

**A RESOLUTION ON RECOMMENDED CHANGES TO THE
FACULTY CODE WITH RESPECT TO TENURE AND PROMOTION
STANDARDS AND PROCEDURES (16/3)**

- WHEREAS,** The University’s Board of Trustees established working groups on university governance in 2014, and one of those working groups (the “Working Group”) recommended sweeping and far-reaching changes to the University’s *Faculty Code* with respect to standards and procedures for approving applications for tenure and promotion;
- WHEREAS,** Article IX.A. of the *Faculty Code* provides: “The regular, active-status faculty shares with the officers of administration the responsibility for effective operation of the departments and schools and the University as a whole. . . . The regular, active-status faculty also participates in the formulation of policy and planning decisions affecting the quality of education and life at the University”;
- WHEREAS,** Article III, Section 1 of the *Faculty Organization Plan* provides that (1) the Faculty Senate has authority to “consider any matters of concern or interest to more than one college, school, or division, or to the Faculty, and make its recommendations or otherwise express its opinion with respect thereto, to the [Faculty] Assembly, the President, or through the President to the Board of Trustees;” and (2) the Faculty Senate is “the Faculty agency to which the President initially presents information and which he consults concerning proposed changes in existing policies or promulgation of new policies.”
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* establish a proven and highly successful model of collaborative shared governance between the faculty of the University (the “Faculty”) and the Administration, which has enabled the University to make notable and sustained progress since the 1930s;
- WHEREAS,** The *Faculty Code* and the *Faculty Organization Plan* are matters of great interest and concern to the Faculty because they represent a part of the contract of each member of the Faculty with the University (subject, in the case of certain part-time members of the Faculty, to the terms of a collective bargaining agreement between the University and Service Employees International Union, Local 500),¹ and, in that regard, (1) the inside cover page of the *Faculty Code* declares that it provides “the statement of the rights and privileges, and the responsibilities, of the academic personnel of the University”; and (2) several decisions of courts in the District of Columbia have recognized that the *Faculty Code* constitutes part of a binding and enforceable contract between each member of the Faculty and the University;¹
- WHEREAS,** Pursuant to the University’s unbroken tradition of collaborative shared governance dealing with policies governing the Faculty’s responsibilities, rights and privileges, the Faculty Senate, as the elected representative of the Faculty, has always considered and acted on amendments to the *Faculty Code* that have been

¹ See *Kyriakopoulos v. George Washington University*, 866 F.2d 438 (D.C. Cir. 1989); *Saha v. George Washington University*, 577 F. Supp. 2d 439 (D.D.C. 2008); *Brown v. George Washington University*, 802 A.2d 382 (D.C. App. 2001); *Kakaes v. George Washington University*, 663 A.2d 128 (D.C. App. 1996).

proposed by the Administration, the Board of Trustees or other members of the University community before such amendments have been transmitted by the Administration to the Board of Trustees for final consideration and approval;

WHEREAS, The Professional Ethics and Academic Freedom (PEAF) Committee is the Standing Committee that has been established and designated by the Faculty Senate, pursuant to Article III., Section 5(c) of the *Faculty Organization Plan*, to review proposed amendments to the *Faculty Code* and to make recommendations concerning such amendments to the Faculty Senate for its consideration;

WHEREAS, After receiving the recommendations of the PEAf Committee (as well as other Standing Committees), it has been the universal and longstanding practice of the University that the Faculty Senate votes to adopt or reject recommended amendments to the *Faculty Code* before such amendments are forwarded to the Administration for transmission to the Board of Trustees for final consideration and approval;

WHEREAS, There is no precedent during the University's history in which a substantive change has been made to the *Faculty Code* unless the above-described process of review, recommendation and adoption by the Faculty Senate, as the representative of the Faculty, has first occurred before that change was approved by the Board of Trustees;

WHEREAS, The Faculty Senate recognizes that the *Faculty Code* must be updated on a regular basis to meet changing conditions and needs within the University and emerging trends within the academic enterprise more generally, and the Faculty Senate has a long history of considering and recommending amendments to the *Faculty Code* in order to improve the quality of education and academic life within the University;

WHEREAS, The PEAf Committee, the Executive Committee and the Committee on Appointment, Salary and Promotion Policies of the Faculty Senate (collectively, the "Senate Committees") carefully reviewed the proposals by the Working Group for sweeping and far-reaching changes in the *Faculty Code* with respect to standards and procedures for approving applications for tenure and promotion, and the Senate Committees informed the Working Group that its proposals were not acceptable unless major modifications were made;

WHEREAS, The Working Group largely disregarded the advice of the Senate Committees and presented revised proposals that, if adopted, (1) would severely weaken the long-established role of the Faculty (especially departmental faculties in departmentalized schools) in presenting recommendations for tenure and promotion, and (2) would permit the Administration to overrule faculty recommendations for promotion and tenure without satisfying the "compelling reasons" standard currently embodied in the *Faculty Code*;

WHEREAS, The Senate Committees have therefore jointly recommended amendments to the *Faculty Code* with respect to standards and procedures for tenure and promotion, as set forth in Exhibit A attached to this Resolution, and those recommended amendments are substantially different from the Working Group's revised

proposals, as shown on Exhibit B attached to this Resolution (which is marked to show changes to the Working Group’s revised proposals);

WHEREAS, The Faculty Senate believes that the amendments to the *Faculty Code* recommended by the Senate Committees would accomplish the most important goals identified by the Working Group, including (1) increasing the standards for tenure and promotion from “competence” to “excellence” in research, teaching and service; (2) clarifying and improving the procedures for adopting faculty recommendations and resolving administrative nonconcurrences with faculty recommendations; and (3) relieving the Board of Trustees from their current duty of making final determinations in appeals from tenure and promotion decisions;

WHEREAS, The Faculty Senate believes that the amendments recommended by the Senate Committees are consistent with the best interests of the University and all of its constituencies and stakeholders (including the Faculty), and would help to advance the University’s stated goals to “[e]xpand and improve our research and teaching”² and “to match the excitement of discovery and excellence of instruction with superior research”;³ and

WHEREAS, The Faculty Senate is greatly concerned that any decision by the Board of Trustees to approve changes to the *Faculty Code* that are different from the recommended amendments (as set forth on Exhibit A attached to this Resolution) would be likely to cause great alarm among the Faculty and gravely impair the confidence of the Faculty Senate and the Faculty in the University’s Administration and system of shared governance;

NOW, THEREFORE, BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the *Faculty Code* be amended as set forth in Exhibit A attached to this Resolution;
- (2) That the President is requested to submit the proposed amendments to the *Faculty Code* set forth on Exhibit A to the Board of Trustees for final consideration and approval;
- (3) That the Faculty Senate respectfully urges the Board of Trustees not to approve changes to the *Faculty Code* that are different from the amendments set forth on Exhibit A attached to this Resolution without further consultation with and concurrence by the Faculty Senate in keeping with the University’s unbroken tradition of collaborative shared governance.

Faculty Senate Committee on Professional Ethics and Academic Freedom
Faculty Senate Committee on Appointment, Salary, and Promotion Policies
Faculty Senate Executive Committee

April 24, 2015

Adopted by the Faculty Senate: May 8, 2015

² “Vision 2021: A Strategic Plan for the Third Century of The George Washington University,” page 29, available at https://provost.gwu.edu/sites/provost.gwu.edu/files/downloads/Strategic%20Plan_May13.pdf.

³ See “GW Overview: University Priorities - Research,” available at <http://www.gwu.edu/university-priorities>.

EXHIBIT A to “A Resolution on Recommended Changes to the *Faculty Code* With Respect to Tenure and Promotion Standards and Procedures” (16/3)

Faculty Code, Section IV.B

B. Promotion

1. Promotion to the ranks of associate professor and professor is granted by the university to faculty members who have achieved excellence in their disciplines through their contributions to research, scholarship, or creative work in the arts (hereinafter *scholarship*), teaching, and engagement in service, and who demonstrate the potential to continue to do so, so that the university may advance its mission of scholarship, higher education, and service to the community. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph B.1. The university seeks to apply the highest standards of academic rigor in evaluating faculty members for promotion. Promotion to professor is reserved for those who have established a record since promotion to associate professor that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidates’ record of scholarship, teaching, and service provide confidence that they will continue to contribute in all these areas at a level of excellence in a pattern of sustained development and substantial growth in achievement and productivity. Time served in the rank of associate professor is not a sufficient basis for promotion.
2. Each school shall establish and publish written criteria, consistent with paragraph B.1, on which promotion to the ranks of associate professor and professor will be based, including any appropriate distinctions between the criteria for tenure-track and tenured faculty and those for non-tenure track faculty members due to the different nature of their appointments. Each department shall define, establish and publish additional written criteria for promotion, consistent with Paragraph B.1 and with the written criteria established and published by the relevant school. Each school and department shall also establish and publish the procedures used for making promotion decisions and for appointing tenured faculty members. The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress toward promotion. Such information shall not be construed as a promise to recommend promotion. Each faculty member has the prerogative to determine whether and when to request consideration for promotion to the rank of professor. Recommendations for promotion originate from the faculty – for departmentalized schools, from the faculty of the relevant department, after application by the candidate. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph B.1 and the additional criteria established and published by the relevant school and department.

3. As general practice, a promotion shall be accompanied by an appropriate increase in salary.

C. Tenure

1. Recognizing the university's commitment when it grants tenure and the university's mission as a preeminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in service and who show promise of continued excellence. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph C.1. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are distinguished in their fields, and a candidate's record must compare favorably with that of candidates in similar stages in their careers at peer research universities in the candidate's field. Upon a specific showing that the academic needs of the University have changed with respect to a particular position, that factor may be considered in determining whether tenure shall be granted. The granting of tenure is generally accompanied by promotion to associate professor.
2. Each school shall establish and publish written criteria, consistent with Paragraph C.1, on which the recommendation for tenure will be based. Each department shall define, establish and publish additional written criteria for tenure, consistent with Paragraph C.1 and with the criteria established and published by the relevant school. In addition, each school and each department shall establish and publish written procedures for making decisions concerning tenure and for hiring tenured faculty at the rank of associate professor or professor. Recommendations for tenure originate from the faculty—for departmentalized schools, from the faculty of the relevant department. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph C.1 and the additional criteria published by the relevant school and department.
3. So that faculty members may assess their potential for achieving tenure, each school, or each and every one of a school's departments, shall establish and publish written procedures to provide reviews to guide faculty members concerning progress toward tenure. Reviews do not constitute a commitment to recommend tenure. Such reviews may be satisfied by, but need not be limited to, evaluations of annual reports and mid-tenure reviews, which should be communicated to the faculty member.

D. School-Wide Personnel Committees

[RETAIN EXISTING SECTION IV.D. OF THE CURRENT *FACULTY CODE*]

E. University-Wide Nonconcurrency Committee

1. Structure
 - i. The university shall establish a University-Wide Nonconcurrency Committee to review and make a determination with respect to each tenure, promotion and appointment with tenure case in which the Provost has nonconcurred, or has upheld a nonconcurrency by the dean, with a faculty recommendation.
 - ii. The University-Wide Nonconcurrency Committee shall be composed of (1) nine tenured faculty members, each with the rank of professor, with one

member elected by each of the university's schools other than the College of Professional Studies, and (2) two senior administrators (who may be faculty members) designated by the Provost. The President and Provost; vice presidents, associate vice presidents, and assistant vice presidents; vice provosts and associate vice provosts; deans, associate deans, and assistant deans shall be ineligible to serve as elected faculty members of the Committee.

- iii. Elected faculty members of the University-Wide Nonconcurrency Committee shall be nominated and elected by the tenured faculty of their respective schools in accordance with procedures approved by the tenured faculty of each school. Any school with fewer than six tenured faculty members may obtain permission from the Faculty Senate Executive Committee to elect an untenured faculty member to serve on the Committee.
- iv. Elected faculty members of the University-Wide Nonconcurrency Committee shall serve staggered three-year terms, with a maximum of two consecutive terms. Members rendered ineligible due to their service for two consecutive terms shall be deemed eligible for nomination and re-election following one year of absence from the Committee.
- v. The elected faculty members of the University-Wide Nonconcurrency Committee shall elect one of their number annually to serve as Chair of the Committee.
- vi. If an elected member of the University-Wide Nonconcurrency Committee is unable to complete his or her term, the tenured faculty of the relevant school shall nominate and elect a replacement member to complete that term, in accordance with the provisions of this Paragraph E.1.
- vii. If a University-Wide Nonconcurrency Committee member belongs to the same department as a candidate for tenure or promotion, or has a conflict of interest, the member shall be recused from voting but may participate in the discussion of the case. That a Committee member belongs to the same school as a candidate does not by itself create a conflict of interest.

2. Responsibilities

- i. The Provost shall refer to the University-Wide Nonconcurrency Committee for its consideration and determination each tenure, promotion, and appointment with tenure case in which the Provost has nonconcurred, or has upheld a nonconcurrency by a dean, with a faculty recommendation as provided in Paragraph B.7 of the Procedures for the Implementation of the Faculty Code. In each such case, the Committee shall determine whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Paragraph F.1 below. The Provost shall bear the burden of persuasion on that question.
- ii. The University-Wide Nonconcurrency Committee shall make its determination in accordance with the procedures set forth in Paragraph E.3 below.

3. Procedures

- i. The Provost shall provide the University-Wide Nonconcurrency Committee with the relevant dossiers for all cases indicated in Paragraph E.2 above. The Committee may request additional information, advice or

documentation, which the Provost shall provide or assist in providing to the extent practicable.

- ii. The University-Wide Nonconcurrency Committee shall determine, and shall advise the Provost in writing, whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Section F.1 below. If the Committee determines that the administrative nonconcurrency is not supported by any compelling reason, the Provost and the President shall approve the application for tenure, promotion, or appointment with tenure unless the President determines that such application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 below. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by this Paragraph E shall not constitute or replace the grievance procedure established by Section X.B of the Faculty Code.
- iii. The University-Wide Nonconcurrency Committee may adopt rules governing its internal procedure, which shall be published. Each determination by the Committee shall require the affirmative vote of a majority of the members entitled to vote in the relevant case.

F. Compelling Reasons and Extraordinary Circumstances. Departments, school-wide personnel committees, deans, the University-Wide Nonconcurrency Committee, and the Provost are each entrusted with ensuring that faculty recommendations concerning tenure, promotion, and appointments with tenure are consistent with published criteria, are supported by sufficient evidence and preserve the schools' and the university's interest in building a distinguished faculty.

1. The following shall constitute compelling reasons for a school-wide personnel committee to advise a dean (see Section D), for the University-Wide Nonconcurrency Committee to uphold an administrative nonconcurrency (see Section E), or for a dean or the Provost to nonconcur with a faculty recommendation (see Procedures for the Implementation of the Faculty Code, Sections B.5 and B.7):
 - i. Insufficient evidence or inadequate reasons provided by the recommending faculty and external reviewers to demonstrate that the candidate has satisfied the published criteria defining the applicable standards of excellence; or
 - ii. Failure by the recommending faculty to conform to published appointment, tenure or promotion policies, procedures, and guidelines; or
 - iii. Arbitrary, capricious, or discriminatory action at any point in the process.
2. The following shall constitute extraordinary circumstances for the President to deny an application for tenure, promotion, or an appointment with tenure despite a decision by the Provost to concur with the faculty recommendation (see Procedures for the Implementation of the Faculty Code, Section B.6) or a determination by the University-Wide Nonconcurrency Committee not to uphold an administrative nonconcurrency (see Procedures, Section B.8 and Section E of Article IV of the Faculty Code):
 - i. The need to terminate an entire instructional program for a reason specified in Part V.D.2 of the Faculty Code; or
 - ii. Extraordinary financial exigency as defined in Part V.D.3 of the

- Faculty Code; or
- iii. Other extraordinary financial or programmatic constraints that would cause the approval of the faculty recommendation to impair the fiscal health of the University.

G. **Nondiscrimination.** Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made consistent with the University's Policy on Equal Opportunity.

Faculty Code, Procedures for the Implementation of the Faculty Code, Section B.

B. Faculty Participation in Action Concerning Faculty Membership

1. The regular faculty of each school shall establish procedures enabling an elected standing committee or committee of the whole to submit its recommendations on the allocation of regular, tenure-accruing appointments within that school.
2. The regular faculty of the rank of assistant professor or higher of a department or of a nondepartmentalized school shall, subject to such limitations or guidelines as may be established by the faculties of the respective schools, establish procedures enabling an elected standing committee or a committee of the whole to submit its recommendations for appointments. Recommendations for actions other than appointments concerning instructors, assistant professors, or associate professors shall be determined by the tenured members of the faculty of higher rank, or of equal and higher rank, as the tenured faculty may have determined by previously established procedures. Recommendations for actions other than appointments concerning professors shall be determined by tenured members of the rank of professor. In the College of Professional Studies, the Dean's Council shall take the place of the elected standing committee or committee of the whole described in this paragraph B.2.
3. The regular faculty of each school shall establish and publish written criteria upon which promotion, tenure, and appointments with tenure shall be based, in accordance with Sections B and C of Part IV of the Faculty Code. The regular faculty of each department in each departmentalized school shall establish and publish additional written criteria, also in accordance with Sections B and C of Part IV.
4. The regular faculty of each school shall establish a school-wide personnel committee, as provided in Section D of Part IV of the Faculty Code, to advise the dean with respect to recommendations for tenure, promotion, and appointments with tenure. The tenured faculty of each school shall nominate and elect their school's representative on the University-Wide Nonconcurrency Committee, in accordance with Section E of Part IV of the Faculty Code.
5. Appointments and actions by deans and by the Provost affecting renewal of appointments, promotion, tenure designation, and termination of service shall normally follow faculty recommendations. Administrative nonconcurrences with faculty recommendations, at any level, shall be based on one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code.

6. Faculty recommendations concurred in or nonconcurred in by the appropriate deans shall be transmitted by them to the Provost. If the Provost concurs with a faculty recommendation for tenure, promotion, or appointment with tenure (whether or not the dean has concurred), the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Section F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the appropriate dean, the appropriate department chair and the candidate.

7. If the Provost nonconcurs with a faculty recommendation for tenure, promotion, appointment with tenure, or if the Provost upholds a nonconcurrence by a dean with a faculty recommendation, the Provost shall make a written determination that identifies one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code. The Provost shall refer each administrative nonconcurrence to the University-Wide Nonconcurrence Committee for its determination in accordance with Section E of Part IV of the Faculty Code. The dean and the Provost shall promptly notify the appropriate department chair and school-wide personnel committee of each administrative concurrence or nonconcurrence with a faculty recommendation. In addition, the Provost shall promptly notify the candidate and the President in the event of an administrative nonconcurrence with a faculty recommendation, and the Provost shall provide sufficient information to the candidate to reasonably inform the candidate as to the reasons for the administrative nonconcurrence.

8. If the University-Wide Nonconcurrence Committee determines that an administrative nonconcurrence with a faculty recommendation for tenure, promotion, or appointment with tenure is not supported by any compelling reason, the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by Section E of the Article IV of the Faculty Code shall not constitute or replace the grievance procedure established by Section X.B of the Faculty Code.

9. In any tenure or promotion case in which an administrative nonconcurrence is upheld by the University-Wide Nonconcurrence Committee, the candidate may request a review of the case by the President. In such cases, the President's decision shall be final, subject to Paragraph B.10 below. The President's review process established by this Paragraph B.9 shall not constitute or replace the grievance process established by Article X.B of the Faculty Code.

10. A decision by the Provost and the President, or by the President pursuant to Paragraph B.9 above, to approve tenure shall be transmitted to the Board of Trustees, which shall ordinarily confer tenure.

**EXHIBIT B to “A Resolution on
Recommended Changes to the *Faculty Code*
With Respect to Tenure and Promotion
Standards and Procedures”
(16/3)**

**[The following document is marked to show
changes approved by the Faculty Senate to the
revised Working group proposals]:**

March 23, 2015

**Recommendations to amend the *Faculty Code*
Working Group on Appointment, Promotion, and Tenure**

Faculty Code, Section IV.B

B. Promotion

1. Promotion to the ranks of associate professor and professor is granted by the university to faculty members who have achieved excellence in their disciplines through their contributions to research, scholarship, or creative work in the arts (hereinafter *scholarship*), teaching, and engagement in service, and who demonstrate the potential to continue to do so, so that the university may advance its mission of scholarship, higher education, and service to the community. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph B.1. The university seeks to apply the highest standards of academic rigor in evaluating faculty members for promotion. Promotion to professor is reserved for those who have established a record since promotion to associate professor that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidates' record of scholarship, teaching, and service provides confidence that ~~the or she~~ will continue to contribute in all these areas at a level of excellence in a pattern of sustained development and substantial growth in achievement and productivity. Time served in the rank of associate professor is not a sufficient basis for promotion.
2. Each school shall establish and publish written criteria, consistent with paragraph B.1, on which promotion to the ranks of associate professor and professor will be based, including any appropriate distinctions between the criteria for tenure-track and tenured faculty and those for non-tenure track faculty members due to the different nature of their appointments. ~~Each department may~~ shall define, establish and publish additional written criteria for promotion, to the extent consistent with Paragraph B.1 and with the written criteria established and published by the relevant school, which shall also be published. Each school and department shall also establish and publish the procedures used for making promotion decisions and for ~~hiring~~ appointing tenured faculty members. The procedures should provide for informing faculty members periodically, or at their request, whether they are making satisfactory progress

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toward promotion. Such information shall not be construed as a promise to recommend promotion. Each faculty member has the prerogative to determine whether and when to request consideration for promotion to the rank of professor.

Recommendations for promotion originate from the faculty – for departmentalized schools, from the faculty of the relevant department, after application by the candidate. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph B.1 and the additional criteria established and published by the relevant school and department.

3. As general practice, a promotion shall be accompanied by an appropriate increase in salary.

C. Tenure

1. Recognizing the ~~significance of the~~ university's commitment when it grants tenure, ~~including to~~and the university's ~~standing~~mission as a preminent research university, tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in service and who show promise of _

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continued excellence. Each school, and each department in a departmentalized school, shall define, establish and publish criteria for excellence consistent with this Paragraph C.1. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are distinguished in their fields, and a candidate's record must compare favorably with that of candidates in similar stages in their careers at peer research universities in the candidate's field. Upon a specific showing that the academic needs of the University have changed with respect to a particular position, that factor may be considered in determining whether tenure shall be granted. The granting of tenure is generally accompanied by promotion to associate professor.

2. Each school shall establish and publish written criteria, consistent with Paragraph C.1, on which the recommendation for tenure will be based. ~~Each departments shall define, establish and publish~~ may establish and publish additional written ~~written~~ criteria for tenure, to the extent consistent with Paragraph C.1 and with the criteria established and published by the relevant school, ~~which shall also be published.~~ In addition, each school and each department shall establish and publish written procedures for making decisions concerning tenure and for hiring tenured faculty at the rank of associate professor or professor. Recommendations for tenure originate from the faculty—for departmentalized schools, from the faculty of the relevant department. Faculty recommendations must be based on substantial evidence of excellence based on the criteria stated in Paragraph C.1 and the additional criteria published by the relevant school and department.
3. So that faculty members may assess their potential for achieving tenure, each school, or each and every one of a school's departments, shall establish and publish written procedures to provide reviews to guide faculty members concerning progress toward tenure. Reviews do not constitute a commitment to recommend tenure. Such reviews may be satisfied by, but need not be limited to, evaluations of annual reports and mid-tenure reviews, which should be communicated to the faculty member.

D. School-Wide Personnel Committees

[RETAIN EXISTING SECTION IV.D. OF THE CURRENT FACULTY CODE]

- ~~1. To implement the procedures required in Sections B and C above, each school shall establish a school wide personnel committee composed of tenured faculty, either as a standing committee elected by the tenured and tenure track faculty of the school or as a committee of the whole composed of the school's tenured faculty, to consider recommendations for tenure, for promotion, or for appointments with tenure. In the College of Professional Studies, the Dean's Council shall act as the personnel committee.~~
- ~~2. In departmentalized schools, recommendations for appointment, renewal, tenure, promotion, and termination of service originate with the departments, and the function of the school wide personnel committee is to review all such recommendations and issue its own faculty recommendation. In schools without departments, the school wide personnel committee initiates recommendations to the dean for matters including but not limited to appointment, renewal, tenure, promotion, and termination of service.~~
- ~~3. In matters involving promotion and tenure, the school wide personnel committee shall recommend to the dean whether the candidate has met the relevant criteria (see Sections B.1 and B.2, and Sections C.1 and C.2) in order to ensure~~

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~~comparable quality and excellence across the school. The school-wide personnel committee shall include advice to the dean as to whether it has identified any compelling reasons for non-concurrence as defined in Section F.~~

~~4. The school-wide personnel committee may request and gather additional information, documentation, or clarification regarding recommendations they are considering. Recommendations shall be determined by committee members holding equal or higher rank relative to the considered action. Schools shall develop rules for recusal involving potential conflicts of interest for committee members, such as membership in the same department as the candidate.~~

~~5. The recommendations of a school-wide personnel committee constitute "faculty recommendations" in the sense of the Procedures for the Implementation of the Faculty Code, Section B.5.~~

E. University-Wide ~~Personnel~~Nonconcurrency Committee

1. Structure

- i. The university ~~wi~~shall establish a University-Wide ~~Personnel~~Nonconcurrency Committee to review and ~~provide advice~~ make a determination with respect to each ~~concerning certain tenure, and promotion and appointment with tenure cases~~ matters in which the Provost has nonconcurrent, or has upheld a nonconcurrency by the dean, with a faculty recommendation.
- ii. The University-Wide ~~Personnel~~Nonconcurrency Committee shall be composed of ~~(1) nine~~ tenured faculty members, each with the rank of professor, with one member ~~from~~elected by each of the university's schools other than the College of Professional Studies, and (2) two senior administrators (who may be faculty members) designated by the Provost. The President and Provost; vice presidents, associate vice presidents, and assistant vice presidents; vice provosts and associate vice provosts; deans, associate deans, and assistant deans shall be ineligible ~~for election to serve as elected faculty members of the University-Wide Personnel Committee.~~
- iii. ~~The Provost, in consultation with the dean of each school and the Faculty Senate Executive Committee, shall for each school nominate a slate of at least two candidates eligible to serve on the University-Wide Personnel Committee. The tenured and tenure-track faculty members for each school will elect their school's representative from this slate. Elected faculty members of the University-Wide Nonconcurrency Committee shall be nominated and elected by the tenured faculty of their respective schools in accordance with procedures approved by the tenured faculty of each school. Any school with fewer than six tenured faculty members may obtain permission from the Faculty Senate Executive Committee to elect an untenured faculty member to serve on the Committee.~~
- iv. Elected faculty members of the University-Wide ~~Personnel~~Nonconcurrency Committee ~~members w~~shall serve staggered three-year terms, with a maximum of two consecutive terms. Members rendered ineligible due to their service for two consecutive terms ~~wi~~shall be deemed eligible for nomination and re-election following one ~~term~~year of absence from the ~~University-Wide Personnel~~ Committee.
- v. The elected faculty members of the University-Wide Nonconcurrency Committee shall elect one of their number annually to serve as Chair of the Committee.
- vi. If an elected member of the University-Wide ~~Personnel~~Nonconcurrency Committee ~~member~~ is unable to complete his or her term, ~~a school's~~ the tenured faculty of the relevant school shall nominate and elect a replacement member to complete that term, ~~in accordance with the~~ in accordance with ~~to the~~ procedures above ~~provisions of this Paragraph E.1.~~

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vii. If a University-Wide ~~Personnel~~Nonconcurrency Committee member belongs to the same department as a candidate for tenure or promotion, or has a conflict of interest, the member ~~should~~shall be recused from voting but may participate in the discussion of the case. That a ~~University-Wide Personnel~~ Committee member belongs to the same school as a candidate does not by itself ~~pos~~create a conflict of interest.

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2. Responsibilities

i. The Provost shall refer to the University-Wide ~~Personnel~~Nonconcurrency Committee

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~~of~~ for its consideration and ~~advice~~determination at each tenure, promotion, and appointment with tenure cases ~~involving which the Provost has nonconcurred, or has upheld a nonconcurrency by a dean, with disagreement between~~ a faculty recommendation as provided in Paragraph B.7 of the Procedures for the Implementation of the Faculty Code, made by a department or a school-wide personnel committee and the recommendation of a dean. In each such cases, the ~~University-Wide Personnel~~

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Committee ~~will advise the Provost~~ shall determine whether the ~~recommendation of the dean~~ administrative nonconcurrency is supported by one or more of the compelling reasons ~~as defined in Section Paragraph F.1 below.~~ The Provost shall bear the burden of persuasion on that question.

- ii. The University-Wide Nonconcurrency Committee shall make its determination in accordance with the procedures set forth in Paragraph E.3 below. ~~The Provost may also refer to the University-Wide Personnel Committee for its consideration and advice any other tenure, promotion, or appointment with tenure case. In such cases, the University-Wide Personnel Committee may be asked to advise the Provost whether there are compelling reasons, as defined in Section F, to disagree with a faculty recommendation.~~

3. Procedures

- i. The Provost shall provide the University-Wide ~~Personnel~~ Nonconcurrency Committee with the relevant dossiers for all cases indicated in Paragraph Section E.2 above. ~~The University-Wide Personnel Committee may request additional information, advice or documentation, which the Provost shall provide or assist in providing to the extent practicable.~~
- ii. ~~Advice provided by the University-Wide Personnel Committee to the Provost is nonbinding. Moreover, such advice does not constitute a faculty recommendation as that term is used in Section IV of the Faculty Code or in Section B.5 of the Procedures for Implementation of the Faculty Code, nor does it.~~ The University-Wide Nonconcurrency Committee shall determine, and shall advise the Provost in writing, whether the administrative nonconcurrency is supported by one or more of the compelling reasons defined in Section F.1 below. If the Committee determines that the administrative nonconcurrency is not supported by any compelling reason, the Provost and the President shall approve the application for tenure, promotion, or appointment with tenure unless the President determines that such application should be denied based on one or more of the extraordinary circumstances defined in Paragraph F.2 below. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the Committee, the appropriate dean, the appropriate department chair, and the candidate. The Committee's review process established by this Paragraph E shall not constitute or replace the grievance procedure ~~contemplate~~ established by Section [X].B of the Faculty Code.
- iii. The University-Wide ~~Personnel~~ Nonconcurrency Committee may adopt rules governing its internal procedure, which shall be published. Each determination by the Committee shall require the affirmative vote of a majority of the members entitled to vote in the relevant case. ~~It shall also conduct a periodic review of published tenure and promotion criteria, including the related standards of excellence stated in those criteria, and procedures at the department, school, and university levels with a view to ensuring that consistent and appropriate standards of excellence are maintained throughout the university. The University-Wide Personnel Committee shall report the results of the periodic review to the Provost.~~

- F. Review Process Compelling Reasons and Extraordinary Circumstances. Departments, school-wide personnel committees, deans, the University--Wide ~~Personnel~~ Nonconcurrency Committee, and the Provost are each entrusted with ensuring

that faculty recommendations concerning tenure, promotion, and appointments with tenure are consistent with published standards/criteria, and are supported by sufficient evidence and preserve the schools' and the university's interest in building a n-outstanding/distinguished faculty.

1. The following mayshall constitute compelling reasons for a school-wide personnel committee to advise a dean (see Section D-3), for the University-Wide Personnel/Nonconcurrency Committee to advise the Provost/uphold an administrative nonconcurrency (see Section E-2), or for a dean or the Provost to disagree/nonconcur with a faculty recommendation (see Procedures for the Implementation of the Faculty Code, Sections B.5 and B.7):
 - i. -Insufficient evidence or inadequate reasons provided by the recommending faculty and external reviewers to demonstrate that the candidate's body of work meets/has satisfied the published criteria defining the applicable standards of excellence in the discipline; or
 - ii. Failure by the recommending faculty to conform to published appointment, tenure or promotion policies, procedures, and guidelines; or
 - iii. Arbitrary, capricious, or discriminatory action at any point in the process.
2. Deans and the Provost are also entrusted with the fiscal health of the university and must consider significant financial or programmatic constraints. Upon a specific showing that the academic needs of the university have changed with

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~~respect to a particular position, that factor may be considered in determining whether tenure shall be granted.~~ The following shall constitute extraordinary circumstances for the President to deny an application for tenure, promotion, or an appointment with tenure despite a decision by the Provost to concur with the faculty recommendation (see Procedures for the Implementation of the Faculty Code, Section B.6) or a determination by the University-Wide Nonconcurrency Committee not to uphold an administrative nonconcurrency (see Procedures, Section B.8 and Section E of Article IV of the Faculty Code):

- i. The need to terminate an entire instructional program for a reason specified in Part V.D.2 of the Faculty Code; or
- ii. Extraordinary financial exigency as defined in Part V.D.3 of the Faculty Code; or
- iii. Other extraordinary financial or programmatic constraints that would cause the approval of the faculty recommendation to impair the fiscal health of the University.

G. Nondiscrimination. Appointments, renewals, terminations, promotions, tenure, compensation, and all other terms and conditions of employment shall be made ~~solely on the basis of merit and without regard to race, color, religion, sex, sexual orientation, natural origin, or other considerations prohibited by law consistent with the University's Policy on Equal Opportunity.~~ solely on the basis of merit and without regard to race, color, religion, sex, sexual orientation, natural origin, or other considerations prohibited by law consistent with the University's Policy on Equal Opportunity.

Faculty Code, Procedures for the Implementation of the Faculty Code, Section B.

B. Faculty Participation in Action Concerning Faculty Membership

1. The regular faculty of each school shall establish procedures enabling an elect standing committee or committee of the whole to submit its recommendations on the allocation of regular ~~service~~, tenure-accruing appointments within that ~~school unit~~.
2. The regular faculty of the rank of assistant professor or higher of a department or of a nondepartmentalized school ~~or comparable educational division~~ shall, subject to such limitations or guidelines as may be established by the faculties of the respective schools, establish procedures enabling an elected standing committee or a committee of the whole to submit its recommendations for appointments. ~~Recommendations for actions other than appointments concerning instructors, assistant professors, or associate professors shall be determined by the tenured members of the faculty of higher rank, or of equal and higher rank, as the tenured faculty may have determined by previously established procedures. Recommendations for actions other than appointments concerning professors shall be determined by tenured members of the rank of professor. In the College of Professional Studies, the Dean's Council shall take the place of the elected standing committee or committee of the whole described in this paragraph B.2.~~
3. The regular faculty of each school shall establish and publish written criteria upon which promotion, tenure, and ~~hiring tenured faculty~~ appointments with tenure shall be based, ~~as provided in~~ accordance with Sections B and C of Part IV of the Faculty Code. The regular faculty of each department in each departmentalized school ~~may~~ shall establish and publish additional written criteria, also ~~as provided in~~ accordance with Sections B and C of Part IV.
4. The regular faculty of each school shall establish a school-wide personnel

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committee, as provided in Section D of Part IV of the Faculty Code, to ~~consider~~advise the dean with respect to recommendations for tenure, promotion, and appointments with tenure. The tenured ~~and tenure-track~~ faculty of each school shall ~~also nominate and~~ elect ~~representatives to serve as~~ their school's representative on the University-Wide ~~Personnel~~Nonconcurrency Committee, ~~as provided in accordance with~~ Section E of Part IV of the Faculty Code.

5. Appointments and actions by deans and by the Provost affecting renewal of appointments, promotion, tenure designation, and termination of service shall normally follow faculty recommendations. Administrative nonconcurrences with faculty recommendations~~Departures from this standard~~, at any level, shall be ~~limited to the~~based on one or more of the compelling reasons ~~identified~~ defined in Section F.1 of Part IV of the Faculty Code.
6. Faculty recommendations concurred in or nonconcurred in by the appropriate deans shall be transmitted by them to the Provost. If the Provost concurs with a faculty recommendation for tenure, promotion, or appointment with tenure (whether or not the dean has concurred), the Provost and the President shall approve the application unless the President determines that the application should be denied based on one or more of the extraordinary circumstances defined in Section F.2 of Article IV of the Faculty Code. In that event, the President shall provide a written explanation of such extraordinary circumstance(s) to the appropriate dean, the appropriate department chair and the candidate.
7. If the Provost nonconcurs with a faculty recommendation for tenure, promotion, appointment with tenure, or if the Provost upholds a nonconcurrency by a dean with a faculty recommendation, the Provost shall make a written determination that identifies one or more of the compelling reasons defined in Section F.1 of Part IV of the Faculty Code. The Provost shall refer each administrative nonconcurrency to the University-Wide Nonconcurrency Committee for its determination in accordance with Section E of Part IV of the Faculty Code. The dean and the Provost shall promptly notify the ~~relevant~~appropriate department chair and school-wide personnel committee of ~~any~~each administrative-concurrency or non-concurrency with ~~their~~

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