. When the faculty member speaks or writes as a citizen, he/she should be free from university/college censorship or discipline, but his/her special position in the community imposes special obligations. As a man or woman of learning and an educational officer, he/she should remember that the public may judge the profession and the university/college by the faculty member's utterances. Hence, a faculty member should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he/she does not speak for the university/college. Academic freedom is essential to fulfill the ultimate objectives of an educational university/college-the free search for and exposition of truth-and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth, and academic freedom in teaching is fundamental for the protection of the rights of the faculty member in teaching and of the student to freedom in learning.

Implicit in the principle of academic freedom are the corollary responsibilities of the faculty who enjoy that freedom. Incompetence, indolence, intellectual dishonesty, failure to carry out assigned duties, serious moral dereliction, arbitrary and capricious disregard of standards of profession conduct: These and other grounds as set forth in university policy may constitute adequate cause for dismissal or other

disciplinary sanctions against faculty members. The right to academic freedom imposes upon the faculty an equal obligation to take appropriate professional action against faculty members who are derelict in discharging their professional responsibilities. The faculty member has an obligation to participate in tenure and promotion review of colleagues as specified in university policy. Thus, academic freedom and academic responsibility are interdependent, and academic tenure is adopted as a means to protect the former while promoting the latter. While academic tenure is essential for the protection of academic freedom, all faculty members, tenured or non-tenured, have an equal right to academic freedom and bear the same academic responsibilities implicit in that freedom.

Policy Title: Definition of Faculty and Types of Appointments

Policy Type: Academic **New/revised:** Revised

Old Policy #:

Approval level: Board of Trustees [Select box for appropriate level of anticipated final approval]
 President
 Vice President
 Other (specify here)

Definition of Faculty

1. The term "Faculty" shall be limited to regular, full-time personnel at institutions whose regular assignments include instruction, research, and/or public service as a Principal Activity, and who hold academic rank as professor, associate professor, assistant professor or instructor, senior instructor, or master instructor, and as senior vocational teacher, intermediate vocational teacher, vocational teacher. Institutions may limit, but may not expand the scope of the definition of Faculty for the purposes of this policy.
2. The term "Regular, Full-time Personnel" as used in the definition of "Faculty" is limited to those persons whose appointments are for a complete academic or fiscal year.
3. The term "Principal Activity" as used in the above definition shall mean that the person's regular assignment in the areas of instruction, research and/or public service must be at least fifty percent (50%) of the total assigned duties.
4. The terms "Instruction," "Research," and "Public Service" shall be limited to those academic activities properly assignable to the institution's current funds expenditures accounts designated as "Instruction," "Research," "Public Service," and "Academic Support." The terms exclude those activities properly assigned to accounts for "Student Services" (with the exception of remedial instruction which, at the discretion of the institution, may be treated as regular "Instruction"), "Institutional Support," "Operation and Maintenance of Plan," etc.*
5. The term "Faculty" shall not, for the purposes of this statement, include members of an institution's instructional personnel defined as "adjunct faculty," part-time teachers, post-doctoral fellows, visiting lecturers, and graduate assistants. "Adjunct Faculty" is defined as professional staff members of businesses, industries and other agencies and organizations who are appointed by institutions on a part-time basis to carry out instructional, research or public service functions.
6. If not otherwise included within the above definition of "Faculty," the term "Faculty" may include, provided they hold academic rank, academic department or division chairpersons or directors, academic deans, academic vice presidents, and the President, who have direct line authority over Faculty as herein above described, and associates or assistants for the above positions. In addition, the term "Faculty" may include persons previously designated as members of the Faculty who are assigned to other positions at the institution.

7. Academic rank is an element of Faculty status, and shall be limited to Faculty within the above definition. Academic rank may only be assigned to Faculty who meet the minimum rank criteria under the ETSU Faculty Ranks and Promotion policy, and that policy shall control any promotion in rank.
8. Exceptions to this policy can be made upon recommendation by the President.

Types of Faculty Appointments

1. **Temporary Appointments.** Temporary appointments are appointments for a specific purpose for a time appropriate to that purpose or for an unspecified period, which appointments may be terminated according to the terms of the contract of employment or appointment. Temporary appointments ordinarily should be used only for lecturers, adjunct or part-time faculty, faculty employed to replace regular Faculty on leave of absence, and faculty employed pursuant to grants or for projects funded in whole or in part by non-appropriated funds. In addition, temporary appointments may be used for faculty employed on the basis of state appropriated funds in departments, divisions, or other academic units where the permanent and continued need for the position has not been established, provided that such appointments normally should not be in excess of three academic years. After that, the position can be re-advertised, and the instructor can apply again and be hired if he/she is the best candidate. Appointments of faculty members supported by more than fifty percent (50%) grant funds or other soft money sources, may be approved by the university presidents for periods in excess of three years. Other extensions of temporary appointments for periods in excess of three (3) years require the approval of the President.
2. **Tenure-Track Appointments.** Tenure-track appointments are appointments for regular full-time Faculty with academic rank and may be for the academic or fiscal year. Tenure-track appointments are for Faculty who are employed in a probationary period of employment prior to consideration for tenure. Tenure-track appointments shall not include any right to permanent or continuous employment, shall not create any manner of legal right, interest, or expectancy of renewal or any other type of appointment, and shall be subject to annual renewal by the institution.
3. **Tenured Appointments.** Tenure appointments are appointments of full-time Faculty who have been awarded tenure by the Board pursuant to the provisions of this policy. To protect academic freedom, tenure appointments include the assurance of continued employment for the appointment year for an indefinite period, subject to expiration, relinquishment, or termination of tenure as hereinafter provided. Such appointments do not include assurance of continued employment at any specified salary, position, or employment during summer sessions or intersessions.

No Faculty member shall acquire or be entitled to any interest in a tenure appointment without a recommendation for tenure by the President and an affirmative award of tenure by the Board of Trustees. No other person shall have any authority to make any representation concerning tenure to any Faculty member, and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the Faculty member to another year of service at the university, provided that no tenure appeals remain outstanding due to

lack of cooperation and/or appropriate action on the part of the candidate in completing the appeal process.

Recommendations for or against tenure should originate from the department or academic program unit in which the Faculty member is assigned and should include appropriate participation in the recommendation by tenured Faculty in the department or academic program unit.

4. **Clinical-Track Appointments.** Clinical-track appointments (a) are full-time Faculty appointments, (b) are non-tenurable appointments for a fixed term, (c) are renewable, (d) permit promotion in rank, and (e) permit conversion of the appointment to tenure-track at any time prior to but not later than the expiration of the first three-year term, depending on funding availability and Faculty performance. In instances where the appointment is converted to tenure-track, the three (3) years served in the clinical-track appointment, at the discretion of the president, may be credited toward the individual's probationary status. Faculty in this classification participate in the academic programs by providing professional services, by exposing students to their professional expertise, and by directing students' educational experiences in clinical/professional settings where the Faculty members practice. Clinical-track appointments may be supported, in whole or in part, by appropriated funds or funding from grants or contracts, from clinical practice or clinical/professional facilities, or from other sources.
5. **Convertible and Non-convertible Clinical-Track Appointments.** A college, academic department or other academic program unit seeking to fill a particular clinical-track appointment may indicate the position is potentially convertible to a tenure track appointment (convertible clinical-track appointment). Convertible clinical-track appointments permit conversion of the appointment to tenure-track at any time prior to but no later than the expiration of the first three-year term, depending on funding availability and Faculty performance. Convertible clinical-track appointments must follow the search process as defined for tenure-track appointments. Convertible track appointments not converted within the three year period, as defined above, automatically revert to non-convertible clinical-track appointments. Unless specifically identified as convertible, all clinical-track appointments are non-convertible.
6. **Research-Track Appointments.** Research-track appointments (a) are full-time Faculty appointments, (b) are non-tenurable for fixed terms, (c) are renewable, (d) permit promotion in rank and (e) permit conversion of the appointment to tenure track at any time prior to but no later than the expiration of the first three-year term, depending on funding availability and Faculty performance. In instances where the appointment is converted to tenure-track, the three (3) years served in the research-track appointment, at the discretion of the president, may be credited toward the individual's probationary status. Faculty in this classification participate in the academic programs by conducting independent research projects and by mentoring students involved in the research process. Research-track appointments may be supported, in whole or in part, by appropriated funds or funding form grants or contracts, or other sources.
7. **Convertible and Non-convertible Research-Track Appointments.** A college, academic department or other academic program unit seeking to fill a particular research-track appointment may indicate the position is potentially convertible to a tenure track appointment (convertible research-track appointment). Convertible research-track appointments permit conversion of the appointment to tenure-track at any time prior to but no later than the expiration of the first three-year term, depending on funding availability and Faculty performance. Convertible research-track

appointments must follow the search process as defined for tenure-track appointments. Convertible track appointments not converted within the three year period, as defined above, automatically revert to non-convertible research-track appointments. Unless specifically identified as convertible, all research-track appointments are non-convertible.

8. Lecturer-Faculty Appointments. Lecturer-Faculty appointments (a) are full-time Faculty appointments, (b) are non-tenurable, (c) are renewable, and (d) permit promotion in rank. The primary assignment of Lecturer-Faculty is usually instruction at the undergraduate level.

Initial Lecturer-Faculty appointments may be granted for up to three years with an annual performance review conducted by the appropriate academic administrator or supervisor. Appointments may be renewed for further terms of up to three years following any satisfactory performance review.

9. Coordinator Appointments. Coordinator appointments are non-tenurable, renewable appointments for fixed terms. Coordinators teach and provide administrative services within the academic departments. They devote a preponderance of their time to Faculty responsibilities including, but not limited to, teaching, advising, and student mentoring. Coordinators may also have responsibility for administering special academic projects, systems support, and other administrative services.
10. Graduate Faculty Appointments. Guidelines for appointment to the Graduate School Faculty are located in the ETSU Graduate Catalog at <http://www.etsu.edu/gradstud/documents/forms/gradfacproc212.pdf>.
11. Emeritus Appointments. East Tennessee State University will honor select Faculty members, upon retirement, as emeritus Faculty. These individuals will be granted certain rights and privileges in recognition of their honored role in the University community and their ongoing potential for contributions to the intellectual and cultural life of the University.

To be awarded emeritus status, Faculty must have served the University for at least 10 years. Faculty should have attained the rank of Professor, Associate Professor or Assistant Professor (under exceptional circumstances Instructors may be considered). When a Faculty member's written notice of retirement is received at the Office of Human Resources, that office will notify the Faculty member and respective department chair of eligibility for emeritus status. The retiring member will be asked if he/she wishes to participate in the emeritus procedure. Within one month of receiving the retirement notice from the Office of Human Resources, the chair will convene the department's Faculty to review the qualifications of the emeritus Faculty candidate as presented in CV and other supporting documentation. Candidates will be nominated for emeritus status by majority vote. Those nominated will have materials submitted for recommendation by respective Deans and the Academic Vice President/Health Affairs Vice President, and then sent to the Office of the President where final decision will be made. (The President will have access to the Department's nomination and assessment materials, as well as decisions of approval by Deans and the appropriate Vice President.)

The title Emeritus will follow the Faculty member's rank upon retirement, i.e., Professor of History, Emeritus. If the recipient is a woman, the feminine ending is used, i.e., Professor of History, Emerita. Emeritus or Emerita status will become effective July 1 of each year, and public recognition of this status will occur annually. A list of all emeritus Faculty should be included in the University catalog and other appropriate documents.

Emeritus Faculty, as all retired Faculty, shall be privileged to maintain an identification card entitling them to certain University privileges. These will include library use, Faculty parking permit, reduced rates for athletic events and other privileges which do not exert undue financial burdens on the University. In addition, Emeriti may request the use of available office or laboratory space or may apply, upon approval, for University grants under the same rules as other Faculty.

Role of Administrators with Faculty Status in Departmental Matters

In order to ensure free discussion, clarify roles, and avoid any semblance of conflict of interest or undue influence, Faculty members in administrative positions other than departmental chairs will not participate or vote in department matters or meetings. Exceptions to this university policy may be made only by the affirmative majority vote of the Faculty of the affected department. The protocol for documenting any exception to this policy will be implemented at the time of initial administrative appointment of any individual who has Faculty status but is serving in an administrative position. If a department by affirmative majority vote accords an exception to the policy for an individual, that fact will be noted in writing by the department chair and will be recorded in documentation of the administrative appointment.

Policy Title: Faculty Ranks and Promotion

Policy Type: Human Resources

New/revised: Revised

Old Policy #: 1:02:11:00, 5:02:03:60, and ETSU Faculty Handbook

Approval level: Board of Trustees
 President
 Vice president
 Other (specify here)

Purpose

To define faculty ranks and to provide the principles, guidelines, and process of faculty promotion.

Policy

The major responsibilities of the university are to provide the best possible education, to encourage scholarship, creative productivity, and research, and to furnish significant service to the citizens of the State of Tennessee. Fundamental to this responsibility is the recruitment, selection, recognition, and retention of quality faculty members. Providing incentives and rewards for superior performance is a means of assuring the continuing existence of a high quality faculty. Advancement in rank is a recognition of accomplishments and a sign of confidence that the individual is capable of greater achievements and of assuming greater responsibilities. The policy of East Tennessee State University is to grant advancement on the basis of merit. In accord with this policy, promotions are to be made equitably, impartially, and in keeping with the following guidelines.

Each academic rank represents specific qualifications, professional competencies, and a history of productivity together with the promise of continued growth. Promotion to higher rank is neither an unqualified right nor an automatic occurrence. Having completed a given period of service or performed routine duties (such as carrying a normal course load, advising students, research to the degree needed for teaching courses, participation in departmental programs and governance, and committee service) should be considered an affirmative factor in appraising a faculty member's qualifications for promotion, though they are insufficient in and of themselves to warrant promotion.

The excellence of the faculty of ETSU is maintained in part through an appraisal of each candidate for promotion by colleagues and by appropriate administrative officers. This appraisal process must begin at the departmental level with a statement of the objectives and aims of the department, the college or school of which it is an integral part, and the university as a whole. Faculty members may be recommended for promotion to a higher academic rank based upon their demonstrated qualifications for that rank as evaluated by their peers in the department concerned, the department chair, the promotion and tenure advisory committee of the school or college, the academic dean, the vice president and the President.

The appraisal of each candidate should incorporate a thorough review of achievements which are expected in teaching; research, scholarly or creative activity; and professional service. Chairs and deans shall keep a faculty member informed of their expectations for his/her performance, including requirements for promotion and tenure. Any dramatic alterations in these expectations should be made

explicit. In most circumstances, this will be accomplished by the Faculty Activity System. Specific criteria to be applied to the work of an individual faculty member will be clearly delineated on annual faculty activity plans, reports and evaluations. The department chair should submit evaluations of these activities, accompanied by evidence obtained through an evaluation process designed to ensure that recommendations are predicated on substantive analysis.

The criteria according to which excellence is defined will vary from discipline to discipline. The standards established by each discipline should be carefully documented and considered by everyone involved in the evaluation of members of that discipline. Certain areas, such as the fine, performing and applied arts, may justifiably require different criteria than do other disciplines. In these, evidence of creative or other significant productivity may be presented. Achievements of this sort, however, should be of such quality and extent as to earn for the individual that same recognition in the discipline that significant research earns in areas of study in which research is an important factor.

Because of the importance and significance of the promotion deliberations, each faculty member must assume responsibility for ensuring that pertinent information concerning teaching, research, scholarly or creative activity, and professional service is available to the chair and departmental committee. In addition to individual qualifications and performance, other special factors may also play a part in the recommendations eventually offered by the vice presidents. Consistent with Board policy, the university administration must consider such matters as departmental rank distribution, potential for continued staff additions, prospective retirements and resignations from the department, enrollment patterns, and program changes or developments.

Definitions

1. **Teaching.** Teaching applies to any strategy in which information is imparted so that others may learn, and may include, but is not limited to, a variety of techniques including instruction, student advising and/or mentoring, development of course materials and courseware, and development of innovative approaches to instruction. At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.
2. **Research/Scholarship/Creative Activities.** Research applies to the studious inquiry, examination, or discovery that contributes to disciplinary and interdisciplinary bodies of knowledge. Research/scholarship/creative activities may include, but are not limited to, disciplinary and interdisciplinary activities that focus on the boundaries of knowledge, field-based scholarship, creative activities (e.g., film-making, performances, or other artistic creations), and the development of innovative teaching approaches.
3. **Professional Service.** Professional service applies to involvement within the community as defined by the university's role and mission, service to the university, and service within the bounds of the applicant's academic discipline and budgeted assignment. At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.
4. **Terminal Degree.** ETSU will use national discipline standards to determine which degrees are considered to be "terminal" within each discipline.
 - a. The current list of terminal degrees includes the following:
 - i. Earned Doctorates

- ii. Masters
 - iii. M.F.A. (studio art, creative writing)
 - iv. M.L.S. or Master's in Library Science (library science)
 - v. M.M. (certain specialties in music)
 - vi. Masters in Engineering or Masters with Major in Engineering (engineering technology)
- b. National practice does not recognize the J.D. as a doctorate; however, the J.D. may be considered a terminal degree in disciplines directly associated with legal studies.
 - c. "Equivalent work experience credit" may be requested when a candidate has not obtained a terminal degree, but has a record of extraordinary achievement in a given field. The equivalent work experience credit may include relevant teaching experience or other experience gained as an administrator, counselor, librarian, journeyman, or the like. ETSU will adhere to the SACS guidelines for faculty credentials:
<http://www.sacscoc.org/pdf/081705/faculty%20credentials.pdf>

Faculty Ranks

1. Assistant Professor. Those faculty members promoted to or hired at the rank of Assistant Professor should meet the following criteria:
 - a. Earned doctorate or terminal degree from a regionally accredited institution or comparably recognized non-U.S. institution in the instructional discipline or related area.
 - b. Evidence from academic records, recommendations, interviews, or other sources that the individual is adequately trained in the discipline and is otherwise competent to carry out the duties and responsibilities of a member of a university faculty.
 - c. Evidence of good character, mature attitude, and professional integrity.
 - d. Evidence of effective teaching if the individual has taught at the college level. If the individual has not taught at the college level, evidence should be obtained that satisfactory teaching performance can reasonably be expected.
 - e. Promise of productive creative and scholarly research and professional service.
2. Associate Professor. Those faculty members promoted to or hired at the rank of Associate Professor should provide documented evidence of (a) high quality professional productivity which may lead to national recognition in the academic discipline or (b) high quality professional productivity that is consonant with the goals of the university and of the academic unit to which the faculty member belongs. Specifically, faculty promoted to or hired at the rank of Associate Professor should meet the following criteria:
 - a. Earned doctorate or terminal degree from a regionally accredited institution or comparably recognized non-U.S. institution in the instructional discipline or related area.
 - b. A faculty member may apply for promotion to associate professor after having completed five full years in the rank of assistant professor.
 - c. Exceptions to the years-in-rank requirement may be made by the President under special circumstances. Only one year of a leave of absence for scholarly recognition, such as significant scholarship awards, will be credited toward satisfying the experience requirement for promotion.
 - d. Documented evidence of teaching effectiveness.
 - e. Documented evidence of professional service activities of a significant nature.

- f. Documented evidence, as accepted within the discipline, of scholarly productivity in research or creative endeavors.
 - g. Evidence of good character, mature attitude, and professional integrity.
3. Professor. The highest rank to which one may be promoted is that of Professor. Documented evidence of teaching excellence and superior contribution to student development, superior scholarly or creative activity, and superior professional service will contribute to the positive record of the candidate for advancement to the rank of professor. Since there is no higher rank, promotion to professor is taken with great care and requires a level of achievement beyond that required for associate professor. This rank is not a reward for long service; rather it is recognition of superior achievement within the discipline with every expectation of continuing contribution to the university and the larger academic community.

Those faculty members promoted to or hired at the rank of professor should provide documented evidence of (a) sustained high quality professional productivity and national recognition in the academic discipline or (b) sustained high quality professional productivity in the academic discipline that is consonant with the goals of the university and of the academic unit to which the faculty member belongs. Specifically, faculty members promoted to or hired at the rank of professor should meet the following criteria:

- a. Earned doctorate or terminal degree from a regionally accredited institution or comparably recognized non-U.S. institution in the instructional discipline or related area.
 - b. A faculty member may apply for promotion to professor after having completed five full years in the rank of associate professor, provided that exceptions to the years-in-rank requirement may be made by the President under special circumstances. Only one year of a leave of absence for scholarly recognition, such as significant scholarship awards, will be credited toward satisfying the experience requirement for promotion.
 - c. Documented evidence of teaching effectiveness.
 - d. Successful research, scholarly, and/or creative activity, as evidenced by such accomplishments as published scholarly books, articles in professional journals in one's discipline, presentation of papers before regional, national or international professional groups, receipt of major research grants, and/or a record of significant exhibitions or performances.
 - e. Professional service of an outstanding nature, usually of such kind as to make the individual regionally or nationally known in the discipline, or, alternatively, as a leading figure in service efforts promoted by the institution.
 - f. Evidence of good character, mature attitude, and professional integrity, and a high degree of academic maturity and responsibility.
4. Rank at appointment
- a. New faculty members will normally be employed, based upon their qualifications, at the rank of instructor, assistant professor, associate professor or professor.
 - b. Except under unusual circumstances, individuals lacking the terminal degree, as defined by discipline, will not be hired in one of the professorial ranks. The terminal degree does not necessarily qualify one for a professorial rank nor does receipt of the terminal degree guarantee promotion to a higher rank. When time in rank is a factor for promotion, years spent in that rank in some other institution may be counted as specified in the letter or contract of appointment.

5. Exceptions to minimum rank qualifications
 - a. The minimum rank qualifications should be met in every recommendation regarding appointment to academic rank and for promotion in academic rank. Exceptions to local ETSU requirements (e.g., years-in-rank) require the approval of the President of the university. Exceptions to minimum rank qualifications can be recommended to the Board by the President; however, such exceptions are not favored and should be granted only upon a showing of a candidate's exceptional merit and/or other extraordinary circumstances, such as an objective need to deviate from these minimum qualifications in filling positions and/or retaining otherwise qualified faculty within certain academic disciplines.
 - b. Petitions for exceptions to promotional criteria may include consideration of the appropriateness of the degree or extraordinary qualities that the candidate may possess. The equivalent work experience credit may include relevant teaching experience or other experiences such as experience gained as an administrator, counselor, librarian, journeyman, or the like. When evaluating college-level instruction, research/scholarship/ creative activities, and service, the university may make its own determination whether or not the number of years of experience from another university is to be accepted in total or discounted in some manner.

Promotion Guidelines

The academic units of the university must develop written guidelines for promotion with specific criteria for evaluating the faculty in teaching, research and service. The departmental guidelines cannot be less rigorous than university guidelines. A department or college may weigh criteria to be considered in promotion recommendations and should establish appropriate standards within criteria for the distinctive discipline(s) and the level(s) of program(s) it embodies. If such weighted criteria and standards for promotion are to be applied to candidates, they should be carefully documented in approved unit mission statements and policies. Those documents become bona fide only when (1) they have been considered by faculty in those units, (2) they have gained approval by the university as official college or departmental mission statements and related policies that are consistent with university mission and policy, and (3) they have been communicated in publications or in other written form (including the Web) to faculty affected by them. Bona fide documents are maintained as public information in the offices of appropriate department chairs and deans, the Vice President for Academic Affairs or the Vice President for Health Affairs, and the Faculty Senate.

The guidelines for promotion described in the remainder of this section represent minimum requirements for promotion of faculty in tenure and tenure-track appointments to which customary expectations concerning teaching, research or creative activity, and professional service apply. Regarding non-tenurable but promotable clinical and research appointments, it is the responsibility of departments or colleges to develop suitable criteria to evaluate promotion of individuals holding such appointments. Bona fide criteria for promotion of individuals in non-tenurable appointments should be in place before a department or college attempts to fill such appointments for the first time.

Nominees for promotion will be judged on the basis of their performance in teaching, research, scholarly and/or creative activity, and professional service as evaluated by their peers and appropriate administrative officers. Evidence of performance is to be, to the extent possible, objective and documented. Performance in these areas will be given different weights depending upon the assigned duties and responsibilities of the individual concerned and the uniqueness of the unit involved.

Requirements for minimum service in one rank are not absolute. Exceptions may be made on the basis of exceptional academic and/or other achievements of a particularly valuable nature.

All candidates for promotion to senior ranks (associate professor and professor) must meet approved departmental and/or college/school criteria for achievement in each of the three areas of teaching; research, scholarly and creative activities; and service. Promotion in rank carries the implication of attainment of criteria as well as increasing levels of achievement in the discipline. Candidates for promotion to associate professor or professor are expected to demonstrate both a higher quality and a greater cumulative quantity of achievement in each of the three areas than are candidates for promotion to lower rank.

Teaching

Since the first responsibility of the university is the education of its students, excellence in teaching should be continually encouraged and rewarded. No nomination for promotion should be made without accompanying evidence of the nominee's effectiveness as a teacher, where teaching is a part of the individual's work assignment. Inevitably, the rating of teaching ability is to some degree a value judgment. It is incumbent upon each department to develop a rating procedure whereby all factual information relative to a candidate's work as a teacher is available at the time s/he is considered for promotion. Evaluation of instruction shall be based on the following criteria with each unit assigning varying degrees of weight to each criterion. Deficiencies in some criteria may be counterbalanced by superiority in others.

1. Command of subject matter, and a record that indicates that the individual has remained current in his/her field of specialization.
2. Ability to organize and present subject matter in a logical and meaningful way.
3. Ability to motivate students.
4. Curriculum and/or program development; development of instructional techniques or teaching methods, including development of on-line teaching methods and courses.
5. Mentoring of undergraduate, graduate or post-graduate students, including:
 - a. efforts to promote student research, scholarship, and creative activities;
 - b. successful direction of theses, dissertations or independent research projects; and
 - c. effective leadership of research projects intended in part to train students in research techniques.
6. Textbooks or other published works in the teaching area, including documentation of teaching methodology that may be shared with colleagues. Such publications would also be considered as contributions to research, scholarly or creative activities.
7. Excellence in the advisement of students, either formally or informally. (At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.)
8. Honors or other recognition for contributions to teaching.

Evidence of teaching effectiveness should be provided by the candidate and affirmed by peer review at the departmental or academic program unit level and by evaluation by the department or unit chairperson and the appropriate dean. Where appropriate, evidence of teaching effectiveness may include information drawn from student evaluations of instruction.

Considerations other than hours of classroom contact should include such matters as the total number of preparations per semester, the number of courses per academic year, the level of difficulty of the courses, the number of students assigned to the classes, and time and location of courses.

Research, Scholarly, and Creative Activities

Research, scholarly, and creative activities are important areas of faculty involvement in the university. Clear evidence of the quality of work should accompany each application. Evidence supplied by the candidate might indicate performance beyond routine expectations in the following areas. Academic units will assign varying degrees of weight to each criterion. Deficiencies in some criteria should be counterbalanced by superiority in others.

1. Publications: textbooks, books or chapters in books, articles in refereed journals, articles in non-refereed journals, monographs, refereed and non-refereed conference proceedings, abstracts, book reviews, and other related items. Books published by reputable firms and articles in refereed journals, reviewed by recognized scholars, are more significant than those that are not subjected to such rigorous examination. It should be emphasized that quality is more important than quantity.
2. Papers presented: those papers presented at local, state, regional, national, and international professional meetings. The significance of content and selection processes should be considered in reviewing such presentations.
3. Performances or exhibitions that are invited or juried by internationally, nationally, or regionally recognized members or groups within the discipline.
4. Research in progress: Verification of stages of development is mandatory.
5. Other items such as funded or unfunded research proposals, computer software development, or audio-visual media may also be considered.

Academic departments and/or colleges may use written reviews and evaluations by qualified external peers to evaluate a candidate's research, scholarly and/or creative activity. The chair and the candidate must agree on the reviewer(s) selected from departments or institutions other than the candidate's own.

Professional Service

Evidence of the candidate's contributions in the area of professional service should be offered by the candidate. Documentation of all service activities is required. Professional service encompasses a faculty member's activities in one of three areas: university service, service to the discipline, and outreach or public service.

1. Service to the university (and to affiliated institutions) refers to work other than teaching and scholarship done at the department, college, or university level. A certain amount of such service is expected of every faculty member; indeed, universities could hardly function without conscientious faculty who perform committee work and other administrative responsibilities. University service includes, but is not limited to, serving on departmental committees and participating in college and university committees. Some faculty members may accept more extensive citizenship functions, such as a leadership role in the Faculty Senate, membership on a specially appointed task force, service as advisor to a university-wide student organization, and membership on a university search committee. At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.
2. Service to one's discipline or to the teaching profession generally includes participation in the activities of state, regional or national professional organizations related to the candidate's discipline; association leadership; journal editorships; article and grant proposal review; guest lecturing on other campuses; and other appropriate activities. Significant professional service requires more than organizational membership and attendance. Examples of significant service include that done by an officer of a professional organization or a member of the editorial staff of a journal.
3. The outreach or public service function is the university's outreach to the community and society at large, with major emphasis on the application of knowledge for the solution of problems with which society is confronted. Outreach primarily involves sharing professional expertise and should directly support the goals and mission of the university. A vital component of the university's mission, public service must be performed at the same high levels of quality that characterize the teaching and research programs.

The academic unit to which the candidate belongs should evaluate the candidate's service using the following criteria, to each of which the unit may assign varying degrees of weight:

1. A description of the candidate's position that permits evaluation of performance in relation to assigned and budgeted duties. This should include a statement of the mission or purpose of the position and the objective(s) of the nominee's service unit, as well as the specific assigned tasks and responsibilities of the nominee.
2. An evaluation of the effectiveness with which the service is performed, as judged by its relation to the general welfare of the university; its effect on the development of students and other faculty members; and/or its impact on other individuals, groups, or organizations served. Documentation of the effectiveness of service should include evidence of the success of the service in improving communities, programs, operating agencies, production processes, or management practices. It should also include indications of client satisfaction with the service provided by the nominee, and of the magnitude and complexity of his/her work (as opposed to perfunctory activity that does not lead to useful results).
3. An appraisal of the candidate's local, regional and national stature. Although the achievement of national stature is sometimes difficult for public service faculty whose activities are primarily directed to groups within the state, the public service professional should take advantage of every opportunity to project his/her accomplishments among peers on a local, regional, and

national basis. Service/outreach work is sometimes not publishable. The results may be in the form of direct consultations, planning reports, or instructional time directed largely to the recipients of university service programs. But certain aspects of service work are suitable for publication in professional journals. For example, unique techniques developed to motivate clients or new approaches to the transfer and application of knowledge would be of interest to peers in other public service programs across the nation.

Initiation and Processing of Promotion Recommendations

The formulation of recommendations concerning the promotion of a faculty member is a cumulative process occurring at three levels: departmental/ divisional, collegial, and executive or presidential. The faculty member eligible for consideration also has a significant role by assuming responsibility for timely submission of pertinent materials to the department chair for review at each level.

The director of personnel, by May 1st of each year, shall provide department chairs, deans, the appropriate vice president, and the President with lists of faculty members eligible for promotion through length of service. The action by the director of personnel does not relieve the department chairs of the responsibility of determining eligibility for promotion.

Department chairs, during the succeeding 15 days, will verify the lists through departmental and other administrative offices.

By May 15 each faculty member eligible for promotion shall be so notified in writing by the department chair. A department chair may initiate a promotion recommendation at any time; but unless there is special need for earlier processing, subsequent steps will be taken according to the established schedule.

Applications will be completed by each faculty member applying for promotion. These applications must be submitted to the department chair no later than September 15. All promotion applications must be complete at that time. No additional documentation may be added after September 15 except at the request of the reviewers and with the permission of the candidate, or vice versa.

Promotion applications will be reviewed at each level of the process. It is expected that no level of review is bound by prior judgment(s). At each level in the process, the cumulative recommendations and statements of rationale recorded by committees and administrators will be forwarded as integral parts of each candidate's application. Each reviewing official or committee has the responsibility to remand an application to any preceding level if that level's review is found to be incomplete or otherwise unacceptable. Consistent with Board policy, all peer committees have qualified privilege of academic confidentiality against disclosure of individual promotion votes unless there is evidence that casts doubt upon the integrity of the peer committee.

In some cases, such as small departments or unique fields of study, outside expertise may also be necessary in the evaluation process. The chair and the candidate must agree on the individual(s) selected from departments or institutions other than the candidate's own. All senior faculty in the candidate's department (those holding academic rank equal to or higher than that sought by the candidate), not including the department chair, and such outside experts as are needed will meet to review the promotion application. The promotion applicant must be given at least one week's notice of such meetings and, consistent with procedures described in the ETSU Faculty Handbook, shall have the

opportunity to bring to the participants' notice any material that may be helpful in determining the applicant's fitness for higher rank.

In addition to any other evidence that the candidate might choose to provide, the candidate must furnish student assessments of instruction for at least eight courses taught while holding current rank, wherever possible, or for every course evaluated while holding current rank, if this number is greater. These student assessments should be representative of a variety of classes that the candidate has taught. A University-approved assessment instrument will be used for this purpose. Student assessments must be included with all applications for promotion and will be considered as one important source of information concerning effective teaching, although not the only one.

A separate peer evaluation of teaching effectiveness must also take place. This evaluation must include a review of student evaluations with consideration given to the type of courses involved. In addition, peer reviewers should assess items such as course syllabi, study materials, assignments, information on assessment and grading practices, and expectations relating to the candidate's particular teaching responsibilities. Peer reviewers should also observe the candidate's classroom teaching.

Departments and colleges may establish their own criteria and processes for peer evaluation of teaching and may include these in their official statements of expectations for promotion, subject to the provisions of ETSU policy.

It is the obligation of candidates for promotion, with assistance from their department chairs, to ensure that their teaching is evaluated by peers as described in ETSU policy and to present in the promotion application documentation of the findings of peer evaluations.

Proposed changes in the process for student assessments of instruction will be submitted to the ETSU Student Government Association for consideration and reaction. The SGA will review the uses of student assessments of instruction on a regular basis and will bring its questions, concerns and suggestions to the Faculty Senate and to the Academic Council.

Complete and accurate documentation of all research, scholarly and creative activities, including complete bibliographic listings of publications, status of journals (refereed and non-refereed), role in jointly authored articles and papers, and complete descriptions of professional service activities should be included in each application to provide evidence of and support for these activities. Copies of published items and other reported research and creative activities must be available for examination by reviewers.

The departmental review by the committee of senior faculty will be completed using appropriate criteria, as established by the department and consistent with university criteria, in reaching its decision.

After formal discussion, the committee of senior faculty within the department will vote to recommend, or not to recommend, each candidate within the department. A written, composite statement explaining the recommendation shall be signed (by means that may include electronic signatures) by each reviewing faculty member and forwarded to the department chair, with a copy to the candidate. Included in that statement will be an explicit evaluation in each of the areas of teaching; research, creative, and scholarly activity; and professional service. Dissenters may include their views in the committee report.

The department chair, by October 15 of each year, will forward to the school or college dean, and to the candidate his/her own decision to recommend or not recommend the candidate for promotion. Included in that recommendation will be a written rationale explaining the recommendation, with an explicit evaluation in each of the areas of teaching; research, creative, and scholarly activities; and professional service.

The chair will inform the dean of the faculty members' vote. Should the chair elect to act contrary to the vote of the senior faculty, the dean or other appropriate administrative official should meet with the senior faculty of the department in question to discuss the matter. The dean or other appropriate official should also meet with the chair of the department.

All recommendations reached at the departmental level will be forwarded to the dean who will forward them to that college or school's promotion and tenure committee for its review.

Prior to or during the fall semester of each year, the dean of each college or school will implement procedures to establish a promotion and tenure committee. This committee shall take its membership from faculty at professorial ranks. The dean should ensure adequate representation from the tenured faculty. All members should have at least 3 years of service at ETSU. Collectively the membership should represent the various disciplines of the college or school with equal numbers appointed by the dean and elected by the faculty. At least two-thirds of the members of the committee should hold the rank of associate professor or professor. When there are not sufficient numbers of faculty within a college holding the rank of associate professor or professor to serve on the committee, the dean will request participation of faculty in other colleges. Department chairs may not serve on such committees. No person who is an applicant for promotion in a given year may be an elected or appointed member of a College/School Promotion/Tenure Committee during that year. A person who may have been elected to serve a two or three-year term, should s/he apply for promotion during that term, shall excuse her/himself from the College/School Committee in that year. In the event a replacement is needed, the College/School will obtain a replacement on the same basis as the individual was appointed. The size of the committee should be from 6 to 14 members who shall serve staggered 2- or 3-year terms. The school or college faculty shall decide whether the committee chair shall be elected from among the members of the committee or appointed by the dean. The committee shall function in the role of advisor to the dean from October 15 until December 15 of each year. More specifically, this committee will perform the functions of review as follows:

- a. Receive and review promotion and tenure recommendations of the chairs and departmental committees for transmittal to the dean. In formulating its recommendations for promotion, the committee should consider the broad perspective of the philosophy and objectives of the school or college and any bona fide weighting of criteria and standards reflecting the expectations of the applicant's academic department and/or college.
- b. Review all applications to assure that criteria for promotion and tenure are being correctly and uniformly applied to all members of the school or college.
- c. Review the completeness of the information presented and question any omission in criteria or variations in procedure. Where discrepancies or misapplication of criteria are noted, the committee will attempt to correct the errors through direct consultation with those involved.
- d. Only members of the college/school committee holding academic rank equal to or higher than that sought by a candidate may vote on that candidate's promotion.
- e. Members of the college/school committee from a candidate's home department shall not participate in the college/school committee's discussion of the candidate or in its votes on that candidate's tenure and/or promotion.

The school/college review committee will, by December 15, forward to the dean its recommendations and a written, composite statement for each faculty member being reviewed. The use of secret or open balloting shall be decided by the college, school, or division committee. These written statements will include an explicit evaluation in each of the areas of teaching; research, scholarly and creative activity; and professional service, and will be signed (by means that may include electronic signatures) by each committee member. Dissenters may include their views in the committee report. A copy of the committee recommendation will be forwarded to the candidate.

The dean's recommendations, together with all written documentation, will be forwarded to the appropriate vice president by February 1. This report must also include an explicit evaluation of each candidate's record in the areas of teaching; research, scholarly, and creative activity; and professional service.

The dean, at the time the candidate's application is forwarded to the vice president, will also notify the candidate and the department chair of his/her decision to recommend or not to recommend. The decision will be supported in writing. A copy of this written support will be provided to the candidate and the department chair. In the event of a negative recommendation, the candidate may initiate an appeal to the university Promotion and Tenure Appeals Committee.

The vice president will hold a meeting with the dean concerned prior to a final recommendation. The vice president will notify the candidate, dean, and department chair of his/her decision to recommend or not to recommend. The decision will be supported in writing. In the event of a negative recommendation, the candidate may initiate an appeal to the university Promotion and Tenure Appeals Committee.

Upon reaching a decision regarding each application for promotion, the vice President will forward the application, together with all recommendations relevant to it, to the President by March 1.

All promotion applications initiated will be forwarded to the President regardless of the recommendation made by any intervening administrator or faculty committee, unless the candidate chooses to withdraw his/her application. Only the candidate has the right to withdraw an application that has been filed.

Final action, prior to consideration by the Board, on each promotion recommendation will be taken by the President. When a recommendation is approved by the President and subsequently by the Board, the President will notify the faculty member, by letter through the appropriate vice president's office, of the award of promotion. When a recommendation is disapproved by the President, s/he will, through the appropriate vice president's office, inform the department chair of the faculty member involved, in writing, stating reasons for disapproval, and the chair will so advise the faculty member within five days of said notification. Any appeal to the Board must be made in accordance with Board policies.

Appropriate administrative officers will be advised by the President of the action taken on all promotion recommendations; whether approved or disapproved.

A list of faculty members who are recommended for promotion will be forwarded to the Board.

Upon final action taken by the Board, the President will notify the candidate and recommendation forms will be filed in the Personnel Office.

Appeal Procedure

An appellate procedure stands as a basic and important part of the overall promotion granting process. The responsibility of evoking the appeal procedure must be assumed by the candidate.

Two appeal opportunities follow the dean's action and precede that of the President. The candidate may opt to utilize either one, but not both, of these opportunities. Should the dean opt not to recommend in favor of promotion, the candidate may request a pre-appeal conference with the vice president. Should the vice president choose not to recommend for promotion and the candidate has not appealed following the dean's decision, the candidate may request a pre-appeal conference with the president. In either event the pre-appeal conference must be requested within seven days of receiving written notice of the negative recommendation.

The University Promotion and Tenure Appeals Committee (PTAC) will be composed of one faculty senator elected by the Senate who will chair the committee, and one member from each college or school who was not a member of that body's promotion and tenure committee when the candidate's application was evaluated, as selected by the faculty senators from that college or school. The college/school senators will also designate two alternates from their college/school who would be available to serve if the primary designee is ineligible or unavailable to serve. If the college/school senators fail to designate a committee member and alternates, or if those designated are ineligible or unavailable to serve, then the Faculty Senate President and the PTAC Chair will jointly select a faculty member from that college/school to serve. Terms of appointment shall be for two-year staggered terms with the exception of the committee chair who will serve only a one year term. All members of the PTAC will be tenured and will hold professorial rank. Deans, department chairs, and other administrative personnel directly involved in college or school-level promotion decisions (such as associate or assistant deans) are excluded from membership on this committee. No member of the PTAC shall have participated in the review of the candidate's application at any previous level.

After the pre-appeals conference, if the candidate has decided to proceed with the appeal, s/he must file an appeal in writing with the university Promotion and Tenure Appeals Committee within one week or forfeit the right to appeal at that level. When the appeal goes forward, the vice president will submit the candidate's complete promotion application to the chair of the university Promotion and Tenure Appeals Committee. The committee shall review information relevant to each appeal in accordance with procedures developed by the committee for all such appeals and incorporate its recommendations as a part of each candidate's application to be returned to the vice president or the President for consideration. The committee will also send a copy of its recommendation(s) to the candidate, the department chair, the dean and the appropriate vice president. In the event the university Promotion and Tenure Appeals Committee makes a recommendation regarding tenure and/or promotion, the President or vice president will inform the chair of the committee in writing of the final decision and its rationale.

The final appeal opportunity is after the President's decision is made known. The appeal is directed to the Board in accordance with the university's policy on appeals to the Board.

Policy Title: Tenure

Policy Type: Human Resources

New/revised: Revised

Old Policy #: 1:02:11:00, 5:02:03:60, and ETSU Faculty Handbook

Approval level: Board of Trustees
 President
 Vice President
 Other (specify here)

Purpose

To define tenure and to provide the principles, guidelines, and process of faculty tenure.

Definitions

The following are general definitions of words and terms used in this policy that are not hereinafter specifically defined. However, the words and terms are subject to further qualification and definition in the subsequent sections of this policy.

Academic Tenure

Tenure is a personnel status in an academic department or other academic program unit pursuant to which the academic or fiscal year appointments of full-time faculty who have been awarded tenure are continued at East Tennessee State University until the expiration or relinquishment of that status, subject to termination for adequate cause, for financial exigency, or for curricular reasons.

The awarding of tenure is recognition of the merit of a faculty member and of the assumption that he/she would meet the long-term staffing needs of the department or other academic program unit and the university. Tenure is awarded only to those members of the faculty who have exhibited professional excellence and outstanding abilities sufficient to demonstrate that their future services and performances justify the degree of permanence afforded by academic tenure. ETSU does not award tenure in non-faculty positions. Tenure appointments reside in the departments and other academic program units, and are assurances of continued employment during the appointment year subject to expiration, relinquishment, or terminations of tenure as set out in the ETSU Faculty Handbook. Recommendations for or against tenure should originate from the department or academic program unit in which the faculty member is assigned and should include appropriate participation in the recommendation by tenured faculty in the department or academic program unit as specified in elsewhere in this policy.

Tenure is awarded only by positive action of the Board of Trustees, pursuant to the requirements and procedures of this policy. No faculty member shall acquire or be entitled to any interest in a tenure appointment at ETSU without a recommendation for tenure by the President of the university and an affirmative award of tenure by the Board of Trustees. No other person shall have any authority to make any representation concerning tenure to any faculty member, and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the faculty member to another year of service at the university, provided that no tenure appeals

remain outstanding due to lack of cooperation and/or appropriate action on the part of the candidate in completing the appeal process.

Faculty Member

A faculty member is a full-time employee who holds academic rank as instructor, assistant professor, assistant clinical or research professor, associate professor, associate clinical or research professor, professor, or clinical or research professor.

Probationary Employment

Probationary employment is a period of full-time professional service by a faculty member for whom an appointment letter denotes a tenure-track appointment in which he/she does not have tenure and in which he/she is evaluated by the university for the purpose of determining his/her satisfaction of the criteria for a recommendation for tenure.

Adequate Cause

Adequate cause is a basis upon which a faculty member, either with academic tenure or a tenure-track or temporary appointment prior to the end of the specified term of the appointment may be dismissed or terminated. The specific grounds which constitute adequate cause are set forth in this policy.

Financial Exigency

Financial exigency is the formal declaration by the Board of Trustees that the university faces an imminent financial crisis, that there is a current or projected absence of sufficient funds (appropriated or non-appropriated) for the campus as a whole to maintain current programs and activities at a level sufficient to fulfill its educational goals and priorities, and that the budget can only be balanced by extraordinary means which include the termination of existing and continuing academic and non-academic appointments.

Vice President

The term vice President shall be construed to mean either the Vice President for Academic Affairs or the Vice President for Health Affairs, depending on the action(s) or individual(s) involved.

Policy

The quality of the faculty of any university is maintained primarily through support of a wide variety of professional development. It is monitored through the appraisal, by competent faculty and administrative officers, of each candidate for tenure. Tenure at East Tennessee State University provides certain full-time faculty with the assurance of continued employment during the appointment year as defined in the employee's contract until retirement or dismissal for adequate cause, financial exigency, or curricular reasons, as further discussed herein.

Minimum Eligibility Requirements for Consideration for Academic Tenure

Academic tenure may be awarded only to full-time faculty members who: (a) hold academic rank as instructor, assistant professor, associate professor, or professor and meet the minimum rank criteria for

that rank as specified in ETSU's policy on faculty ranks and promotion ; (b) have been employed pursuant to tenure-track appointments and have completed the probationary period of service as stated in the ETSU Faculty Handbook or as agreed upon in writing and signed by the appropriate academic officer; and (c) have been determined by the university to meet the criteria for recommendation for tenure and have been so recommended pursuant to this policy.

Faculty holding temporary appointments are not eligible for tenure.

Faculty holding clinical or research appointments are not eligible for tenure, provided, however, that under certain circumstances, such appointments may be converted to tenure track appointments as discussed in ETSU's policy on definition and types of faculty.

Faculty members supported in whole or in part by funds available to the university on a short-term basis, such as grants, contracts, or foundation sponsored projects, shall not be eligible for tenure unless continuing support for such members can be clearly identified in the regular budget of the university upon the recommendation of tenure to the Board.

No faculty member shall be eligible for tenure unless the employee's contract specifies his/her tenure-track status; provided that where a faculty member with tenure is appointed to an administrative position, he/she will retain tenure in a former faculty position only; and provided further that a faculty member otherwise eligible for tenure who also holds a non-faculty position may be awarded tenure in the faculty position only, subject to the requirements of this policy.

Length of Probationary Period and Timing of Application for Tenure

Probationary faculty may be employed on annual tenure-track appointments for a probationary period which may not exceed six (6) years, this being the normal length of time required to develop a substantial record in teaching, research and service.

Faculty may apply for tenure following completion of five years of the probationary period (so that the recommendation for tenure, if granted, would occur upon completion of six years).

Exceptions to the minimum probationary period may be made under special circumstances upon recommendation by the President and approval by the Board of Trustees.

When a faculty member on a tenure-track appointment completes the probationary period and is not recommended for tenure by the President, he or she will be given notice of non-renewal of the appointment and will receive a terminal contract for the seventh year of employment.

If a faculty member wishes to apply for tenure earlier than the completion of the minimum probationary period, he or she must so notify the department chair, in writing, no later than May 15 prior to the fall term in which the application will be made. The faculty member should include in this statement of intent a brief summary of the special circumstances that the faculty member thinks warrant awarding tenure earlier than the completion of the minimum probationary period.

A faculty member may apply for tenure earlier than the completion of the minimum probationary period only once. An application occurs when the faculty member uploads the Supporting Document to ETSU's online tenure and promotion system. The candidate may withdraw the tenure materials from

further consideration at any point in the tenure review process, but even if it is withdrawn, this constitutes an application.

If a faculty member applies for tenure earlier than the completion of the minimum probationary period and is not awarded tenure, this does not preclude the faculty member's right to apply for tenure upon completion of the minimum probationary period. If tenure is not awarded in an early application, this does not extend the probationary period beyond six years.

Calculating the Probationary Period

Employment during summer terms, in part-time positions, or during periods of leaves of absence (except in the circumstance described in this section), shall not be credited toward satisfying the probationary period.

Only full-time continuous service at East Tennessee State University will be included in determining completion of the probationary period, except where a break in service was pursuant to an approved leave of absence. A period of approved leave of absence shall be excluded from the requisite period for completion of the probationary period unless the President specified in writing prior to the leave of absence that it shall be included in the probationary period. Leaves of absence may not be granted retroactively. A faculty member may apply for a maximum of two (2) leaves of absence in one-year increments so long as the total probationary period (not including the leaves of absence) does not exceed six years. Requests for a second extension follow the same procedure and are subject to the same considerations as the original extension.

A faculty member who is appointed to an administrative position prior to a tenure award remains eligible for tenure under two conditions: 1) the faculty member must qualify for tenure under departmental or other academic program unit, college and university guidelines; and 2) the faculty member must maintain a significant involvement in academic pursuits including teaching, scholarship and service. The time (or prorated portion of time) spent in the administrative position may be credited toward completion of the probationary period. The department or division in which the faculty member would otherwise be employed must still initiate the tenure action.

Where a faculty member is serving a probationary period in a department or other academic program unit and is subsequently transferred to another department or academic program unit, the faculty member may—with the written approval of the President—elect to begin a new probationary period on the date that the transfer occurs. If he/she does not so elect (and confirm in writing to the President), time spent in the first appointment shall count toward establishing the minimum and maximum probationary period.

Credit for Prior Service

The minimum probationary period may include credit for prior service when agreed to by the President and subject to the maximum permissible credit for prior service.

Prior Service at Other Universities

Credit toward completion of the probationary period may at the discretion of the President be given for a maximum of three of years of previous full-time service at other colleges, universities, or institutes provided that the prior service is relevant to the institution's own needs and criteria. Any credit for prior

service that is recognized and agreed to must be confirmed in writing at the time of the initial appointment.

Prior Service at ETSU

Credit toward completion of the probation period may, at the discretion of the President, be given for a maximum of three years or previous full-time service in a temporary faculty appointment or term appointment at the same institution or in an earlier tenure-track appointment at the same institution that has been followed by a break in service. Any credit for prior service in a temporary full-time faculty appointment at the same institution or in an earlier tenure-track appointment at the same institution that has been followed by a break in service must be recognized and confirmed in writing in the appointment letter to a tenure-track position.

Requests to Decrease Credit for Prior Service

If a faculty member who received credit for prior service upon his or her appointment to a tenure-track position at the university wishes to decrease credit given for prior service and increase the number of appointment years at ETSU required for the probationary period, he or she must submit this request in writing to the chair of the academic department no later than May 15 of the final year of the minimum probationary period (calculated including the credit for prior service). Such requests can only occur upon the approval of the President. Any approved reduction in credit for prior service must be in writing.

Stopping the Tenure Clock

A faculty member in a tenure track appointment may request to "stop the clock" during his/her probationary period when circumstances exist that interrupt the faculty member's normal progress toward building a case for tenure. Discretion for stopping the tenure clock rests on the institution and also requires supervisory approval. In such cases, the faculty member may request to "stop the tenure clock" for one-year if he/she demonstrates that circumstances reasonably warrant such interruption. Reasons for approving a request to "stop the clock" will typically be related to a personal or family situation requiring attention and commitment that consumes the time and energy normally addressed to faculty duties and professional development. Examples may include, but are not limited to, childbirth or adoption, care of dependents, medical conditions or obligations, physical disasters or disruptions, or similar circumstances that require a fundamental alteration of one's professional life. The intent of this policy is to serve the best interests of the university while providing neither preference to nor adverse effect on a faculty member's process of developing a case for tenure. Once approved, the "stop the clock" year is not counted in the probationary period accrual.

A faculty member seeking a modification of his/her probationary period must submit his/her request, in writing, addressing the considerations described above. The request is to be submitted in writing to the department chair for consideration and recommendation. The request must be submitted no later than three (3) months after the conclusion of the period in which the clock is to be stopped. The chair's recommendation is forwarded to the dean of the faculty member's college for consideration and recommendation; thence to the provost for consideration and recommendation; and finally to the President for approval or denial. The President will notify the faculty member, in writing, of the decision to approve or deny such exceptions within one month of submission. Requests for modification of the probationary period that are based on a faculty member's health or care for an immediate family member should also be submitted to the university's legal counsel for review.

Pre-Tenure Mentoring of Faculty

Each department and college should establish procedures that enhance communication with probationary faculty members concerning factors that may impact their candidacy (e.g., bona fide weighting of criteria, appropriate standards, approved staffing plans, curricular changes, accreditation issues, enrollment patterns, etc.). These procedures may include pre-tenure reviews conducted by academic departments or other academic units during the third year of the probationary period. It is the explicit responsibility of chairs and deans to establish formal protocols or by other means to keep tenure-track faculty apprised of their progress toward tenure by thorough evaluations and appropriate mentoring.

Non-Renewal of Tenure-Track Faculty

General Timeline

When tenure-track appointments of faculty are not to be renewed for further service, the faculty member shall receive notice of this as follows:

- a. Not later than April 1 of the full first appointment year, if the appointment expires at the end of that year; or, if the appointment terminate during an appointment year, at least three months in advance of its termination;
- b. Not later than January 1 of the second full appointment year, if the appointment expires at the end of that year; or, if the appointment terminates during an appointment year, at least six months in advance of its termination;
- c. Not later than the close of the appointment year preceding the third or subsequent full year of service, if the appointment expires at the end of that year; or, if the appointment terminates during an appointment year, at least twelve months in advance of its termination.

Notice of non-renewal shall be effective upon personal delivery of the notice to the faculty member, or upon the date the notice is mailed, postage prepaid, to the faculty member at his/her current home address of record at the university.

Applicable dates for notice of non-renewal are based upon actual years of service at a particular university and in no way affected by any credit for prior service.

When a faculty member on a tenure-track appointment completes his/her probationary period, the faculty member will be recommended for tenure by the President or will be given a terminal contract for the seventh year. Notice of the terminal contract should be given not later than the final day of the appointment year. No other person shall have any authority to make any representation concerning tenure to any faculty member, and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the faculty member to another year of service at the university, provided that no tenure appeals remain outstanding due to lack of cooperation and/or appropriate action on the part of the candidate in completing the appeal process. If a faculty member applies for tenure earlier than the completion of the minimum probationary period and is not awarded tenure, this does not preclude the faculty member's right to apply for tenure upon completion of the minimum probationary period. If tenure is not awarded in an early application, this does not extend the probationary period beyond six years.

Faculty members on tenure-track appointments shall not be terminated during the term of the annual appointment as stated in the employment contract except for reasons which would be sufficient for the termination of tenured faculty.

The non-renewal or non-reappointment of any faculty member on a tenure-track appointment does not necessarily carry an implication that his/her work or conduct has been unsatisfactory.

Unless there is a violation of state or federal law under the limitations described in ETSU policy on appeals to the Board, decisions that are not subject to appeal to the Board of Trustees include (a) non-renewal of a tenure-track faculty appointment during the first five years of the probationary period and (b) denial of tenure unaccompanied by notice of termination in the fifth year of the probationary period.

Initiation and Processing of Tenure Recommendations

The formulation of recommendations concerning the tenure of a faculty member is a cumulative process occurring at three levels-department/division, college, and executive or Presidential. The faculty member eligible for consideration also has a significant role by assuming responsibility for timely submission of pertinent materials to the department chair for review at each level.

The director of personnel, by May 1st of each year, shall provide department chairs, deans, the appropriate vice President, and the President with lists of faculty members eligible for tenure through length of service. The action by the director of personnel does not relieve the department chairs of the responsibility of determining eligibility for tenure.

Department chairs, during the succeeding 15 days, will verify the lists through departmental and other administrative office.

By May 15 each faculty member eligible for tenure shall be so notified in writing by the department chair. A department chair may initiate a tenure recommendation at some time other than the annual review; but unless there is special need for earlier processing, subsequent steps will be taken according to the established schedule during the annual review.

Tenure applications will be completed by each faculty member applying for tenure. These applications will be submitted no later than September 15. All tenure applications must be complete at that time. No additional documentation may be added after September 15 except at the request of the reviewers and with the permission of the candidate, or vice versa. Candidates applying for promotion and tenure simultaneously submit one set of supporting materials.

Tenure applications will be reviewed at each level of the process. It is expected that each level of review is independent of prior judgment and documentation. At each level in the process, the cumulative recommendations and statements of rationale recorded by committees and administrators will be forwarded as integral parts of each candidate's application. Each reviewing official or committee has the responsibility to remand an application to any preceding level if that level's review is found to be incomplete or otherwise unacceptable. All peer committees have qualified privilege of academic confidentiality against disclosure of individual tenure votes unless there is evidence that casts doubt upon the integrity of the peer committee.

In some cases, such as small departments or unique fields of study, outside expertise may also be necessary in the evaluation process. The chair and the candidate must agree on the individual(s)

selected from departments or institutions other than the candidate's own. All tenured faculty in the candidate's department, not including the department chair, and such outside experts as are needed will meet to review the tenure application. The tenure applicant must be given at least one week's notice of such meetings and, consistent with procedures described in ETSU policy, shall have the opportunity to bring to the participants' notice any material that may be helpful in determining the applicant's fitness for tenured status.

In addition to any other evidence that the candidate might choose to provide, the candidate must furnish student assessments of instruction for at least eight courses, wherever possible, or for every course evaluated during the probationary period, if this number is greater. These student assessments should be representative of a variety of classes that the candidate has taught. A university-approved assessment instrument will be used for this purpose. Student assessments must be included with all applications for tenure and will be considered as one important source of information concerning effective teaching, although not the only one.

A separate peer evaluation of teaching effectiveness must also take place. This evaluation must include a review of student evaluations with consideration given to the type of courses involved. In addition, peer reviewers should assess items such as course syllabi, study materials, assignments, information on assessment and grading practices, and expectations relating to the candidate's particular teaching responsibilities. Peer reviewers should also observe the candidate's classroom teaching.

Departments and colleges may establish their own criteria and processes for peer evaluation of teaching and may include these in their official statements of expectations for tenure, subject to the provisions of ETSU policy.

It is the obligation of candidates for tenure, with assistance from their department chairs, to ensure that their teaching is evaluated by peers as described in this policy and to present in the tenure application documentation of the findings of peer evaluations.

Proposed changes in the process for student evaluation of instruction will be submitted to the ETSU Student Government Association for consideration and reaction. The SGA will review the uses of student evaluation of instruction on a regular basis and will bring its questions, concerns and suggestions to the Faculty Senate and to the Academic Council.

Complete and accurate documentation of all research, scholarly, and creative activities, including complete bibliographic listings of publications, status of journals (refereed and non-refereed), role in jointly authored articles and papers, and complete descriptions of professional service activities should be included in each application to provide evidence of and support for these activities. Copies of published items and other reported research and creative activities must be available for examination by reviewers.

The departmental review will be completed by a committee of tenured faculty, excluding the department chair. The review should reflect serious consideration of general university criteria, the specific criteria and types of evidence specified, any weighted criteria reflecting appropriate standards for the discipline, and any currently documented analysis of long-term staffing needs.

After formal discussion, the committee of tenured faculty within the department will vote to recommend or not to recommend each candidate within the department. A written, composite statement explaining the recommendation shall be signed (by means that may include electronic

signatures) by each reviewing faculty member and forwarded to the chair with a copy to the candidate. Included in that statement will be an explicit evaluation in each of the areas of teaching, research and creative/scholarly activity, and service. Dissenters may include their views in the committee report.

The department chair, by October 15, will forward to the school or college dean, and to the candidate his/her own decision to recommend or not recommend the candidate for tenure. Included in that recommendation will be a written rationale explaining the recommendation, with an explicit evaluation in each of the areas of teaching, research and creative/scholarly activity, and service. While the department chair's review is independent of that by the departmental committee, the chair's recommendation should be guided by consideration of the same criteria, standards, and types of evidence.

The chair will inform the dean of the tenured faculty members' vote. Should the chair elect to act contrary to the vote of the senior faculty, the dean or other appropriate administrative official should meet with the senior faculty of the department in question to discuss the matter. The dean or other appropriate official should also meet with the chair of the department.

All recommendations reached at the departmental level will be forwarded to the school or college on forms provided by the appropriate vice President's office.

Prior to or during the fall semester of each year, the dean of each college or school will implement procedures to establish a promotion and tenure committee. This committee shall take its membership from faculty at professorial ranks. The dean should ensure adequate representation from the tenured faculty. All members should have at least 3 years of service at ETSU. Collectively the membership should represent the various disciplines of the college or school with equal numbers appointed by the dean and elected by the faculty. At least two-thirds of the members of the committee should hold the rank of associate professor or professor. When there are not sufficient numbers of faculty within a college holding the rank of associate professor or professor to serve on the committee, the dean will request participation of faculty in other colleges. Department chairs may not serve on such committees. No person who is an applicant for promotion in a given year may be an elected or appointed member of a College/School Promotion/Tenure Committee during that year. A person who may have been elected to serve a two or three-year term, should s/he apply for promotion during that term, shall excuse her/himself from the College/School Committee in that year. In the event a replacement is needed, the College/School will obtain a replacement on the same basis as the individual was appointed. The size of the committee should be from 6 to 14 members who shall serve staggered 2- or 3-year terms. The school or college faculty shall decide whether the committee chair shall be elected from among the members of the committee or appointed by the dean. The committee shall function in the role of advisor to the dean from October 15 until December 15 of each year. More specifically, this committee will perform the functions of review as follows:

- a. Receive and review promotion and tenure recommendations of the chairs and departmental committees for transmittal to the dean. In formulating its recommendations for or against the granting of tenure, the college committee should concentrate on the broad perspective of the college's approved mission, any bona fide weighting of criteria and standards reflecting the expectations of the applicant's academic department and/or college, approved departmental and/or college staffing plans and the department's enrollment trends.

- b. Review all applications to assure that criteria for promotion and tenure are being correctly and uniformly applied to all members of the school or college.
- c. Review the completeness of the information presented and question any omission in criteria or variations in procedure. Where discrepancies or misapplication of criteria are noted, the committee will attempt to correct the errors through direct consultation with those involved.
- d. Members of the college/school committee from a candidate's home department shall not participate in the college/school committee's discussion of the candidate or in its votes on that candidate's tenure and/or promotion.
- e. Only tenured members of the college/school committee may vote on applications for tenure.

The school/college review committee will, by December 15, forward to the dean its recommendations and a written, composite statement for each faculty member being reviewed. The use of secret or open balloting shall be decided by the college, school or division committee. These written statements will include an explicit evaluation in each of the areas of teaching, research and scholarly/creative activity, and service, and will be signed (by means that may include electronic signatures) by each committee member. Dissenters may include their views in the committee report. A copy of the committee recommendation will be forwarded to the candidate and the department chair.

The dean's recommendations, together with all written documentation, will be forwarded to the appropriate vice President by February 1. This report must also include an explicit evaluation of each candidate's record in the areas of teaching, research and scholarly/creative activity, and service. While the dean's review is independent of that by the college committee, the dean's recommendation should be guided by consideration of the same criteria, standards, and types of evidence.

The dean, at the time the candidate's application is forwarded to the vice President, will also notify the candidate and the department chair of his/her decision to recommend or not to recommend. The decision will be supported in writing. A copy of this written support will be provided to the candidate and the department chair. In the event of a negative recommendation, the candidate may initiate an appeal to the university Promotion and Tenure Appeals Committee.

If the vice President, in the face of prior approvals, favors disapproval of an application s/he will hold a meeting with the department chair and dean concerned prior to a final decision. The candidate, chair, and dean will be advised regarding the vice President's subsequent decision, which will be supported in writing. In the event of a negative recommendation and the candidate has not initiated an earlier appeal, the candidate may initiate an appeal to the university Promotion and Tenure Appeals Committee.

Upon reaching a decision regarding each application for tenure, the vice President will notify the dean, chair, and candidate in writing and will forward the application, together with all recommendations relevant to it, to the President by March 1.

All tenure applications initiated will be forwarded to the President regardless of the recommendation made by any intervening administrator or faculty committee; unless the candidate chooses to withdraw his/her application. Only the candidate has the right to withdraw an application that has been filed.

Final action on each tenure application will be taken by the President. When an application is approved by the President and subsequently by the Board of Trustees, the President will notify the faculty member by letter of the award of tenure. When an application is disapproved by the President, s/he will inform the department chair, the faculty member, and other appropriate administrators in writing, stating reasons for disapproval. At this time, the candidate may appeal the President's decision. Appropriate administrative officers will be advised by the President of the action taken on all tenure recommendations; whether approved or disapproved.

A list of faculty members who are recommended for tenure status in any one year will be forwarded to the Board of Trustees. No faculty member shall be entitled to, or acquire any interest in, a tenure appointment in the university without a recommendation for tenure by the President and an affirmative award of tenure by the Board. No other person shall have any authority to make any representation concerning tenure to any faculty member and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the faculty member to another year of service at East Tennessee State University.

Upon final action taken by the Board, recommendation forms will be filed in the Personnel Office.

Appeals Process

Opportunities for appeal of negative recommendations on applications for tenure exist at the dean's or vice President's level and again at the President's level prior to a review of the latter's decision by the Board of Trustees.

Two appeal opportunities follow the dean's action and precede that of the President. The candidate may opt to utilize either one, but not both, of these opportunities. Should the dean opt not to recommend in favor of tenure, the candidate may request a pre-appeal conference with the vice President. Should the vice President choose not to recommend for tenure and the candidate has not appealed following the dean's decision, the candidate may request a pre-appeal conference with the President. In either event the pre-appeal conference must be requested within seven days of receiving written notice of the negative recommendation.

After the pre-appeals conference, if the candidate has decided to proceed with the appeal, s/he must file an appeal in writing with the university Promotion and Tenure Appeals Committee within one week or forfeit the right to appeal at that level. When the appeal goes forward, the vice President will submit the candidate's complete application to the chair of the university Promotion and Tenure Appeals Committee. The committee shall review information relevant to each appeal in accordance with procedures developed by the committee for all such appeals and incorporate its recommendations as a part of each candidate's application to be returned to the vice President or the President for consideration.

Within seven days of receiving, in writing, the vice President's recommendation, the candidate may request a pre-appeal conference with the President. If, during the course of that conference, the candidate feels justified in requesting a formal hearing of the appeal, he/she may request that the university Promotion and Tenure Appeals Committee hear that appeal. Within one week of the pre-

appeal conference the candidate must file a written request with the committee's chair. Upon request by the committee's chair, the President will submit the candidate's complete tenure application dossier to the committee.

The committee will review information relevant to the appeal according to procedures developed by the committee for all such appeals and will incorporate its recommendations as a part of the candidate's application, which is then returned to the President for his/her consideration. The committee will also send a copy of its recommendation(s) to the candidate, the department chair, the dean and the appropriate vice President.

In the event the university Promotion and Tenure Appeals Committee makes a recommendation regarding tenure and/or promotion, the President or vice President will inform the chair of the committee in writing of the final decision and its rationale.

The university Promotion and Tenure Appeals Committee (PTAC) will be composed of one faculty senator elected by the Senate who will chair the committee, and one member from each college or school who was not a member of that body's promotion and tenure committee when the candidate's application was evaluated, as selected by the faculty senators from that college or school. The college/school senators will also designate two alternates from their college/school who would be available to serve if the primary designee is ineligible or unavailable to serve. If the college/school senators fail to designate a committee member and alternates, or if those designated are ineligible or unavailable to serve, then the Faculty Senate President and the PTAC Chair will jointly select a faculty member from that college/school to serve. Terms of appointment shall be for two-year staggered terms with the exception of the committee chair who will serve only a one year term. All members of the PTAC will be tenured and will hold professorial rank. Deans, department chairs, and other administrative personnel directly involved in college or school-level promotion decisions (such as associate or assistant deans) are excluded from membership on this committee. No member of the PTAC shall have participated in the review of the candidate's application at any previous level.

If the candidate previously appealed a negative recommendation to the university Promotion and Tenure Appeals Committee at either the dean's or vice President's level and wishes to appeal a negative recommendation by the President, an ad hoc Promotion and Tenure Appeals Committee will be formed comprised of three persons appointed by the Faculty Senate and three by the President. These persons must be tenured and hold professorial rank. They will follow the same procedure outlined for the university Promotion and Tenure Appeals Committee.

Criteria to Be Considered in Tenure Recommendations

The following are general criteria to be employed in considering the recommendation of a faculty member for tenure. This list is not exhaustive and the selection and relative importance of these criteria will vary with the nature and mission of the department or division in which the faculty member is employed. Specific criteria to be applied to the work of an individual faculty member will be clearly delineated on annual faculty activity plans, reports and evaluations.

- a. Teaching effectiveness.
- b. Effectiveness in other academic assignments.
- c. Research, scholarly and creative activity.

- d. Professional degrees, awards, and achievements.
- e. Staffing needs of the department or division and the institution.
- f. Service of a professional nature to the institution, the community and the State.
- g. Activities, membership, and leadership in professional organizations.
- h. Demonstrated potential for continuing professional growth; and for contribution to the objectives of the department or division and the institution.
- i. Demonstrated willingness and ability to work effectively with colleagues to support the mission of the institution and the common goals both of the institution and of the academic organizational unit.

A department or college may weigh criteria to be considered in tenure recommendations and should establish appropriate standards within criteria for the distinctive discipline(s) and the level(s) of program(s) it embodies. If such weighted criteria and standards for tenure are to be applied to candidates, they should be carefully documented in approved unit mission statements and policies. Those documents become bona fide only when (1) they have been considered by faculty in those units, (2) they have gained approval by the university as official college or departmental mission statements and related policies that are consistent with university mission and policy, and (3) they have been communicated in publications or in other written form (including the Web) to faculty affected by them. Bona fide documents are maintained as public information in the offices of appropriate department chairs and deans, the Vice President for Academic Affairs or the Vice President for Health Affairs, and the Faculty Senate.

Criteria for Assessing Merit of the Candidate

Overview

All candidates for tenure should demonstrate teaching effectiveness and be fully engaged in other academic assignments commensurate with their respective faculty roles. In addition, they should demonstrate achievements in service and in research, scholarly and creative activity that are consistent with approved departmental and college/school criteria. The relative importance given to these criteria may differ according to the discipline, department, and assigned duties of individual candidates, as delineated in annual faculty activity plans, reports and evaluations.

Teaching

Effective teaching is an essential qualification for tenure, and tenure should not be granted in the absence of clear evidence of a candidate's teaching ability and potential for continued development. Excellence in teaching is a strong recommendation for both tenure and promotion, though it cannot be considered in isolation from scholarship and service. Each department must develop a procedure to ensure that factual information relative to a candidate's teaching is available at the time he/she is considered for tenure. At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.

The teaching portfolio should include, but is not limited to, evidence of teaching excellence as follows: command of the subject matter; ability to organize and present subject matter in a logical and meaningful way; ability to motivate and stimulate creativity, intellectual curiosity, and interest in writing and inquiry in undergraduates and/or graduate students; and evidence of peer evaluation.

Documentation of teaching should routinely include: a statement of teaching philosophy; course materials; student evaluations for at least eight courses, wherever possible, or for every course evaluated during the probationary period, if this number is greater, as described in this policy; results of peer evaluations of teaching, as described in this policy; and evidence of supervision of student projects and other forms of student mentorships. A candidate for tenure may choose to include other types of evidence that support his/her application for tenure such as additional student input; student products; teaching recognition; teaching scholarship; evidence of professional development in teaching; evidence of disciplinary or interdisciplinary program or curricular development; alumni surveys and student exit interviews; and other evidence of excellence in teaching or mentoring, or both.

Evidence of effectiveness in academic assignments other than classroom teaching shall include materials and information that are pertinent to the assignment in question.

Professional Service

Evidence of contributions in the area of professional service should be offered by the candidate.

Documentation of all service activities is required.

Professional service encompasses a faculty member's activities in one of three areas: outreach or public service, university service, and professional service.

- a. The outreach or public service function is the university's outreach to the community and society at large, with major emphasis on the application of knowledge for the solution of problems with which society is confronted. Outreach primarily involves sharing professional expertise and should directly support the goals and mission of the university. A vital component of the university's mission, public service must be performed at the same high levels of quality that characterize the teaching and research programs.
- b. University service refers to work other than teaching and scholarship done at the department, college, or university level. A certain amount of such service is expected of every faculty member; indeed, the university could hardly function without conscientious faculty who perform committee work and other administrative responsibilities. University service includes, but is not limited to, serving on departmental committees and participating in college and university committees. Some faculty members may accept more extensive citizenship functions, such as a leadership role in the Faculty Senate, membership on a specially appointed task force, service as advisor to a university-wide student organization, and membership on a university search committee. At the discretion of the college or faculty department faculty, student advisement may be a component of teaching or of service to the university, depending on the nature and scope of the duties performed.
- c. Professional service refers to the work done for organizations related to one's discipline or to the teaching profession generally. Service to the profession includes association leadership, journal editorships, articles and grant proposal review, guest lecturing on other

campuses, and other appropriate activities. Significant professional service requires more than organizational membership and attendance. Examples of significant service include that done by an officer of a professional organization or a member of the editorial staff of a journal.

Research, Scholarship, and Creative Activities

A candidate for tenure must present evidence of his/her research, scholarship and/or creative activities when he/she applies for tenure. Such evidence should cite books, journal articles, monographs, creative activities, performances, or exhibitions that have undergone appropriate peer review. Research publications in refereed journals or media of similar quality are considered reliable indicators of research/scholarly ability. Written reviews and evaluations by qualified peers, either in person or aided by other forms of reports, or both, are appropriate for performances, compositions, and other artistic creations. Books published by reputable firms and articles in refereed journals, reviewed by recognized scholars, are more significant than those that are not subjected to such rigorous examination. It should be emphasized that quality is more important than quantity.

The tenure application must include evidence of peer review of the candidate's record of research/scholarly activity by qualified peers. The scholarship of teaching is a valid measure of research capability. It goes beyond doing a good job in the classroom; creative teachers should organize, record, and document their efforts in such a way that their colleagues may share their contributions to the art of teaching. Appropriate textbooks or educational articles in one's own discipline and innovative contributions to teaching, if published or presented in a peer-reviewed forum, constitute scholarship of teaching.

Clear evidence of the quality of work should accompany each application. Evidence supplied by the candidate might include records of the following:

- a. Publications: These include textbooks, books or chapters in books, articles in refereed journals, articles in non-refereed journals, monographs, refereed and non-refereed conference proceedings, book reviews, and other related items.
- b. Papers presented: These include those papers presented at local, state, regional, national, and international professional meetings. The significance of content and selection process should be considered in the process of reviewing such presentations.
- c. Performance or exhibitions: These include performances or exhibitions that are invited or juried by nationally or regionally recognized members or groups within the discipline.
- d. Research in progress: Verification of stages of development is mandatory.
- e. Other items such as funded or unfunded research proposals, computer software development, or audio-visual media may also be considered.

Other Factors for Consideration

Candidates should present evidence of continuing professional development. Much of that evidence will be submitted in the sections on teaching, service, research, and scholarly and creative activity as indicated above. Additional evidence related to professional growth may include courses taken for credit, courses audited, seminars attended, and independent study activities.

The candidate should present evidence, in the annual faculty review process, of contributions to institutional as well as to individually established goals in teaching, research, creative and scholarly activities, and service. The quality of the candidate's contributions, however, will be of greater importance than the adherence of those contributions to objectives.

Criteria for Assessing the Long-Term Staffing Needs of the Department or Division and the University

The long-term staffing needs of the department/division and the university are taken into account at each level in the review process when candidates are evaluated for tenure. Criteria to be considered may include:

- a. Enrollment patterns.
- b. Program changes.
- c. Potential for staff additions.
- d. Prospective retirements and resignations.

Long term departmental or college staffing needs should be documented in approved staffing plans that are reviewed and, if necessary, updated annually. The use of a plan as a factor in tenure consideration is only appropriate after the university approves it. Approved plans should reflect thorough review at the departmental and college levels and, after approval, should be maintained as public information in offices of appropriate department chairs and deans and the Vice President for Academic Affairs or the Vice President for Health Affairs. Approved staffing plans will be made available on request to the Faculty Senate.

Expiration of Tenure

Tenure status shall expire upon retirement of the faculty member. Tenure shall also expire upon the event of permanent physical or mental inability of a faculty member, as established by an appropriate medical authority, to continue to perform his/her assigned duties.

Relinquishment of Tenure

A faculty member shall relinquish or waive his/her right to tenure upon resignation from the university or upon failure to report for service at the designated date of the beginning of any academic term, which shall be deemed to be a resignation unless, in the opinion of the President, the faculty member has shown good cause for such failure to report. Where a tenured faculty member is transferred or reclassified to another department or academic program unit by the university, the transfer or reassignment shall be with tenure. Tenure is not relinquished during administrative assignments at the university.

Termination of Tenure for Reasons of Financial Exigency

A tenured faculty member may be terminated as a result of financial exigency at East Tennessee State University subject to a declaration by the Board of Trustees that such financial conditions exist. Personnel decisions (including those pertaining to tenured faculty) that result from a declaration of financial exigency will comply with ETSU policy.

Termination of Tenure for Curricular Reasons

Definitions

"Program is deleted from the curriculum" means that the ~~Board~~ university takes formal action to terminate a degree major, concentration, or other curricular component and that such termination eliminates or reduces need for faculty qualified in that discipline or area of specialization."

"Substantive and continued reduction of student enrollment in a field" means that over a period of at least three (3) years student enrollment in a field has decreased at a rate in considerable excess of that of the institution as a whole and that such reduction has resulted in faculty-student ratios that, in the opinion of the President, cannot be warranted either by comparison with equivalent faculty load practices within the university or by comparisons with faculty loads in comparable departments or divisions at similar institutions which the President would deem to be appropriate for comparison."

Procedure

The employment of a tenured faculty member may be terminated because 1) an academic program is deleted from the curriculum or 2) because of substantial and continued reduction of student enrollment in a field or discipline. Before declaring that curricular reasons exist, the President will ensure meaningful participation by the Faculty Senate in identifying the specific curricular reasons, evaluating the long-term effect on the university's curriculum and its strategic planning goals, and the advisability of initiating further action. Prior to initiating the process described below, the President will present—either orally or in writing—a description of curricular reasons that may warrant the termination of tenured faculty member(s). Each of these reasons for termination of tenure for curricular reasons must denote shifts in staffing needs that warrant greater reductions than those which are accommodated annually in light of shifting positions from one department to another or among colleges to handle changing enrollment patterns.

The President, upon determining that curricular reasons may warrant the termination of tenured positions, shall so inform the executive committee of the Faculty Senate. At the earliest possible date after said notification, as agreed to by the President and the executive committee, the President or his/her designee shall appear before the Senate for the purpose of presenting all relevant information. Senators and affected unit members shall have an opportunity to pose questions and seek further information. The Faculty Senate shall respond, in writing, within thirty (30) days of this meeting.

Upon determining that termination of one or more tenured faculty members is required for one or more of the two reasons cited above, the President shall furnish each faculty member to be terminated a written statement of the reasons for the termination. Those reasons shall address fully the curricular circumstances that warranted the termination and shall indicate the manner and the information in and upon which the decision to terminate was reached. The President's written statement shall also indicate that the faculty member has the opportunity to respond in writing stating any objections to the decision.

If the faculty member(s) to be terminated indicates objections to the President's written statement(s) and request(s) a review, the President will appoint a faculty committee consisting of a minimum of five tenured faculty members from a slate of ten tenured faculty members proposed by the Faculty Senate. That committee shall conduct a hearing on the proposed termination(s). The committee shall then report its findings and recommendations to the President, who shall in a reasonable time inform in writing the faculty member(s) proposed for termination either that the decision for termination stands or that it has been altered.

The President's decision to terminate a tenured faculty member for curricular reasons is subject to appeal to the Board of Trustees as provided in ETSU policy.

When a tenured faculty member is terminated for curricular reasons, the position will not be filled by a new appointee with the same areas of specialization as the terminated faculty member within a period of three years unless the terminated faculty member has been offered, in writing, reappointment to the position at his/her previous rank and salary (with the addition of an appropriate increase which, in the opinion of the President, would constitute the raise that would have been awarded during the period that s/he was not employed).

Upon determining that termination of one or more tenured faculty members is warranted for curricular reasons, the President shall base a decision about which faculty member(s) should be terminated upon an assessment as to what action would least seriously compromise the educational programs in a department or division. Termination for curricular reasons presumes a staffing pattern in a department or division that cannot be warranted either by comparison with general load practices within the institution or by comparison with faculty loads in comparable departments or divisions at similar institutions. In that light, the President shall also, in his/her discretion, base a decision on a careful assessment of the impact of the curricular reason on staffing requirements in the division or department as compared to overall patterns in the institution and to comparable departments or divisions in institutions similar to ETSU.

Unless the President demonstrates (preferably by means of past performance evaluations) that an exception should be made to protect the quality of an educational program, the following considerations should guide-but not be construed as mandatory-in determining the order of faculty reductions in a department or division where termination of tenured faculty is proposed for curricular reasons:

- a. Part-time faculty within a department or division should not be hired or renewed before tenured faculty are terminated.
- b. Temporary faculty or tenure-track faculty in the probationary period should not be renewed before tenured faculty are terminated.
- c. Among tenured faculty those with higher rank should have priority over those with lower rank.
- d. Among tenured faculty with comparable rank, those with appropriate higher academic degree(s) should have priority over those with lower degrees.
- e. Among tenured faculty with comparable rank and degrees, those with greater seniority in rank should normally have priority over those with less seniority.

When a tenured faculty member is to be terminated for curricular reasons, the President will make every possible effort to relocate that faculty member in another existing vacant position for which s/he is qualified. In instances where, in the opinion of the President, relocation within the institution is a viable alternative, the institution has an obligation to make significant effort to relocate the faculty member, including the bearing of reasonable retraining costs. The final decision on relocation is within the discretion of the President.

When relocation within the institution is not possible, or the faculty member involved desires to go elsewhere, every reasonable effort will be made to assist in said relocation.

Transfer of Tenure

Where a faculty member is tenured in an academic program unit (e.g., a department or division) he/she may be transferred to another academic program unit. In such cases, the transfer will be made with tenure; moreover, the tenure appointment will be transferred to the new academic program unit. In no instance may the faculty member be compelled to relinquish tenure as a condition for effecting the transfer.

Termination for Adequate Cause

A faculty member with tenure or a faculty member on a tenure-track appointment prior to the end of the term of appointment may be terminated for adequate cause, which includes the following:

- a. Incompetence or dishonesty in teaching or research.
- b. Willful failure to perform the duties and responsibilities for which the faculty member was employed or refusal or continued failure to comply with the policies of the Board, the university or the department, or to carry out specific assignments, when such policies or assignments are reasonable and non-discriminatory.
- c. Conviction of a felony or a crime involving moral turpitude.
- d. Improper use of narcotics or intoxicants, which substantially impairs the faculty member's fulfillment of his/her departmental and university duties and responsibilities.
- e. Capricious disregard of accepted standards of professional conduct.
- f. Falsification of information on an employment application or other information concerning qualifications for a position.
- g. Failure to maintain the level of professional excellence and ability demonstrated by other members of the faculty in the department or academic program unit of the university.

Procedures for Termination for Adequate Cause

Termination of a faculty member with a tenure appointment, or with a tenure-track or temporary appointment prior to the annual specified term of the appointment, shall be subject to the following procedures:

- A. No termination shall be effective until steps 4 through 9 below have been completed.
- B. Suspensions pending termination shall be governed by the following procedure.
 1. A faculty member may not be suspended pending completion of steps 4 through 9 unless it is determined by the university that the faculty member's presence poses a

danger to persons or property or a threat of destruction to the academic or operational processes of the university. Reassignment of responsibilities is not considered suspension; however, the faculty member must be reassigned responsibilities for which he/she is qualified.

2. In any case of suspension, the faculty member shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension; and, if there are disputed issues of fact or cause and effect, the faculty member shall be provided the opportunity for a hearing on the suspension as soon as possible at which time the faculty member may cross-examine his/her accuser, present witnesses on his/her behalf, and be represented by an attorney. Thereafter, whether the suspension is upheld or revoked, the matter shall proceed pursuant to these procedures.
3. Except for such simple announcements as may be required concerning the time of proceedings and similar matters, public statements and publicity about these proceedings by either the faculty member or administrative officers will be avoided so far as possible until the proceedings have been completed, including consideration by the Board of Trustees.
4. Upon a recommendation by the chief academic officer of the university to the President or upon a decision by the President that these procedures should be undertaken in consideration of the termination of a tenured faculty member, one or more appropriate administrators shall meet privately with the faculty member for purpose of attempting to reach a mutually acceptable resolution of the problems giving rise to the proposed termination proceedings.
5. If no mutually acceptable resolution is reached through step 4 the following steps shall be taken.
 - a. The faculty member shall be provided with a written statement of the specific charges alleged by the university which constitute grounds for termination and a notice of hearing specifying the time, date, and place of the hearing. The statement and notice must be provided at least twenty (20) days prior to the hearing. The faculty member shall respond to the charges in writing at least five (5) days prior to the hearing. The faculty member may waive the hearing by execution of a written waiver.
 - b. A committee consisting of tenured faculty or tenured faculty and administrators shall be appointed to hear the case and to determine if adequate cause for termination exists according to the procedure herein

described. The University hearing committee shall consist of seven members that may include tenured faculty only, or tenured faculty and administrators, and at least two alternate members appointed jointly by the President of the university and the President of the Faculty Senate. Members with conflict of interest or bias shall either recuse themselves from the committee or be removed by the appointing body. Appeals against committee membership shall be made to the appointing body who shall determine the validity of the appeal and the need to replace committee members. In either case an alternate member shall replace the ineligible member.

- c. Members deeming themselves disqualified for bias or interest shall remove themselves from the case, either at the request of a party or on their own initiative. Members of the committee shall not discuss the case outside committee deliberations and shall report any ex-parte communication pertaining to the hearing to the President who shall notify all parties of the communication.
6. The hearing committee shall elect a chairperson who shall direct the proceedings and rule on procedural matters, including the granting of reasonable extensions of time at the request of any party and upon the showing of good cause for the extension.
7. The chairperson of the hearing committee may in his/her discretion require a joint pre-hearing conference with the parties which may be held in person or by a conference telephone call. The purpose of the pre-hearing conference should include but is not limited to one or more of the following:
 - a. As notification as to procedure for conduct of the hearing.
 - b. To exchange witness lists, documentary evidence, and affidavits.
 - c. To define and clarify issues.
 - d. To effect stipulations of fact. A written memorandum of the pre-hearing conference should be prepared and provided to each party.
8. A hearing shall be conducted by the hearing committee to determine whether adequate cause for termination of the faculty member exists. The hearing shall be conducted according to the procedures below.

- a. During the hearing, the faculty member will be permitted to have an academic advisor present and may be represented by legal counsel of his/her choice.
- b. A verbatim record of the hearing will be taken and a typewritten copy will be made available to the faculty member, upon request, at the faculty member's expense.
- c. The burden of proof that adequate cause exists rests with the university and shall be satisfied only by clear and convincing evidence in the record considered as a whole.
- d. The faculty member will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration will cooperate with the committee in using its best efforts to secure witnesses and make available documentary and other evidence that is under its control.
- e. The faculty member and the administration will have the right to confront and cross-examine all witnesses. Where the witnesses cannot or will not appear, but the committee determines that the interests of justice require admission of their statements, the committee will identify the witnesses, disclose their statements, and, if possible, provide for interrogatories. An affidavit may be submitted in lieu of the personal appearance of a witness if the party offering the affidavit has provided a copy to the opposing party at least ten (10) days prior to the hearing and the opposing party has not objected to the admission of the affidavit in writing within seven (7) days after delivery of the affidavit or if the committee chairperson determines that the admission of the affidavit is necessary to ensure a just and fair decision.
- f. In a hearing on charges of incompetence, the testimony shall include that of qualified faculty members from the university or other universities of higher education.
- g. The hearing committee will not be bound by strict rules of legal evidence and may admit any evidence which is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

- h. The findings of fact and the report will be based solely on the hearing record.
 - i. The President and the faculty member will be provided a copy of the written committee report. The committee's written report shall specify findings of fact and shall state whether the committee has determined that adequate cause for termination exists and, if so, the specific grounds for termination found. In addition, the committee may recommend action less than dismissal. The report shall also specify any applicable policy the committee considered.
- 9. After consideration of the committee's report and the record, the President may in his/her discretion consult with the faculty member prior to reaching a final decision regarding termination. Following his/her review, the President shall notify the faculty member of his/her decision, which, if contrary to the committee's recommendation shall be accompanied by a statement of the reasons. If the faculty member is terminated or suspended as a result of the President's decision, the faculty member may appeal the President's action to the Board of Trustees pursuant to the university's policy titled, "Appeals and Appearances before the Board of Trustees." Review of the appeal shall be based upon the record of hearing. If upon review of the record, the Board notes objections regarding the termination and/or its proceedings, the matter will be returned to the President for reconsideration, taking into account the stated objections, and, at the discretion of the President, the case may be returned to the hearing committee for further proceedings.

EAST TENNESSEE STATE UNIVERSITY
BOARD OF TRUSTEES

ACTION ITEM

DATE: May 8, 2017

ITEM: Adoption of Policies

RECOMMENDED ACTION: Approval

PRESENTED BY: Edward J. Kelly, University Counsel
David Linville, Secretary

As provided by the FOCUS Act, ETSU is governed by a Board of Trustees which sets policies and guidelines for the operation of the university. The authority, purpose, duties, and responsibilities of the Board and Trustees are delineated in TCA § 49-8-101.

The university must provide appropriate appellate mechanisms for individuals who have had adverse actions taken against them in the course of due process. Several different policies at the university provide for the opportunity to appeal decisions. The Bylaws of the Board of Trustees indicate that certain decisions may be appealed to the Board according to university policy.

The Appeals to the Board policy provides the conditions and procedures for appeals to the Board. A separate appellate mechanism is available in specific circumstances as outlined in the Tennessee Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.). The Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act policy provides a basis for uniform procedures to be used by the university for the hearing of cases which may be subject to T.C.A. § 4-5-101 et seq.

MOTION: I move that the Board of Trustees adopt these University Policies as outlined in the meeting materials.

Policy Title: Appeals to the Board

Policy Type: Human Resources **New/revised:** New

Old Policy #: 1:02:11:00

Approval level: Board of Trustees
 President
 Vice President
 Other (specify here)

Purpose: The purpose of this policy is to set the conditions and procedures for appeals to ETSU's Board of Trustees.

Policy:

The following provisions describe when an ETSU student or employee may appeal a decision of the President (or his/her designee) to the Board of Trustees.

1. A student or employee of ETSU may appeal a final decision of the President, consistent with the requirements of this policy.
2. UAPA hearings are not appealable to the Board.
3. Appeals to the Board shall be limited to alleged violations of state or federal law or ETSU policy where the complainant has not filed a federal or state administrative appeal or a lawsuit in state or federal court.
4. If, at any time during the pendency of the appeal, a complainant files a lawsuit or administrative action based on the same subject matter as the appeal, the appeal will be dismissed without further action.
5. Unless there is a violation of state or federal law under the limitations described above, decisions that are not appealable to the Board include, but are not limited to the following:
 - a. Termination of executive, administrative, professional, clerical and support employees during or at the end of the initial probationary period or pursuant to the terms of the contract of employment;
 - b. Non-renewal of a tenure-track faculty appointment during the first four years of the probationary period;
 - c. Denial of tenure unaccompanied by notice of termination in the fifth year of the probationary period;
 - d. Non-renewal of a temporary faculty appointment;
 - e. Salary determinations;
 - f. Student academic matters, e.g., grade appeals, failure to meet retention policies, etc.;
 - g. Performance evaluations of faculty or staff; and
 - h. Residency classification of students for tuition and fee purposes.

The procedure for appeals to the Board is as follows:

1. A student or employee who is dissatisfied with the decision of the President may petition the Board for permission to appeal the decision of the President to the Board.
2. The petition must be submitted in writing to the Secretary of the Board within 20 calendar days following the date of the President's written decision.
3. The petition for appeal must present:

- a. A brief statement of the issues to be reviewed including a statement of the redress desired;
 - b. A brief statement of the facts relevant to the issues to be reviewed, with appropriate reference to where such can be found in the record;
 - c. A statement of applicable law/policy;
 - d. A brief argument; and
 - e. Citation of any applicable authorities (such as policies, statutes, and cases).
4. The petition for appeal must be limited to ten (10) pages, typed, double spaced, and on 8 ½ X 11" paper.
5. The appropriate standing Committee of the Board shall review the decision of the President on the basis of the record submitted to the President, with any new evidence which for good cause shown was not previously considered, and determine whether the petition to appeal will be granted.
6. The Committee, in determining whether to grant an appeal, may consider the following:
 - a. Whether Board policy or procedures have been followed;
 - b. Whether or not there is material evidence to substantiate the decision appealed from; and/or
 - c. Whether or not there has been a material error in the application of the law, which prima facie results in substantial injustice.
 - d. The listing 1-3 above is not exhaustive and, in the discretion of the Board committee, other considerations may be taken into account.
7. If the petition to appeal is granted, the Committee shall hear the appeal at a subsequent regularly scheduled meeting of the Committee and may request the person appealing to appear and present arguments on his or her behalf.
8. The Committee shall recommend action to the Board. The decision of the Board shall be final and binding for all purposes.
9. Record
 - a. The record on an appeal to the Board, reviewed by the Committee, shall consist of all relevant documents, statements, and other materials submitted by the person appealing and by the President.
 - b. In the event that the person appealing does not submit sufficient information to allow review of the decision being appealed, the Committee may require the person appealing to furnish any additional information which may be necessary.
9. The following provisions shall govern the review by the Committee of an appeal under this policy:
 - a. A decision may be remanded for further consideration upon a finding that it was not made in accordance with applicable state or federal law or ETSU procedures; provided, however, that the decision should not be remanded if the procedural error was not material to the decision and therefore constituted harmless error;
 - b. A decision may be modified or reversed only upon a finding that the decision constituted an abuse of discretion or was made in violation of applicable state or federal law or ETSU policies; provided, however, that the decision should not be modified or reversed if the violation of policy was not material to the decision and therefore constituted harmless error;
 - c. A decision should be affirmed in the absence of a finding of abuse of discretion or material violation of applicable state or federal law or ETSU policies or procedures.

10. Notwithstanding any provision herein to the contrary, any decision may be remanded by the Board for a resolution of the matter which is mutually acceptable to the parties or which is, in the best judgment of the Board, a fair and equitable resolution.

Related Policies

- Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act

Policy Title: Uniform Procedures for Cases Subject to the Uniform Administrative Procedures Act

Policy Type: General Board **New/revised:** New

Old Policy #: 1:06:00:05

Approval level: Board of Trustees
 President
 Vice President
 Other (specify here)

Purpose: The purpose of these procedures is to provide a basis for uniform procedures to be used by East Tennessee State University for the hearing of cases which may be subject to T.C.A. § 4-5-101 et seq.

Definitions:

*Person as used herein includes both individuals and organizations.

Policy:

- I. Scope
 - A. These procedures may be applicable in cases involving:
 - 1. Suspension of employees for cause, or termination of employees when the termination is in violation of the employee's contract, e.g., termination prior to the expiration of the contract term;
 - 2. Suspension or expulsion of a student, or revocation of recognition of a student organization, for misconduct or disciplinary reasons;
 - 3. Support staff employees who are demoted, suspended without pay, or terminated and elect to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process; and
 - 4. Such other cases as may be designated by the president of the university.
 - B. These procedures are not applicable to termination of faculty for adequate cause which are subject to the provisions of T.C.A. § 49-8-302.
 - C. Prior to the initiation of any hearing pursuant to these procedures, the university shall ensure the Office of University Counsel provides advice on the applicability of these procedures, and for possible assistance in the hearing of the case.
- II. Authority of the President
 - A. The president is responsible for implementation of these procedures, and has the final decision making authority in any proceeding subject to these procedures.
 - B. The authority and responsibilities of the president set forth herein may be delegated by him or her to individual designees who are members of the staff of the university.
 - C. All references herein to the president include any designee of the president.
 - D. The president shall be responsible for any action taken under a delegation of his or her authority.
- III. Hearing Directors
 - A. The president shall designate a member of the staff to be responsible for the coordination and administration of these procedures, who shall hereinafter be referred to as the "director" but who may be given any appropriate title as determined by the president.

- B. The president may designate as many assistants to the "director" as may be necessary to implement these procedures, and may authorize each assistant to exercise the same rules and responsibilities as the "director".
 - C. The "director" shall investigate all cases which may be subject to these procedures, and may recommend to the president whether a hearing shall be commenced in any case.
 - D. In all cases which proceed to a hearing under these procedures, the "director" shall be responsible for notifying the Office of University Counsel of the case, initiating the hearing procedures, sending all appropriate notices, making all arrangements for the hearing and marshaling and presenting evidence at the hearing except in cases where the university will be represented by a member of the staff of the Office of University Counsel or any other designated person.
 - E. The "director" shall provide all parties with a copy of these procedures.
- IV. Selection of Hearing Officer or Hearing Committee
- A. In any case where a hearing pursuant to these procedures is required, the president shall determine, in his or her discretion, whether the hearing shall be held before a hearing officer or a hearing committee.
 - 1. Hearing Officers
 - a. Hearing officers shall normally be appointed by the president from the administrative or professional staff of the university.
 - b. The president may appoint a hearing officer in any case, either from within or without the university.
 - c. Contested cases may also be conducted by an administrative judge from the Administrative Procedures Division of the Office of the Secretary of State.
 - d. The university may submit a request for an administrative judge through the Office of University Counsel.
 - 2. Hearing Committee
 - a. A hearing committee may be appointed by the president from the administrative, professional staff and/or appropriate employees or students at the university.
 - b. The person appointed as chairperson of the committee shall be deemed to be the hearing officer for purposes of presiding at the hearing.
 - B. A "director" may not be appointed to serve as a hearing officer.
- V. Preliminary Conference
- A. Whenever practical the "director" should hold a preliminary conference with the person* involved and advise him or her orally in his or her presence of the reason for the proposed action.
 - B. If the action to be taken is such that these procedures are or may be applicable; the person shall be advised of the opportunity to elect the procedures pursuant to which a hearing will be provided as hereinafter set forth.
 - C. As a result of any preliminary conference, any person who may otherwise be entitled to a hearing pursuant to the act may waive such a hearing and accept the decision proposed by the university.
 - D. A waiver may be made verbally or in writing, and if made in writing, it should be signed by the employee and shall state the matter involved and the decision acquiesced in, and should expressly state that the procedures for contested cases under the act are knowingly and voluntarily waived by the person.

- E. Following a preliminary conference, or prior to commencement of any hearing under these procedures, where any issues of fact or cause and effect are contested by the person, he or she shall be advised of hearing procedures available under the Act and of the established institutional procedures available for resolution of the matter in question, and shall be given the opportunity to elect the procedures pursuant to which the matter will be heard.
 - F. Where the person elects to proceed under the established institutional procedures for resolution of the matter, the election should be in writing and signed by the person, and should expressly waive the procedures available under the Act as to the matter in question.
- VI. Suspensions Pending a Hearing
- A. A student or employee charged with violations of policies, rules or regulations of the university may be suspended by the president pending a hearing subject to these or alternate procedures when the person's presence poses a danger to persons or property or a threat of destruction to the academic or operational processes of the university.
 - B. In any case of immediate suspension, the person shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect, the person shall be provided a hearing on the suspension as soon as possible at which the person may cross-examine his or her accuser, present witnesses on his or her behalf, and be represented by an attorney.
 - C. Thereafter, whether the suspension is upheld or revoked, the case shall proceed pursuant to these procedures.
- VII. Notice of Hearing and Response
- A. Prior to the hearing all parties shall be afforded reasonable notice.
 - B. This notice shall include:
 - 1. A statement of the time, place, nature of the hearing, and the right to be represented by counsel.
 - 2. A statement of the legal authority and jurisdiction under which the hearing is being held, including a reference to the particular sections of the statute or rules involved; and
 - 3. A short and plain statement of the matters asserted.
 - C. If the university or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.
 - D. Thereafter, upon timely written application a more definite and detailed statement shall be furnished ten (10) days prior to the time set for the hearing.
 - E. The party charged shall respond in writing within five (5) days (excluding Saturdays and Sundays) of the service of the notice of hearing which response may generally admit or deny all allegations, or may admit in part and deny in part the allegations made in the notice, and may set forth relevant issues of fact.
 - F. If the party fails to respond he or she will be subject to the default provisions found in Section XIII.
 - G. If the party charged elects to be represented by an attorney at the hearing, the response must so indicate in writing and the name and office address of the attorney must be provided.
 - H. Failure to provide written notice of the name and address of counsel in the response may result in the continuance of the hearing, if requested by the director.
- VIII. Time for Hearings

- A. Hearings shall normally be held within twenty (20) calendar days of the date of the notice of hearing.
 - B. Extensions of time may be granted upon motion by either party in the event pre-hearing discovery will not be completed by the designated time of the hearing, provided that the parties have proceeded with discovery with due diligence.
 - C. Other than as required for the convenience of the hearing officer, extensions of time for hearings for reasons other than discovery shall be authorized only for good and compelling reasons.
- IX. Pre-Hearing Conference
- A. In any case set for hearing the hearing officer assigned to hear the case upon their own motion or upon the motion of one of the parties or their authorized representative, may direct the parties and/or the attorneys for the parties to appear before him or her for a pre-hearing conference.
 - B. During the pre-hearing conference the parties will consider the following:
 - 1. The simplification of issues;
 - 2. The necessity or desirability of amendments to the pleadings;
 - 3. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
 - 4. The limitation of the number of witnesses;
 - 5. Such other matters as may aid in the disposition of the case.
 - C. The hearing officer shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements of the parties, and such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent injustice.
 - D. Upon reasonable notice to all parties the hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the hearing officer sitting alone, to consider argument and/or evidence on any question of law.
 - E. If a pre-hearing conference is not held, the hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings.
- X. Procedure in Preparation for Hearing
- A. Subpoenas and Discovery
 - 1. The hearing officer, at the request of any party shall issue subpoenas, effect discovery, and issue protective orders. The hearing officer shall decide any objection relating to discovery under these rules or the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided for witnesses in civil actions in the circuit court and, unless otherwise provided by law or by action of the university, the party requesting the subpoenas shall bear the cost of paying fees to the witnesses subpoenaed.
 - 2. All requests for subpoenas and all depositions and interrogatories shall be limited to matters which are not privileged and which are relevant to the proceeding. Upon motion by a party or by a person from whom discovery is sought, and for good cause shown, the hearing officer may enter any order which justice requires to protect a person or party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (I) that the discovery not be had; (II) that the discovery

may be had only on specified terms and conditions; (III) that the discovery may be had only by an alternative method; (IV) that the scope of discovery be limited to certain matters; or (V) that information be submitted under seal to be opened only by orders of the hearing officer.

B. Depositions and Interrogatories

1. Any party to the proceeding may take depositions of parties or witnesses or may serve interrogatories upon any party, within or without the state, in the same manner as provided by law for the taking of depositions and interrogatories in a civil action.

C. Admissions

1. Any party to the proceeding may serve upon any other party a written request for the admission by the latter of the genuineness of any relevant documents described in and exhibited to the request or of the truth of any relevant matters of fact set forth in the request.
2. Each of the matters of which an admission is requested shall be deemed admitted unless within a period designed in the request, not less than thirty (30) calendar days after service thereof, or within such shorter or longer time as the hearing officer may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either;
 - a. A sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he or she cannot truthfully admit or deny those matters or,
 - b. Written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a notice of hearing the objections at the earliest practicable time. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only part or a qualification of a matter of which an admission is requested, he or she shall specify so much of it as is true and deny only the remainder.

D. Review of Institutional Files

1. Any party to a contested case shall have the right to inspect the files of the university with respect to the matter and to copy there from, except that records may not be inspected the confidentiality of which is protected by law.

XI. Evidence

- A. The university shall admit and give probative effect to evidence admissible in a court and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible there under may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.
- B. The university shall give effect to the rules of privilege recognized by law and to Board of Trustees rules protecting the confidentiality of certain records and shall exclude evidence which in its judgment is irrelevant, immaterial, or unduly repetitious.
- C. At any time not less than ten (10) days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit which he proposes to introduce in evidence, together with a notice in the form provided in subdivision H. which follows.

- D. Unless the opposing party within seven (7) days after delivery, delivers to the proponent a request to cross-examine an affiant, his right to cross-examination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally.
 - E. If an opportunity to cross-examine an affiant is not afforded after a proper request is made as herein provided, the affidavit shall not be admitted into evidence.
 - F. Delivery for purposes of this section shall mean actual receipt.
 - G. The hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice.
 - H. The notice referred to in subdivision C. shall contain the following information and be substantially in the following form:
 - 1. The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question him unless you notify (here insert name of the proponent or his attorney) at (here insert address) that you wish to cross-examine him. To be effective your request must be mailed or delivered to (here insert name of proponent or his attorney) on or before (here insert a date seven (7) days after the date of mailing or delivering the affidavit to the opposing party).
 - I. Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the agency. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available.
 - J. Official notice may be taken of:
 - 1. Any fact that could be judicially introduced in the courts of this state;
 - 2. The record of other proceedings before the agency;
 - 3. Technical or scientific matters within the university's specialized knowledge; and
 - 4. Codes or standards that have been adopted by an agency of the United States, of this state or any other state, or by a nationally recognized organization or association.
 - K. Parties must be notified before or during the hearing, or before the issuance of any initial or final order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.
- XII. Pleadings, Briefs, Motions Service
- A. The hearing officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections and offers of settlement.
 - B. The hearing officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.
 - C. A party shall serve copies of any filed item on all parties, by mail or any other means prescribed by the university.
- XIII. Default
- A. If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a hearing, the hearing officer, hearing the case alone or with committee may hold the party in default and either adjourn the proceedings or conduct them without

the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

- B. If the proceedings are conducted without the participation of the party in default the hearing officer, hearing the case alone shall include in the final order a written notice of default, otherwise, the Committee sitting with the hearing officer, shall include such written notice of default in the final order.
- C. If the proceedings are adjourned and not conducted the hearing officer, hearing the case alone, may render an initial default order, otherwise the Committee sitting with the hearing officer, may render a final default order.
- D. All default orders and notices of default in default orders shall include a written statement of the grounds for the default.
- E. A party may petition to have a default set aside by filing timely petition for reconsideration.
- F. If a party fails to file a timely petition for reconsideration or the petition is not granted, the hearing officer, sitting alone, or the Committee sitting with the hearing officer, shall conduct any further proceedings necessary to complete the contested case without the participation of the defaulting party and shall determine all issues in the adjudication, including those affecting the defaulting party.

XIV. Intervention

- A. The hearing officer shall grant one or more petitions for intervention if:
 - 1. The petition is submitted in writing to the hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
 - 2. The petition states facts demonstrating that the petitioner's legal right, duties, privileges, immunities, or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and
 - 3. The hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.
- B. The Committee may grant one or more petitions for intervention at any time, upon determining that the intervention sought is in the interest of justice and shall not impair the orderly and prompt conduct of the proceedings.
- C. If a petitioner qualifies for intervention, the hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time.
- D. The hearing officer or Committee, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order.
- E. The hearing officer or Committee may modify the order at any time, stating the reasons for the modification.
- F. The hearing officer or Committee shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

XV. Disqualification and Substitution Hearing Officers and Committee Members

- A. Any hearing officer or Committee member shall be subject to disqualification for bias, prejudice, interest, or any other cause provided in this policy or for any cause for which a judge may be disqualified.

- B. Any party may petition for the disqualification of hearing officer or a Committee member promptly after receipt of notice indicating that the individual may serve or, if later, promptly upon discovering facts establishing grounds for disqualification.
- C. A party petitioning for the disqualification of an individual shall not be allowed to question the individual concerning the grounds for disqualification at the hearing or by deposition unless ordered by the hearing officer conducting the hearing and agreed to by the individual.
- D. The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.
- E. If a substitute is required for an individual who becomes unavailable as a result of disqualification or any other reason, the substitute shall be appointed by the president of the university.
- F. Any action taken by a duly appointed substitute for an unavailable individual shall be as effective as if taken by the unavailable individual.

XVI. Separation of Functions

- A. A person who has served as an investigator, prosecutor or advocate in a case may not serve as a hearing officer or assist or advise a hearing officer in the same proceeding.
- B. A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case may not serve as a hearing officer or assist or advise a hearing officer in the same proceeding.
- C. A person who has participated in a determination of probable cause or other equivalent preliminary determination in a case may not serve as a hearing officer or assist or advise a hearing officer in the same proceeding.
- D. A person may serve as a hearing officer at successive stages of the same case, unless a party demonstrates grounds for disqualification.
- E. A person who has participated in a determination of probable cause or other equivalent preliminary determination or participated or made a decision which is on administrative appeal in a contested case may serve as a Committee member in the case where authorized by law and not subject to the disqualification or other cause provided in this chapter.

XVII. Ex parte Communications

- A. Unless required for the disposition of ex parte matters specifically authorized by statute a hearing officer or university Committee member serving in a case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.
- B. Notwithstanding subsection A., a hearing officer or university representative may communicate with: other university employees regarding a pending matter or may receive aid from staff assistants, members of the attorney general's staff, or a licensed attorney, if such persons do not receive ex parte communications of a type that the hearing officer or university representative would be prohibited from receiving; and do not furnish, augment, diminish or modify the evidence in the record.
- C. Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as a hearing officer or Committee member without notice and opportunity for all parties to participate in the communication.

- D. If, before serving as a hearing officer or Committee member in a case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection E. which follows.
 - E. A judge, hearing officer, or Committee member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and advise all parties that these matters have been placed on the record.
 - F. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.
 - G. A hearing officer or Committee member who receives an ex parte communication in violation of this section may be disqualified as previously outlined.
 - H. The university shall, and any party may, report any willful violation of this section to appropriate authorities for any disciplinary proceedings provided by law.
- XVIII. Representation at the Hearing
- A. Any party may participate in the hearing in person, or if the party is an organization by a duly authorized representative.
 - B. Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel, or unless prohibited by any provision of law, other representative.
- XIX. Conduct of the Hearing
- A. In the hearing of any case the proceedings or any part thereof:
 - 1. Shall be conducted in the presence of the requisite number of members of the university and in the presence of a hearing officer; or
 - 2. Shall be conducted by a hearing officer sitting alone.
 - B. It shall be the duty of the hearing officer to preside at the hearing, rule on questions of the admissibility of evidence, swear witnesses, advise the Committee members as to the law of the case, and ensure that the proceedings are carried out in accordance with the applicable law and the rules of the Board of Trustees.
 - C. A hearing officer shall, upon his own motion, or timely motion of a party, decide any procedural question of law.
 - D. The hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.
 - E. Where more than one party is charged with offenses arising out of a single occurrence or out of multiple connected occurrences, a consolidated hearing will be held for all parties charged; provided that upon timely motion and for good cause shown the officer may in his or her discretion grant a separate hearing for any party or parties.
 - F. A tape recording but not a transcription will be made of the hearing. The party charged may request that the recording be transcribed at his or her own expense, or the recording may be transcribed by the university, in which case any party shall be provided copies upon payment of a reasonable compensatory fee.
 - G. No tape recording by the party charged or by other persons at the hearing will be permitted, but the party charged, at his or her own expense, may furnish a certified

court reporter provided that a copy of the transcript is promptly furnished to the director at no cost.

- H. The hearing shall be open to public observation pursuant to the provisions of T.C.A. § 8-44-101 et seq.

XX. Order

- A. The university renders an order in each case.
- B. The order shall be rendered in writing within ninety (90) days after conclusion of the hearing or after submission to proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.
- C. If an order is adverse to the party charged it shall in addition to being in writing, include findings of fact, conclusions of law, and reasons for the ultimate decision.
- D. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
- E. Parties shall be notified in writing either personally or by mail of the decision and such notice shall include a statement of the party's right to judicial review.
- F. A copy of the decision shall be delivered or mailed forthwith to each party or to his or her attorney of record.
- G. The order made either by the hearing officer (or committee by majority vote) may be reviewed by the president, in the discretion of the president.
- H. If the decision is reviewed by the president based upon the findings of the hearing officer (or committee), a final decision will not be made until the president has reviewed the entire record of the proceeding.

XXI. Review of Order

- A. A petition for appeal from an initial order shall be filed with the university or with any person designated for such purpose by rule of the university, within ten (10) days after entry of the initial order.
- B. The ten-day period for a party to file a petition for appeal or for the president to give notice of its intention to review an initial order on his/her own motion shall be tolled by the submission of a timely petition for reconsideration of the initial order and a new ten-day period shall start to run upon disposition of the petition for reconsideration.
- C. If an initial order is subject both to a timely petition for reconsideration and to a petition for appeal or to review by the university on its own motion, the petition for reconsideration shall be disposed of first, unless the university determines that action on the petition for reconsideration has been unreasonably delayed.
- D. The petition for appeal shall state its basis.
- E. If the president on its own motion gives notice of its intent to review an initial order, the president shall identify the issues that it intends to review.
- F. The person reviewing an initial order shall exercise all the decision-making power that the president would have had to render a final order had the president presided over the hearing, except to the extent that the issue subject to review are limited by rule or statute or by Board of Trustees policies upon notice to all parties.
- G. The president shall afford each party an opportunity to present briefs and may afford each party an opportunity to present oral argument.
- H. A final order or an order remanding the matter for further proceedings pursuant to this section, shall be rendered and entered in writing within sixty (60) days after receipt of any briefs and oral argument, unless the period is waived or extended with the written consent of all parties or for good cause shown.

- I. The university will deliver copies of the final order or order remanding the matter for further proceedings to each party and to the hearing officer who conducted the case.
- XXII. Stay
- A. A party may submit to the university a petition for stay of effectiveness of an initial or final order within seven (7) days after its entry unless otherwise provided by statute or stated in the initial or final order.
 - B. The president may take action on the petition for stay, either before or after the effective date of the initial or final order.
- XXIII. Effectiveness of New Order
- A. Unless a later date is stated in an initial or final order, or a stay is granted, an initial or final order shall become effective upon entry of the initial or final order.
 - B. All initial and final orders shall state when the order is entered and effective.
 - C. If the university has utilized an administrative judge from the Administrative Procedures Division of the Office of the Secretary of State, the initial or final order shall not be deemed entered until the order has been filed with the Administrative Procedures Division.
 - D. The president shall designate which officials or employees may sign final orders.
 - E. A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order.
 - F. A nonparty may not be required to comply with a final order unless the university has made the final order available for public inspection and copying or unless the nonparty has actual knowledge of the final order.
 - G. This section shall not preclude any president from taking immediate action to protect the public interest.
- XXIV. Record
- A. The university shall maintain an official record of each case under this policy. The record shall be maintained for a period of time not less than three (3) years.
 - B. This record shall consist of:
 - 1. Notice of all proceedings;
 - 2. Any pre-hearing order;
 - 3. Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;
 - 4. Evidence received or considered;
 - 5. A statement of matters officially noticed;
 - 6. Offers of proof and objections and rulings thereon;
 - 7. Proposed findings, requested orders, and exceptions;
 - 8. The tape recording, stenographic notes or symbols, or transcript of the hearing;
 - 9. Any final order, initial order, or order on reconsideration;
 - 10. Staff memoranda or data submitted to the university unless prepared and submitted by personal assistants;
 - 11. Matters placed on the record after an ex parte communication.
 - C. A record (which may consist of a tape or similar electronic recording) shall be made of all oral proceedings.
 - D. Such record or any part thereof shall be transcribed on request of any party at his expense or may be transcribed by the university at its expense.
 - E. If the university elects to transcribe the proceedings, any party shall be provided copies of the transcript upon payment to the university of a reasonable compensatory fee.

- F. Except to the extent that this chapter or another statute provides otherwise, the university's record shall constitute the exclusive basis for institution action in adjudicative proceedings under this policy, and for judicial review thereof.

XXV. Judicial Review

- A. A person who is aggrieved by a final decision in a contested case is entitled to judicial review.