

THE
Duke University
FACULTY HANDBOOK



Beginning with academic year 1998/99, the *Duke University Faculty Handbook* is being provided as part of the Provost's Office website. To the best of our abilities in our dynamic environment, we have included in this *Duke University Faculty Handbook* policies and procedures pertaining to faculty at Duke University as of August, 2000. Due to the range of subject matter described herein, the authority and source for each topic may vary; the policies and procedures may change at any time. Revisions to the *Faculty Handbook* will be incorporated periodically, and Duke faculty are responsible for checking the website, located at <http://www.provost.duke.edu/fhb>, to keep abreast of additions and changes to university policies and procedures. Paper copies will also be made available in the libraries and deans' and departments' offices.

This publication is available in alternative media upon request to Judith Ruderman, the vice provost for academic and administrative services (684-2631).

If you have questions or comments about the *Faculty Handbook*, please send them to: Faculty Handbook, Box 90007, Durham, NC 27708-0007.

Duke University

Faculty Handbook

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Chapter 1: THE UNIVERSITY

The Mission of Duke University

The founding Indenture of Duke University directed the members of the university to "develop our resources, increase our wisdom, and promote human happiness."

To these ends, the mission of Duke University is to provide a superior liberal education to undergraduate students, attending not only to their intellectual growth but also to their development as adults committed to high ethical standards and full participation as leaders in their communities; to prepare future members of the learned professions for lives of skilled and ethical service by providing excellent graduate and professional education; to advance the frontiers of knowledge and contribute boldly to the international community of scholarship; to foster health and well-being through medical research and patient care; and to promote a sincere spirit of tolerance, a sense of the obligations and rewards of citizenship, and a commitment to learning, freedom, and truth.

By pursuing these objectives with vision and integrity, Duke University seeks to engage the mind, elevate the spirit, and stimulate the best effort of all who are associated with the university; to contribute in diverse ways to the local community, the state, the nation, and the world; and to attain and maintain a place of real leadership in all that we do.

General Administration

Administrative Officers

A complete description of the responsibilities and duties of the trustees and administrative officers of the university is provided in the bylaws of Duke University (see Appendix A of this handbook). However, the functions of the trustees and officers are described briefly below.

The Board of Trustees

The board consists of thirty-six elected members and the president, ex officio, and the board has vested in it as a group the final authority for the operation of the university. It regularly meets four times a year but may call special meetings. Its Executive Committee acts for the board between meetings and normally convenes six times each year.

The board elects from its membership a chair and vice chair and organizes itself into both standing and ad hoc committees. The former include the Executive Committee, the Academic Affairs Committee, the Medical Center Affairs Committee, the Business and Finance Committee, the Building and Grounds Committee, and the Student Affairs Committee. Both standing committees and ad hoc committees may undertake other functions as are delegated to them by the trustees. However, in all cases the powers and duties of committees are subject to the direction and approval of the board.

President

As chief educational and administrative officer of the university, the president is responsible to the Board of Trustees for the supervision, management, and government of the university, and for interpreting and carrying out the policies of the board. The president, or someone designated by the president, presides at meetings of the university faculty. Under the bylaws the president may overrule the decisions of the faculty after stating reasons for such action. The president is responsible for recommending to the trustees persons to hold the other offices of the university.

Provost

The provost is an executive officer of the university, responsible for all educational affairs and activities, including research. The provost has powers and duties as assigned by the president. The provost is a member of the faculty of each college and school, and an ex officio member of each committee (other than committees of the Board of Trustees) or other body concerned with matters for which the provost is responsible. The provost also receives recommendations developed by the faculty and educational officers for consideration and recommendation to the president.

Executive Vice President

The executive vice president is the university's chief financial and administrative officer. The executive vice president directs the university's financial operations and oversees all central administrative services and capital projects.

Chancellor for Health Affairs, Executive Dean of the School of Medicine, and President and CEO of the Duke University Health System

The chancellor for health affairs has powers and duties as assigned by the president and is responsible for all operations of the Medical Center and Health System. The chancellor for health affairs serves as chief academic officer of the Medical Center.

Senior Vice President for Alumni Affairs and Development

This senior vice president has responsibility for alumni affairs and fund-raising from private sources.

Senior Vice President for Public Affairs

This senior vice president has responsibility for coordinating Duke's relations with the public, the news media, and federal, state, and local governments; providing useful and timely information on government and community matters as an aid to those who shape the university's policies; and disseminating information on activities and achievements of the university, its roles and missions, and the accomplishments and activities of those who work and learn here.

Vice President for Institutional Equity

This vice president participates in formulating institutional initiatives to increase diversity and to ensure equal opportunity for the education and advancement of all students, faculty, and staff in the university and the Medical Center. This vice president is responsible for initiating and supporting programs to prevent harassment and discrimination, and for handling complaints and grievances arising under the harassment policy; coordinating services for persons with disabilities; and monitoring compliance with federal laws and university policies in the aforementioned areas.

Vice President for Student Affairs

This vice president has oversight for counseling and psychological services; the career development center; undergraduate student residential, judicial, and social and extracurricular affairs; student organizations, activities, and cultural affairs including the Bryan Center and University Union; community service, including literacy programs; and affinity group support for women, international students, ethnic minority students, and other special populations. This vice president is responsible for the orientation and welfare of all students; coordinates emergency response; and shares oversight for student health and health education with the Division of Family Medicine.

Director of Athletics

The director of athletics is responsible for the intercollegiate athletics program, the club sports program, and the Department of Health, Physical Education and Recreation. The director of athletics is responsible for the hiring and performance of coaches, for fund-raising for the athletics programs, for the maintenance and improvement of athletics facilities, and for other duties as assigned by the president.

University Counsel

The university counsel is the legal adviser to the university and is responsible for all matters of a legal nature concerning the university and the Medical Center, including litigation, preparation or approval of all contracts, deeds, conveyances, or other documents.

University Secretary

The university secretary maintains the official records of the university. The university secretary also has the powers and duties as assigned by the president.

Academic Organization

Each college and school of the university has its own faculty, which in each case includes the president, the provost, and the secretary.

Undergraduate Education

Trinity College of Arts and Sciences and the Pratt School of Engineering confer undergraduate degrees. Each is administered by a dean who is responsible for its academic affairs.

Faculty of Arts and Sciences

This body is composed of the dean of the faculty of Arts and Sciences and vice provost for undergraduate education; dean of Trinity College; dean of the humanities and social sciences; and dean of natural sciences.

Faculty of the Pratt School of Engineering

The School of Engineering faculty is composed of the dean all members of the university faculty who hold a primary or secondary appointment in that school.

Graduate Education

The Graduate School is administered by the dean who, with the advice of the Executive Committee of the graduate faculty, is responsible for coordinating the graduate offerings of the various departments of Arts and Sciences, the nonprofessional degree programs of the professional schools, the basic science departments in medical and allied health education, and certain professionally oriented graduate programs as well. The faculty of the Graduate School, which is represented by the Executive Committee, consists of those members of the general faculty who have been designated by their departments and approved by the dean. In departments, schools, and programs where graduate degrees are offered, the dean of the Graduate School appoints a director of graduate studies who works closely with the Graduate School and the graduate students in his or her area.

Professional Education

Each of the seven professional schools at Duke University has a separate faculty and academic administration and is administered by a dean who is the chief administrative officer of the school.

Fuqua School of Business

The dean of the Fuqua School of Business is advised on administrative and academic matters by an executive committee and members of the faculty.

Divinity School

The faculty is composed of the dean and of those holding regular faculty appointments and is composed of four divisions: Biblical, Historical, Theological, and Ministerial.

Pratt School of Engineering

The dean and the four department chairs are responsible for the administration of the Engineering School. The academic programs offered in the school are determined by its faculty.

Nicholas School of the Environment

The Faculty Council of the Nicholas School of the Environment, consisting of the dean and four other faculty members, develops recommendations in the areas of planning and long-range policy.

School of Law

The policies affecting the admission of students, curriculum, and academic standards in the school are determined by its faculty. The dean appoints faculty members to the standing and ad hoc Law School committees.

Medical and Allied Health Education

The faculty is composed of the chancellor for health affairs, the dean of the Medical School, and the vice dean of education, in addition to the faculty members in constituent instructional groups including physical therapy, physicians' assistants, and other allied health programs. All medical and allied health education programs are administered by the dean of the Medical School, through the vice dean of education with advice from the appropriate department committees. The vice dean of education is jointly responsible

to the dean of the Medical School and the provost for all academic activities in the Medical Center exclusive of the School of Nursing. He or she is charged with deciding on student admissions policies and procedures, curriculum content, and the educational activities and teaching facilities of the Medical Center. The dean is also concerned with maintaining consistency between university and Medical School academic policy.

School of Nursing

The School of Nursing is administered by the dean. The faculty is composed of those faculty members holding regular academic appointments and those faculty holding nonregular-rank faculty appointments in the School of Nursing.

Departments

The department is the basic academic administrative unit in Arts and Sciences, the Pratt School of Engineering, and the School of Medicine. In some cases programs or sections function like departments; in this chapter "department" refers to all three kinds of units.

Each department will maintain bylaws, approved by the department's faculty, endorsed by the dean of the school, and approved by the provost.

Each department is administered by a department chair, who is the official link between the department and the dean, presenting the department's needs, objectives, and evaluations of achievement to the dean. Chairs nominate directors of undergraduate studies to their dean and directors of graduate studies to the dean of the Graduate School. They lead the department in planning, recommend allocation of space to their dean, and are responsible for budget preparation and surveillance, annual faculty evaluations, evaluations of faculty for promotion and tenure, assignment of academic and nonacademic staff, assignment of teaching loads and student advising, and adherence to departmental bylaws.

Selection of Department Chairs

In general, chairs in Arts and Sciences and the Pratt School of Engineering are on term appointment of three years if appointed from within the department, and five years if appointed from without. Chairs do not automatically rotate but are reviewed early in the last academic year of the term. The review procedure begins with a letter from the appropriate dean to each member of the department concerned asking advice regarding the next chair's term. Each individual is invited to write to the dean directly. These letters are reviewed by the dean and are discussed with the dean of the Graduate School. These deans recommend appointment to the provost who, after reviewing the departmental letters, will confer with the president. After approval is obtained, the dean of the faculty of Arts and Sciences or the dean of the School of Engineering will send the letter of appointment.

When the dean, with the approval of the provost, decides that a chair should be appointed from outside the university, the dean will appoint a search committee to undertake a search and recommend one or more qualified persons for consideration. Search committees have representatives from the department faculty and at least one faculty member from another department or school in the university. They may also have members from outside the university.

After the search committee has made its recommendations, the dean will seek the approval of the provost who, in turn, will confer with the president. Final responsibility for appointment rests with the Board of Trustees. The appointment as chair is usually for five years.

The selection of a department chair in medical and allied health education is initiated when a search committee is appointed by the dean of the School of Medicine. The committee is composed of faculty members and, when appropriate, medical and/or graduate students and representatives of the house staff of Duke University Hospital. Recommendations are solicited from a wide variety of sources and announcements and advertisements are placed in various publications. At the end of the process, the search committee informs the dean of the Medical School of the candidate(s) it endorses. After final selection of the preferred candidate, the dean of the Medical School makes his or her recommendation to the provost and the president. Final responsibility for appointment rests with the Board of Trustees.

Continuing Education

The Office of Continuing Education and University Summer Programs sponsors programs throughout

the year for youth and adult audiences from local, state, and national constituencies. Undergraduate and graduate adult learners enter Duke through the academic study division of Continuing Education, receiving academic advising in this office. Nondegree course work and the auditing of Duke courses are arranged through this office. The counseling program works with adults facing mid-career decisions about employment and education. The retirement program links older adults with university resources and needs. The institute in English language and U.S. culture enhances the skills of international students and visitors. Youth programs in arts and sciences provide enrichment activities for precollegiate students. The short course and conference programs attract both liberal arts and professional audiences to campus for noncredit learning.

All continuing education programs are open to faculty members and their families.

The director of Continuing Education reports to the dean of Trinity College and ultimately to the dean of the faculty of Arts and Sciences. As a rule, professional schools separately administer their individual continuing education programs.

Summer Session

The summer session, a division of the Office of Continuing Education and Summer Session, is a part of the twelve-month academic offerings of the university and reflects the same academic standards as those of the fall and spring semesters. Most of the departments of Arts and Sciences and several of the professional schools offer courses during the summer. Each school and department is responsible for selecting its courses and faculty, subject to consultation with and approval of the director of the summer session. The director of the summer session reports to the dean of Trinity College and ultimately to the dean of the faculty of Arts and Sciences.

Libraries

The university librarian administers all libraries except those in the Divinity School, the School of Law, the Medical Center, and the Fuqua School of Business, which are under the direction of the respective deans of those schools.

The Library Council, established in 1929 by action of the faculty of the university, advises the university librarian and the provost on matters relating to general policy. In addition, it acts as a sounding board for proposed major changes and serves as a communication link between the library and the faculty. The council is composed of nine faculty members nominated by the Executive Committee of the Academic Council and appointed by the provost for three-year terms, and two librarians and two students who serve one-year terms. The university librarian is also a member of the Library Council.

University Archives

The Duke University Archives is the official archival repository of the university and is administered through the Office of the President. It collects, preserves, and administers university records having continuing administrative or historical value in accordance with policies approved by the president and the Board of Trustees. The University Archives collects official records from officers of the university, deans of schools and colleges, departments, and programs as well as records of student organizations, papers of selected faculty, published material, photographs, and selected memorabilia. For policies concerning access, collection, and transfer to the Archives, consult the staff of the University Archives. Subject to provisions for safeguarding confidentiality, university records are available to qualified researchers in 341 Perkins Library.

Materials pertaining to the Medical Center may be consulted through the archivist for Medical Center Records.

Administrative Services

The Executive Vice President oversees the Administrative Services Division, which is the group of offices and operations that provide the central administrative support for the university: accounting (budgeting, sponsored programs, endowment/investment), campus police, environmental health and safety,

facilities management, human resources, internal audit, procurement, the treasurer, and the university architect. It also includes most of the university's auxiliary operations: conference services, dining, housing, publications center and post offices, retail stores, transportation, and parking.

Office of the Vice President for Institutional Equity

The Office of the Vice President for Institutional Equity directs the university's equal opportunity program. Duke's policies prohibit unlawful discrimination in employment and educational opportunity. These policies state: "The university shall offer equal opportunity to its employees and applicants for employment without regard to race, color, religion, national origin, disability or veteran status, sexual orientation or preference, sex or age (except where it is a bona fide occupational qualification). This policy shall be followed in recruiting, hiring, appointment and promotion into all academic or nonacademic positions. The university will insure that other personnel actions such as compensation, benefits, transfers, layoffs, return from layoffs, demotions, terminations; university sponsored training programs; education; tuition assistance; social and recreation programs; and use of the university facilities will be administered without discrimination on the bases described above."

This office is responsible for developing, in collaboration with department administrators, the University Affirmative Action Plan; reviewing and monitoring academic and nonacademic search processes; serving as liaison with enforcement agencies and special interest groups; conducting and overseeing discrimination and harassment prevention and education efforts; handling discrimination and harassment complaints, coordinating services for persons with disabilities, serving as a resource on harassment, diversity, discrimination, and services for persons with disabilities, and monitoring compliance with federal laws and university policies involving the above issues. Individuals with concerns regarding any of these issues should contact the office at 919-684-8222.

Accommodating Persons with Disabilities

The Vice President for Institutional Equity is the designated compliance officer for the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act states: "No qualified [disabled] person shall, on the basis of [disability], be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance." (Appendix III, 41.51(a)) Duke University is prepared to make reasonable academic adjustments and accommodations to allow students with disabilities full participation in the same programs and activities available to students without disabilities. Trinity College and the Pratt School of Engineering, in the interest of providing reasonable accommodations under the Americans with Disabilities Act, will permit continuing students with appropriately documented long-term or chronic health conditions that prevent them from carrying a full course load to enroll on a part-time basis. For information on the Policy on Students Unable to Continue in Trinity College on a Full-Time Basis or the University's commitment to equal access to qualified individuals with disabilities, please contact the Director, Disability Programs at (919) 684-8231.

Office of Information Technology

The Office of Information Technology (OIT) has responsibility for academic and administrative computing and information technology for the university. Among the services provided by OIT are campus-wide data administration and communications, applications services, computing services, customer support, network communications, telecommunications, teleconferencing, and cable television. OIT also operates a Help Desk that provides direct support to members of the Duke community.

OIT's mission is to support and enhance teaching, research, patient care, and community service at Duke University through the effective management and use of information technology resources. Further, OIT strives to deliver quality services that meet the information needs of the university and to provide leadership in planning for the effective use of technology.

Office of Public Affairs and Government Relations

The Office of Public Affairs and Government Relations coordinates Duke's relations with the public,

the media and federal, state, and local governments. The staff works closely with the administration, faculty, and staff throughout the university to develop newsworthy material for release in print or electronic forms to newspapers, magazines, radio, and television. Useful and timely information on government and community matters is provided as an assistance to those who shape the university's policies. In addition, the combined staffs of the offices of the Senior Vice President for Public Affairs and Government Relations, Community Affairs, Federal Relations, Duke News Service, Office of Research Communications, and University Photography regularly initiate and implement informational and promotional projects for university constituencies.

Offices of Community Affairs and Federal Relations

The Offices of Community Affairs and Federal Relations keeps the Duke community informed about local, state, and federal government or local community activities that affect the university's teaching and research missions or are of special interest to members of the university community. These offices also maintain productive relationships with government officials and those who help shape opinions and make decisions at all levels of government and with the Durham community, and fosters communication of the university's interests, working closely with alumni, friends, and other Duke supporters. The Office of Community Affairs is responsible for Duke's participation in the Duke-Durham Neighborhood Partnership Initiative, a collaborative program with 12 Durham neighborhoods near the campus and the seven public schools which serve them.

Office of Research

Established in 1986 as the Office of Research and Development, this office has as its chief mission the enhancement and facilitation of the pursuit of research at Duke University. The office provides a centralized focus for the development of research activity, for the securing of research monies from federal, foundation, and corporate sources, and for the development and refinement of university policies which affect research and researchers. It draws on and coordinates the resources and expertise of the Office of Research Support, the Grants and Contracts Office, and the Office of Science and Technology (formerly the Patent Administration Office) and works closely with the Office of University Development, the various deans' offices, and the university counsel's office. The office also works in concert with such university committees as the Research Policy Committee, and the Intellectual Property Committee.

Office of University Development

The Office of University Development is responsible for relating the interests and needs of the university to the various constituencies which play an important part in the development of the university.

The Office of University Development is responsible for Duke's fund-raising programs in the areas of annual gifts, capital gifts, deferred gifts, and gifts for program support. It also includes units that support the fund-raising enterprise: Gift Records, responsible for recording, receipting, and maintaining records of all gifts to the university; Alumni and Development Systems, responsible for recording and maintaining all biographical and other records for alumni, parents, and friends; Donor Relations, responsible for acknowledging gifts and providing stewardship to all endowment donors; and Research. In addition to the central staff of the Office of University Development, development offices exist in the Medical Center and the various schools, as well as in several program areas (athletics, Duke Chapel, Sarah P. Duke Gardens, the library, public policy studies, and the Talent Identification Program). The senior vice president for alumni affairs and development also works with the deans and their development officers to provide central services and to coordinate fund-raising activities.

Office of Alumni Affairs

The Office of Alumni Affairs administers and directs a broad array of programs and publications for more than 95,000 living alumni of Duke University, including more than eighty Duke Clubs (off-campus organizations in major cities), on-campus undergraduate reunions, alumni lifelong learning programs, Duke travel programs, alumni admissions-related programs, and programs that serve alumni members by offering

direct benefits and services. The Office of Alumni Affairs publishes *Duke Magazine*, Duke's bimonthly magazine for alumni and friends, with a circulation of 58,000. The director of alumni affairs serves as ex officio secretary-treasurer of the Duke Alumni Association, as publisher of *Duke Magazine*, and as secretary of both the Duke Athletic Council and the Duke University Commencement Committee.

Fiscal and Academic Years

As established in the bylaws, the university's fiscal year begins on July 1 and ends on the following June 30. The academic year, also established in the bylaws, starts on September 1 and ends on the following August 31.

The undergraduate and graduate bulletins and the bulletins of the professional schools contain the academic calendars as approved by the provost.

Duke Management Company

The Duke Management Company (DUMAC) is a separate, non-for-profit support corporation of the university responsible for managing the university's investment assets. It is governed by its own Board of Directors and its managed assets include the endowment, certain retirement funds, and operating cash.

Accreditation

Duke University is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (1866 Southern Lane, Decatur, Georgia 30033-4097; Telephone number 404-679-4501) to award baccalaureates, masters, doctorates, and professional degrees.

Chapter 2: THE UNIVERSITY FACULTY AND ITS ORGANIZATION

Faculty Rank and Responsibilities

As defined in Article XXI of the university bylaws, the university faculty consists of the president, executive officers of the university, the vice presidents, the secretary of the university (who also serves as the secretary of the faculty), the registrar, the university librarian, all deans, all regular-rank faculty, and all other full-time members of the instructional staff and other persons designated by the president and approved by the Executive Committee of the Board of Trustees or by the Board of Trustees. For special purposes, such as participation in faculty benefit programs or membership in the graduate faculty, the composition of the faculty may be defined differently.

The bylaws of the university also provide that each college and school in the university may have a faculty of its own, which shall be composed of the president, the provost, the secretary, and all members of the university faculty in the particular college or school. Each such faculty shall function under the president and other officers of academic administration and subject to the regulations of the university faculty.

Rank and Title

The conventional designations of full-time members of the regular-rank tenure-track faculty are assistant professor, associate professor, and professor. Only full-time members of the faculty who hold tenure-track appointments in an unmodified rank of assistant professor, associate professor, or professor, without a qualifying term such as research, of the practice of..., adjunct, clinical, consulting, or visiting, are eligible to earn time toward or to hold tenure. Service as a faculty member in a modified rank (i.e., service in a rank other than the three tenure-track ranks of assistant professor, associate professor, or professor, without a qualifying term), does not entitle the member to tenure. Time spent in a modified rank does not count toward the continuous service of a tenure-track faculty member who served previously in such a position.

The group of faculty who hold regular-rank tenure track titles and regular-rank nontenure track titles (Appendix C, p. 9) coincides with that group of faculty who meet the criteria for Academic Council voting privileges. Regular rank tenure track faculty titles are described above. At present, the following titles constitute the regular-rank nontenure track faculty: professor of the practice of, associate professor of the practice of....., assistant professor of the practice of, research professor, associate research professor, assistant research professor, clinical professor, associate clinical professor, assistant clinical professor, lecturer, and (in the Medical Center) associate. Additional information about regular-rank nontenure track faculty may be found in Appendix C of this handbook, and information about eligibility to vote in Academic Council elections may be found in the bylaws of the university faculty (Appendix B of this handbook).

Listed below is the set of modified faculty titles for nontenure-track faculty, as approved by the Academic Council on December 15, 1988, and reaffirmed by the Board of Trustees on September 27, 1996: professor of the practice of..., associate professor of the practice of..., assistant professor of the practice of..., lecturer (associate in the Medical Center), research professor, associate research professor, assistant research professor, clinical professor, associate clinical professor, assistant clinical professor, adjunct professor, associate adjunct professor, assistant adjunct professor, senior lecturing fellow, lecturing fellow, consulting professor, associate consulting professor, assistant consulting professor, consulting associate, clinical associate, senior research scientist, research scientist, senior research scholar, research scholar, research associate, artist in residence, instructor, professor (honorary), scholar in residence, and visiting (which may modify any other Trustee-approved faculty title). These are the modified ranks referred to in Article XXII of the university bylaws, found in Appendix A.

Individuals involved principally in research or principally in instruction hold titles selected from the group of nonregular-rank titles. One of these, the adjunct title, may be used in schools to indicate a person who contributes to the instructional program of a school or department on a part-time basis. Persons

holding adjunct titles may or may not be paid. Visiting members of the instructional staff are designated either as instructors or lecturers, or with the term visiting prefixed to the conventional faculty title.

Lecturers, associates (in the Medical Center), and part-time faculty members, who usually carry titles containing the phrase “part-time”, normally do not earn time toward tenure.

When an administrative or professional staff member has a regular-rank faculty title and appointment, the regular-rank faculty title predominates, and the employment provisions will be governed by the Faculty Handbook.

When an administrative or professional staff member also receives a non-regular rank faculty appointment and title, the administrative or professional appointment predominates, and the staff employment policies will govern the employment of the individual.

Faculty Appointments

Appointment to the faculty is the most important decision a university can make, for it is the faculty who determine the quality of an institution. Accordingly, faculty appointments are made with care and consideration for the mutual obligations such appointments entail. Faculty appointments at Duke are no exception. Appointment to the regular ranks is made only with Board of Trustees approval and by units offering credit toward a degree. Units authorized to make such appointments include schools (Fuqua School of Business, School of Law, Divinity School, School of Nursing), departments (Trinity College of Arts and Sciences, Pratt School of Engineering, School of Medicine), divisions (Nicholas School of the Environment), and other units of an interdisciplinary nature so authorized by the Board of Trustees (sections, institutes and, in rare cases, centers or programs). In the sections below, all of the entities authorized to make regular rank faculty appointments are referred to as "hiring units."

Joint Appointments and Secondary Appointments

While faculty members may hold appointments in or receive pay from several hiring units, it is the unit of primary appointment that initiates recommendations for promotion, tenure, or appointment renewal, and salary.

The phrase “joint appointment” refers to appointments in which both academic units agree to share in financial remuneration, and the phrase secondary appointment to appointments in which the unit of secondary appointment does not share in financial remuneration. This last distinction does not affect academic titles.

Joint or secondary appointments of faculty members are not unusual. Such appointments are especially appropriate for faculty members qualified in two areas of teaching and research, as for example the member of medical and allied health education faculty who has both a Ph.D. and M.D. degree. Joint or secondary appointment procedures normally will be initiated by an academic unit in which the appointment is to be made. When a joint or secondary appointment is recommended, letters of concurrence setting forth the terms of the appointment are required from the heads of the academic units (e.g., the dean[s] and department chair[s]) involved. Recommendations made by the academic units situated within schools (e.g., departments or divisions) must have the approval of the appropriate dean(s) or the dean of the School of Medicine/vice chancellor for medical center academic affairs and subsequently of the provost. As with regular appointments, final approval is required by the Board of Trustees.

Upon the approval of the provost, the dean shall write the letter of appointment.

All joint or secondary appointments require that one academic unit be designated as responsible for the primary appointment. This responsibility includes any action in regard to academic advancement, termination, and determination of salary level. However, it will be up to the academic unit in which the secondary appointment is to be held to recommend the rank of the joint or secondary appointment, which shall be no higher than the primary rank.

In the case of joint or secondary appointments in medical and allied health education, the designation of a primary appointment is also the determinant of clinical practice privileges.

The academic unit responsible for the joint or secondary appointment may by agreement share the individual's work commitments--including research and teaching responsibilities (and financial remuneration in the case of joint appointments)--either equally or in a variety of patterns of distribution. The primary academic unit whose faculty is composed of members of the scholarly scientific discipline

with which the individual as a professional is primarily identified will usually be the unit of primary appointment.

Ordinarily a faculty member may not hold more than three academic titles. Faculty members who hold an administrative position or a joint or secondary appointment in more than one academic unit carry both titles (e.g., dean of the School of Law and professor of law; associate professor of psychology and associate professor of biology).

Responsibilities

The responsibilities of the members of the faculty are defined in Article XXI of the bylaws of the university as follows:

The university faculty shall be responsible for the conduct of instruction and research in the various colleges and schools in the university. It may also consider and make recommendations to the president regarding any and all phases of education at the university. The university faculty shall approve and recommend to the Board of Trustees the persons it deems fit to receive degrees or other marks of distinction, and the establishment of any new degree or diploma.

Meetings

As defined in the bylaws of the university faculty (Appendix B), the university faculty members meet as a body annually, at a date set by the Executive Committee of the Academic Council, and at other times at the call of the president, or the provost, or upon the written request of either the Executive Committee of the Academic Council or fifty members of the faculty.

Faculty Governance

Academic Council

In addition to defining the membership and functions of the faculty, the university bylaws state that "the university faculty may organize and exercise its functions through appropriate councils, committees, or other bodies." Therefore, in addition to transacting business as noted above, faculty members also participate in the affairs of the university through the Academic Council. The Academic Council consists of the president, the provost, and the chair of the council, all ex officio; and approximately eighty-eight members elected for two-year terms by the faculties of their respective divisions and schools. The size of the body varies slightly with the size of the faculty as outlined in the bylaws of the university faculty (Appendix B).

The Academic Council elects its own chair. Responsibility for planning the work of the council is vested in an Executive Committee consisting of the chair and six additional members elected from the membership of the council. The Executive Committee chooses a vice chair and nominates a faculty secretary, who is an ex-officio member of the Academic Council Executive Committee.

In addition, the Executive Committee serves as a committee on committees for both the university faculty and the Academic Council. In that capacity, it nominates persons to serve as official faculty representatives to four broad types of committees: standing committees of the university, standing committees of the trustees with faculty participation, committees of the Academic Council, and ad hoc committees appointed to undertake and complete a specific task, after which they are discharged. The latter may be council committees or committees reporting to specific members of the university administration. A current list of committees is included as Appendix N of this handbook.

Except in emergencies, all major decisions and plans of the administration that significantly affect academic affairs are submitted to the Academic Council for an expression of its views at some time before implementation or submission to the Board of Trustees. The council's views are transmitted, along with the administration's proposals, to the trustees when the board considers the plans and decisions.

The bylaws of the university faculty and of the Academic Council appear as Appendix B.

Arts and Sciences

The faculty of Arts and Sciences shall elect representatives to the Arts and Sciences Council from the departments and other authorized academic units in the humanities, the natural sciences, and the social sciences. The council shall express the will of the faculty in matters of planning, programmatic

organization, personnel policy, research policy, and curriculum. Policies controlling the organization and activities of the faculty of Arts and Sciences are contained in Appendix D; policies controlling the council are contained in Appendix D.

Pratt School of Engineering

The Engineering Faculty Council (EFC) of the Pratt School of Engineering is composed of two representatives of each of the departments of the Pratt School of Engineering, with the dean of the Pratt School of Engineering as an ex officio member. The EFC normally meets monthly during the academic year. It elects its own chair and secretary, the latter serving also as secretary of the faculty of the school.

The Engineering Faculty Council functions as a steering committee for the faculty; its responsibilities include the establishment of ad hoc committees to consider and report on matters of concern to the faculty. In addition, the EFC has the authority to approve new courses and course changes, except those at the doctoral (300) level, for which no action beyond departmental faculty recommendation and Graduate School approval is needed.

Graduate School

The Executive Committee of the graduate faculty, composed of elected members of the graduate faculty, advises the dean of the Graduate School on various matters.

The Executive Committee consists of the dean and the associate dean, serving ex officio, and four representatives each from the humanities, biological sciences, physical sciences, and social sciences. The Executive Committee elects its own chair and vice chair on an annual basis. Division members are elected by their respective divisions for staggered two-year terms. The committee normally meets one or two times per month during the academic year. The faculty of the Graduate School, which meets on call, depends upon the Executive Committee for the formation of policy with respect to graduate education, for the review of the academic quality of all graduate programs, and for the approval of any significant changes in graduate programs in the university.

Divinity School

The governance of the school is the shared responsibility of the dean and faculty. In the exercise of this responsibility the faculty convenes, as appropriate, as the tenured full professors, as the tenured faculty, in executive session, and in plenary session, in accord with the Divinity School's bylaws (Appendix F of this handbook).

The committees of the school are differentiated by composition and function. A few are composed only of regular faculty. Some include faculty and administrative staff. Others include students or participant members, designated according to the committee bylaws. The faculty is organized into academic divisions, and each division elects its own chair.

Nicholas School of the Environment

The Faculty Advisory Committee of the Nicholas School of the Environment meets with the dean in an advisory capacity on general policies of administration and governance. Further, the committee is charged with advising the dean on the equity of the criteria and the procedures to be followed in determining annual faculty evaluations and compensation. The Education Committee is charged with developing and monitoring all academic programs in the School; it also serves as a liaison for faculty and students. All matters related to courses and curriculum are considered by the Education Committee. The Admissions and Awards Committee considers all candidates for admission and recommends to the dean the distribution of awards.

Fuqua School of Business

The governance of the Fuqua School of Business is the shared responsibility of the dean and the faculty. The dean's Advisory Council is composed of five elected faculty representatives, the secretary of the faculty, the associate dean, and the dean. The council advises the dean on policies of administration and governance. Faculty representatives also serve in an advisory capacity to the dean as members of the other committees described in the Fuqua School's faculty bylaws (Appendix H of this handbook).

School of Law

The governing body of the School of Law is the faculty. Faculty committees are appointed by the dean

and may make recommendations to the faculty. In some cases, such as admissions, the faculty delegates its responsibilities to a committee. Elected student representatives serve as voting members of some committees but do not attend faculty meetings.

Duke University Medical Center: Medical, Nursing and Allied Health Education

The chancellor for health affairs is the executive officer and chief academic officer responsible for the operation of Duke University Medical Center. Reporting to the chancellor for health affairs are the deans of the School of Medicine and the School of Nursing. The administrative procedures of medical, allied health and nursing education are influenced by the accreditation requirements of the various entities as well as the accreditation requirements of Duke University Hospital.

The Medical Center Policy Advisory Committee (MedPAC) plays an important role in the governance of the Medical Center. This committee is composed of chancellor for health affairs, the deans of the Schools of Medicine and Nursing, the chairs of the medical School departments, key center directors, and a medical student (usually the president of the Davison Society) who is a participant observer. Representatives of the Basic Science Faculty Steering Committee and the Clinical Sciences Faculty Council on Academic Affairs also participate as observers. MedPAC meets at least four times a year prior to meetings of the University Board of Trustees. It also meets for special purposes..

School of Medicine: Basic Sciences Division, the Medical School

The Basic Science Faculty Steering Committee is the representative body of the basic science faculty participating in major decisions and plans of the Medical Center and university. The Basic Science Faculty Steering Committee serves as a committee on committees for the basic science faculty, nominating faculty representatives to serve on committees of special interest to the basic science faculty, such as the Appointment, Promotions, and Tenure Committee, or search committees for department chairs or section heads. The Basic Science Faculty Steering Committee does not usurp the function of the Academic Council Executive Committee when broad university concerns are to be met, but may transmit views from the basic science faculty to the Academic Council.

The Basic Science Faculty Steering Committee is elected at large and must contain one faculty member from each of the basic science departments or sections and an additional three at-large faculty members, but no more than two from any single unit. Members are elected for two-year terms. This committee meets regularly and when necessary for special purposes.

School of Medicine: Clinical Sciences Division

The Clinical Sciences Faculty Council on Academic Affairs provides a mechanism for faculty input into debates and decisions involving the interests of the clinical sciences faculty and for transmission and dissemination of ideas and issues between the Medical Center administration and the clinical sciences faculty.

The council consists of one representative (and one alternate) elected from each clinical department and four at-large members selected by and from the clinical sciences representatives to the university-wide Academic Council. All members of the council serve two-year terms. Any faculty member eligible to vote in the university's Academic Council elections and with a primary appointment in a clinical sciences department--other than the chair of that department--is eligible to be nominated and elected as its representative to the council.

School of Nursing

The faculty members of the School of Nursing meet regularly to consider issues relating to the academic affairs of the school. Recommendations on policies concerning admissions standards, the curriculum, academic progression, graduation, and other matters affecting the academic environment are presented by committees on which faculty members and students serve. The dean serves as an ex officio member of all committees. He or she presides at the meetings of the faculty and votes in the event of a tie.

Bylaws of the Professional Schools

Copies of the Rules of the School of Law are available in the dean's office. The bylaws of the Pratt School of Engineering are contained in Appendix E, those of the Divinity School in Appendix F, those of the Nicholas School of the Environment in Appendix G, those of the Fuqua School of Business in Appendix H, and those of the School of Nursing in Appendix K. Bylaws relating to the Basic Sciences faculty and Clinical Sciences faculty in the School of Medicine can be found in Appendix J and Appendix

L, respectively. There are no faculty bylaws in medical and allied health education.

Chapter 3: FACULTY APPOINTMENT, PROMOTION, AND TENURE

Introduction

The following section on appointment, promotion, and tenure is applicable to the faculty of Arts and Sciences, the Pratt School of Engineering, the Nicholas School of the Environment, the Divinity School, the Fuqua School of Business, and the basic science departments in the School of Medicine. Details of procedures of each of these units may be found in relevant appendices. Procedures for the School of Law may be found in Appendix I, and for the School of Nursing in Appendix K. Bylaws related to the clinical sciences in the School of Medicine are in Appendix L.

The quality of its faculty is the most vital determinant of a great university. Further, the highest standards of appointment, promotion, and awarding of tenure are best achieved by a process of careful examination and review. Such review is most effectively accomplished by a collaborative process whereby the faculty itself, through highly respected representatives, provides its best judgment and advice to the responsible administrative officers.

Judgments of academic excellence are complex. They cannot be reduced to a quantitative formula nor can the considerations that must be applied in each individual case be completely described in general terms. At the same time, the criteria to be applied in all cases must represent excellence in the quality of the candidate's performance, especially as a teacher and as a scholar. Scholarly productivity must reflect a serious and sustained commitment to the life of scholarship.

Appointment, Promotion, and Tenure

All members of the university's regular-rank faculty are appointed or promoted by the Board of Trustees or the Executive Committee of the Board of Trustees upon the recommendation of the provost, with the approval of the president.

Appointment and Promotion without Tenure

Faculty appointments may be made without tenure either in a tenure-track or a nontenure-track. The terms of that appointment shall be made clear to the faculty member at the time of appointment.

Tenure-track positions are normally filled by faculty with the Ph.D. at the three regular-rank tenure-track titles of assistant professor, associate professor, or professor. In Arts and Sciences, regular-rank faculty without the Ph.D. are commonly appointed at the nontenure-track rank of lecturer. When such an appointment is made, the faculty member will not begin to accrue time toward tenure until the degree is awarded and he or she has been given a tenure-track appointment. Subject to variations in some schools, initial appointment to a regular-rank tenure-track position without tenure will be for a term of four years.

Faculty who do not hold tenure-track positions will be given modified titles. The complete set of modified titles for nontenure-track faculty, approved by the Academic Council and affirmed by the Board of Trustees, appears in Chapter 2 of this handbook.

Term (nontenured) tenure-track appointments at the ranks of assistant professor and associate professor, and promotions to assistant professor or associate professor without tenure, shall be made by the provost, based on appropriate recommendations by the deans or the heads of trustee-authorized faculty hiring units in accordance with internal departmental or school procedures. Additional review by an advisory committee is not required.

Annual Reviews and Reappointment to a Second Term

Annual reviews of regular-rank nontenured tenure-track faculty will be conducted by the director of a program, chair, or dean for the purpose of providing direction and advice to the faculty member regarding progress at Duke. In general, the advice of senior faculty in the unit will be solicited for this review. Renewal of the initial tenure-track appointment for a second term which may extend through the end of the probationary period will be made only on the basis of a careful departmental or school review and of approval by the dean and provost. The purpose of this comprehensive review is to develop a judgment as to the faculty member's probable suitability for tenure at Duke. Once approval has been granted for the second

term appointment in a tenure-track rank, the faculty member becomes eligible to apply for a junior faculty leave (see policy on leaves).

Appointment and Promotion with Tenure

Appointments or promotions of full-time faculty members to tenured rank are made upon recommendations originating in the academic units authorized to make such appointments (e.g., departments and schools) described in Chapter 2 of this handbook. Recommendations for appointments from the outside must take into account program, departmental, school, and university needs.

Tenure at Duke University, whether awarded to a faculty member currently on the Duke faculty or offered to a scholar who is being recruited for the Duke faculty, should be reserved for those who have clearly demonstrated through their performance as scholars and teachers that their work has been widely perceived among their peers as outstanding. Persons holding the rank of associate professor with tenure are expected to stand in competition with the foremost persons of similar rank in similar fields and to show clear evidence of continuing excellence in scholarly activity in their years at the university. Good teaching and university service should be expected but cannot in and of themselves be sufficient grounds for tenure. The expectation of continuous intellectual development and leadership as demonstrated by published scholarship that is recognized by leading scholars at Duke and elsewhere must be an indispensable qualification for tenure at Duke University.

Full professors play a critical role in determining the intellectual quality of the university. Thus the rank of professor should be reserved for those who have clearly met the criteria for tenure and have demonstrated their continuous intellectual development and leadership. It should be clear that appointment to associate professor does not necessarily imply eventual promotion to full professor. Length of service alone should not produce an expectation for promotion.

Responsibilities of the Department, Program, or School

All Trustee-authorized faculty hiring units (e.g., departments, programs, and schools) must have a set of formal procedures to govern their internal evaluation processes. The deans, directors, and department chairs are responsible for submitting these procedures to the provost. The provost will review the procedures and assure that they are generally acceptable and consistent with the policies described herein. The deans, directors, and department chairs will be responsible for distributing these procedures, once endorsed, to all members of the department, program, or school and to new members of the faculty at the time of appointment.

Appointments

For appointments at the rank of associate professor with tenure or at the rank of full professor made from outside Duke University, the evaluation process can be initiated at any convenient time. Although the thoroughness and completeness of the process must not be compromised, sometimes the evaluation may pose problems in the recruitment process and must be conducted with delicacy and dispatch. The procedures to be followed are essentially the same as those for promotion described below and will be initiated whenever the outside scholar indicates a willingness to become a candidate and the authorized unit places his or her name in nomination along with a dossier (see section on dossier).

Promotion and Tenure

Reviews for granting tenure or for promotion to associate professor with tenure or to professor shall be conducted first in the basic authorized academic unit, be it the department (in Arts and Sciences or the Pratt School of Engineering), the section, program or institute, or the school. The head of the unit shall inform the candidate of the review and indicate the approximate time in which the review process will be completed. When the unit has completed its review, if it has reached a favorable decision the chair shall forward the recommendation along with the complete dossier (see section on dossier) of the candidate to the dean, and the dean, in turn, to the provost. A recommendation for promotion and/or tenure is made by secret unsigned ballot of tenured faculty members, consistent with the unit's procedure. These recommendations should be forwarded along with a list of those present and the tally of the vote.

When the review by the basic authorized academic unit (generally a department) reaches a negative conclusion, the chair or director shall inform the dean and the candidate of the decision and the reasons for it. The provost may review the dossiers of all faculty whose candidacy for tenure has been given a negative judgment by their departments or schools. All faculty members have the right to appeal departmental decisions to the provost.

When a basic authorized academic unit has fewer than five tenured faculty available to vote, the provost, after consulting with the head of the unit (generally the chair or dean), shall add tenured faculty members from other authorized academic units who are considered knowledgeable in the candidate's area. In this way, the voting membership of those passing on the candidate's credentials will number at least five.

Schedule

Formal review procedures for promotion and/or tenure by the basic authorized academic unit (e.g., department or school) shall be initiated in the spring or summer of the academic year prior to that in which action by the Board of Trustees is required. Review schedules may vary slightly among the schools. It should, however, be noted that the work of the provost's Advisory Committee on Appointment, Promotion, and Tenure is conducted principally during the fall and spring semesters of the regular academic year. Faculty members will be notified of the provost's decision by April 1 when the department's or school's recommendation and complete dossier are submitted to the committee no later than November 1 for promotion to full professor and December 1 for promotion with tenure.

Dossier

It is the responsibility of the recommending unit to assemble all the materials necessary for the review. The head of the unit initiating the recommendation (e.g., director of a program, chair [in Arts and Sciences or the Pratt School of Engineering], or dean) has the responsibility of insuring that the dossier sent on for review is as complete as possible.

The complete list of materials to be included in the dossier is provided to the deans by the Office of the Provost.

Responsibilities of the Deans of the Faculty of Arts and Sciences, Divinity School, Pratt School of Engineering, Nicholas School of the Environment, Fuqua School of Business, and Medical School

In Arts and Sciences, the Pratt School of Engineering, the Nicholas School of the Environment, and the Medical School, the dean will examine the dossier submitted by a department (or Trustee-authorized division in the Nicholas School of the Environment) for completeness and, if the dean considers it incomplete or inadequate, return it to the department or division for more preparation. In schools without departments (e.g., Divinity School and Fuqua School of Business), the dean will examine the dossier for completeness. If the dean considers the dossier adequately presented and documented, it will be forwarded to the provost. The dean may, at this time, present in writing additional information about the school, its goals, needs, and the relation of the dossier to them, as well as his or her assessment of the candidate's scholarly credentials and suitability for tenure or promotion.

Responsibilities of Provost's Advisory Committee on Appointment, Promotion, and Tenure

All appointments and promotions that confer tenure and promotions to the rank of professor shall be considered by the Advisory Committee on Appointment, Promotion, and Tenure (AP&T), a group that advises the provost.

This committee is appointed by the provost and, in addition to the chair, consists of twelve full professors nominated by the Executive Committee of the Academic Council (ECAC) on the basis of scholarly distinction, aptitude for service on this demanding committee, and availability for the term involved. In making nominations, ECAC shall seek balance among divisions, schools, and academic disciplines within the faculty. Normally at least two members will come from the Arts and Sciences Division of Humanities, two from the Division of Social Sciences, two from the Division of Natural Sciences, one from the Pratt School of Engineering, one from the Fuqua School of Business, one from the basic medical sciences, and three from these or other units, subject to review. The chair shall be a faculty member nominated by ECAC and appointed by the provost. The chair will be appointed for a one year term, renewable. The president, the provost, and the dean of the Graduate School will serve as nonvoting ex-officio members of the committee.

The Advisory Committee on Appointment, Promotion, and Tenure is charged with evaluating the dossiers forwarded to it, consistent with standards enunciated in this document. If the AP&T Committee has questions about materials in the dossier, or if it lacks certain documentation, the committee will ask the chair, director of the program, or dean of the originating unit for clarification or additional materials. The

AP&T Committee may supplement the outside letters received about a candidate with additional letters or reports from evaluators who are competent to judge the candidate's scholarship. Should the AP&T Committee decide, in its sole discretion, that it needs additional advice, it reserves the option to establish an ad hoc panel to review the dossier. This panel may gather additional information, if necessary, and will be asked to provide the AP&T Committee with a written evaluation. Panel members will be selected on the basis of their knowledge of the candidate's field and an overall balance of perspectives. One or more panel members may be Duke faculty, and it is typical to include at least one member from another institution. An AP&T Committee member normally will serve as liaison between the ad hoc panel and the AP&T Committee. In all tenure decisions, the chair (or director) of the originating academic unit and dean will meet with the AP&T Committee to discuss significant issues raised in the course of the evaluation.

Individual faculty members may write to the AP&T Committee (or to the provost, who will refer such letters to the AP&T Committee) with regard to any case being considered by that committee. Such communications will be added to the dossier and kept confidential.

The Advisory Committee on Appointment, Promotion, and Tenure must then formulate its own recommendations for presentation to the provost. In general, a quorum requires nine voting members unless a sufficient number of votes, affirmative or negative, has been cast to represent an absolute majority (seven) of the committee. A recommendation should be considered definitive only if it has been supported, affirmatively or negatively, by vote of an absolute majority (seven) of the AP&T Committee. In the event the AP&T Committee's recommendation is negative, the provost will review the dossier (prior to notification of the candidate or department) to determine whether all factors relating to the merit and value of the candidate, including ethnic, racial, and gender diversity, have been fully and adequately considered.

The provost will inform the AP&T Committee of his or her decision. Should the provost choose not to accept the recommendation made by the AP&T Committee, the provost shall so inform the committee in writing and indicate the basis for the decision.

The provost will communicate to the appropriate dean his or her decision and the major factors underlying it. The dean of the school is responsible for transmitting this information to the head of the originating academic unit (e.g., department chair), if there is one, and either the dean or chair will communicate this to the candidate. If the decision is negative, the originating academic unit or school will have two weeks within which it can communicate to the provost any grounds on which it feels the decision taken is inappropriate. On the basis of this appeal, the provost may then either refer the case back to the AP&T Committee, including the departmental appeal, and ask for reconsideration or make his or her decision without referral. On any one case the originating academic unit or school is limited to one appeal of the decision by the provost.

When the provost's recommendation is favorable, the provost shall consult with the president. With the president's approval, the provost shall submit the recommendation to the Board of Trustees for final action.

Records of each case shall be properly safeguarded and when the case is completed, retained or deposited under appropriate controls in the University Archives for a period to be determined by the university counsel.

Chapter 4: PROFESSIONAL AFFAIRS OF THE FACULTY

Academic Freedom and Academic Tenure

Duke University has a long tradition of guarding responsible academic freedom for all its instructional staff, and the university itself cherishes and guards against incursions upon its own essential academic freedoms.

Academic tenure may be achieved for a specified period of time in the case of term appointments, or indefinitely in the case of continuous academic tenure appointments. Such appointments may be terminated for misconduct or neglect of duty, or because of a change in the academic program made with the advice of the appropriate body or bodies of the faculty, as a consequence of financial exigency or for any other reason which discontinues or reduces a segment of the university's research or educational program.

A faculty member may request--on any question involving termination for misconduct or neglect of duty, tenure status, alleged violations of academic freedom, or alleged violations of due process in decisions with respect to renewal of term appointments, granting of tenure, or promotion in rank--an investigation by the faculty ombudsman and, should the ombudsman's attempt at conciliation fail, by the Faculty Hearing Committee. The procedures are described in Appendix M of this handbook.

A complete statement of policies and procedures with respect to academic freedom and tenure is attached to this handbook as Appendix C.

Advanced Degrees

Faculty members at the professorial ranks are permitted to earn advanced degrees in disciplines other than their own, with the approval of both of the departments or schools involved and that of the provost.

Faculty members who wish to pursue another degree should submit a letter of their intention to their chair and dean with a copy to the provost or dean, School of Medicine/vice chancellor for medical center academic affairs.

Distinguished Professorships

The university bears special witness to its intellectual commitment through its program of distinguished professorships. Appointment to a named chair is the highest honor the university can bestow upon a member of its faculty. There are five types of distinguished professorships at Duke University: the James B. Duke Professorships, the Bass Chairs, the individually named chairs, the University Professorships, and the University Distinguished Service Professorships.

The James B. Duke Professorships were created by a special grant of The Duke Endowment to honor well-established members of the Duke academic community, irrespective of field, who have also achieved singular distinction as creative scholars. Anne T. and Robert M. Bass Chairs, created in 1998, are intended to strengthen undergraduate education by recognizing some of Duke's most outstanding scholar-teachers. The individually named chairs also honor specific individuals who have achieved distinction as creative scholars; many are for specific fields designated by their donors. University Professorships are awarded to scholars distinguished by their ability to transcend disciplines; their appointments are in more than one school or department. The University Distinguished Service Professorships were created to recognize exceptional service to the university as a whole, beyond achievements in the nominee's own discipline, typically in an administrative role in the University. Appointments to all distinguished professorships are made on recommendation of the provost. Nominees are considered by the Advisory Committee on Distinguished Professorships, which makes recommendations to the provost. This committee, nominated by the Executive Committee of the Academic Council and appointed by the provost, is composed of twelve distinguished professors. In cases where a faculty member is being considered simultaneously for an appointment at Duke and a distinguished professorship, the provost's Advisory Committee on Appointment, Promotion, and Tenure (or its equivalent in law, clinical sciences, and nursing) is asked to consider the appointment to a full professorship before the Distinguished Professors Committee considers the case for a named chair.

Faculty Compensation

Several important policies govern faculty compensation. The policies discussed in this section do not govern compensation to faculty members for consulting outside the university. The university's policy on consulting and other outside activities is treated separately in Chapter 5.

Base Salary Determination for Term of Academic Appointment

Responsibility for faculty salary recommendations rests with the deans reporting to the provost and with the dean, School of Medicine/vice chancellor for Medical Center academic affairs reporting to the chancellor for health affairs. Initial recommendations may be made by department chairs (or heads of analogous authorized faculty hiring units within the schools; see Chapter 2) in accordance with the organizational structure and budgetary practices of each school. The recommendations of the deans and the vice chancellor for Medical Center academic affairs are approved by the provost or chancellor for health affairs, respectively. Approved salary recommendations become part of the budget proposal approved annually by the Board of Trustees. If the faculty member holds appointments in two or more units that contribute to his or her salary, the primary department shall be responsible for submitting the recommendation and coordinating joint approval with the additional department(s).

Joint Funding of Academic Appointments

A program, school, department, or other academic unit requiring the services of a member of the faculty from another academic unit on a regular basis should negotiate for those services with the individual and the department head or dean of the school of the faculty member's primary appointment or with the dean, School of Medicine/vice chancellor for Medical Center academic affairs. Allocation of salary costs for the individual involved, and the resulting adjustment of departmental or school budgets, should be negotiated by the appropriate dean(s), department head(s), and/or the dean, School of Medicine/vice chancellor for Medical Center academic affairs, and approved by the provost or chancellor for health affairs through regular budgetary processes as appropriate. (See also the section entitled Joint Appointments and Secondary Appointments in Chapter 2.) Occasional, as distinguished from regular, assistance across departments and schools should be provided without compensation as a service within the university community.

Schedule of Payment

Because the academic year runs from September through August, most faculty appointments outside the Medical Center begin in September. Thus, it has been policy in most of the units of the university to pay new faculty on nine-month appointments their initial one-twelfth (1/12th) of salary in September of their first year and to continue payment through August of their terminal year (except for retirements or resignations that occur at other times in the year). For various reasons, this policy is at times unsatisfactory. In cases where duties are to be assumed prior to September, arrangements may be made for the appointment to begin in July or August. The formal appointment letter provided for the provost's files must accurately reflect the appointment date. If the appointment commences in a month other than September, then the final payment in the faculty member's terminal year is adjusted accordingly. Regardless of the appointment term, all full-time, regular-rank faculty receive their compensation in twelve (12) monthly installments.

Special Compensation in Addition to Base Salary

Outside the Medical Center, any pay for work performed in addition to the faculty member's normal duties as part of his or her regular academic and/or administrative appointment is considered special compensation by the university. The university recognizes two types of special compensation. Extraordinary pay is compensation for special assignments above and beyond the faculty member's regular work load (100 percent effort) for which he or she is already compensated through base salary. Supplementary pay is for assignments taken on (usually during the summer) that fall outside the faculty member's term of appointment, be it a nine-month, ten-month, or eleven-month appointment. In the extremely unusual situation where extraordinary pay is requested for an individual already receiving supplementary pay, both policies pertain.

Extraordinary Pay

Normally, faculty members should not receive extraordinary pay, that is, remuneration for additional work performed during their regular appointment term, since they are already being paid for full-time

service (100 percent effort). In unusual circumstances, however, particularly when a department other than the person's primary department is involved, a dean or director may request approval from the provost or the chancellor for health affairs to provide extraordinary pay. If the extraordinary pay is to be charged to a federal grant or contract, approval of the Office of Sponsored Programs is also required before any work may be performed. The provost and chancellor for health affairs from time to time issue guidelines for deans and program directors to follow in requesting permission to make extraordinary salary payments. Members of the faculty should work through their deans or the vice chancellor for Medical Center academic affairs in determining their eligibility for such payments.

Supplementary Pay

Faculty members may receive supplementary pay for effort outside the term of their appointment according to the following guidelines:

Nine-Month Appointments

The term of appointment for nonmedical faculty on nine-month appointments consists of an eight-month core which corresponds to the academic calendar established by the president each year (usually September through April) and a one-month period outside of the academic calendar. Responsibilities for the one-month outside of the academic calendar may be performed in any of the four remaining months provided that the timing of performance is such that commitments made on externally funded projects are met. The term of appointment for medical faculty on nine-month appointments is negotiated individually with the department chair or dean, School of Medicine/vice chancellor for Medical Center academic affairs. Faculty members on nine-month appointments may receive summer supplements in any of the three remaining months through the Duke University payroll system up to a maximum of three-ninths (3/9ths) of the base salary rate for the immediately preceding appointment term. This 3/9ths includes pay for summer session teaching, independent study, special programs, and administrative assignments requiring summer effort, as well as research supported by granting agencies. Salary supplements for nonmedical faculty may be earned in May, June, July, or August depending on when the ninth month of the appointment term is taken. Grant recipients are expected to comply with the conditions of the granting agencies. No faculty member may receive more than twelve (12) months of base compensation and supplementary pay in any fiscal year unless permission is granted by the provost or chancellor for health affairs for the individual to receive extraordinary pay, as outlined above.

Ten-month Appointments

Faculty members on ten-month appointments are eligible to receive up to two-tenths (2/10ths) of the base salary rate for the immediately preceding appointment term. The same conditions apply as stated above for faculty members on nine-month appointments.

Eleven-month Appointments outside the Medical Center

Faculty members outside the Medical Center on eleven-month appointments are eligible to receive up to one-eleventh (1/11th) of the base salary rate for the immediately preceding appointment term. The same conditions apply as stated above for faculty members on nine-month appointments.

Eleven-month Appointments in the Medical Center

Most faculty members in the Medical Center are on eleven-month appointments that resemble the twelve-month appointments of university staff. This means that compensation covers eleven months of effort and one month of paid vacation. Faculty members on eleven-month appointments in the Medical Center are not eligible to receive supplementary pay.

Vacation

Faculty members with nine-, ten-, or eleven-month appointments outside the Medical Center are paid only for work performed during the period of their appointment plus any additional effort they expend for which they receive supplementary compensation. As a result, neither the base appointment nor any time for which supplementary compensation is received includes allowance for vacation and none should be reported on the annual effort certification report. As indicated above in the discussion of eleven-month Medical Center appointments, Medical Center base salaries do cover one month of vacation and annual effort reporting should reflect this fact.

Faculty Hearing Committee

The Faculty Hearing Committee has two distinct functions. The first involves equal treatment in employment, without discrimination. Duke University is committed to a policy of equal treatment in employment without regard to race, creed or religion, color, veteran status, national or ethnic origin, sex, age, or handicap. A faculty member who feels that an adverse employment action involved discrimination on such a basis may file a complaint with the ombudsman or the Office of Institutional Equity, either of which will investigate the matter and attempt conciliation. If the complaint is not resolved, a hearing may be conducted by a panel of the Faculty Hearing Committee.

The second function of the Faculty Hearing Committee involves academic freedom and tenure. The ombudsman and the Faculty Hearing Committee shall have jurisdiction to consider complaints from faculty concerning one or more of the following matters: dismissal for misconduct or neglect of duty; termination of appointment prior to its expiration date; disputed claims by a faculty member to the existence of tenure; allegations of violation of academic freedom; violation of academic due process with respect to an adverse employment or disciplinary action; and allegations of damaging instances of harassment directed against the complainant by other members of the university community after failure of a university officer or agency to resolve the matter.

Detailed descriptions of these functions are to be found in Appendix M of this handbook.

Faculty Recruitment

When a faculty or staff position becomes vacant in any school, with the exception of the Schools of Medicine and Nursing, the dean of that school shall consult with the provost. The dean of the School of Nursing and the dean, School of Medicine/vice chancellor for Medical Center academic affairs shall report to the chancellor for health affairs. After authorization to fill the position has been obtained, the dean shall follow school policies for filling the position. In all cases these policies shall be consistent with EEO regulations and university guidelines for the recruitment of minority and women faculty. Final approval for all appointments, after the provost's and president's endorsements, rests with the Board of Trustees.

Leaves of Absence -- Medical

Temporary Medical Leaves

A faculty member shall be granted temporary medical leave with pay in the event of illness, injury, the birth of a child, or other temporary medical restriction if the restriction will exceed four weeks. Temporary medical leave may be extended up to one year. Except as described below, a letter requesting such leave, accompanied by a physician's statement that the faculty member has a continuing medical problem, must be submitted to the appropriate dean with a copy to the chair and the provost, or, if appropriate, to the chancellor for health affairs. The department chair (in the School of Medicine) or the dean (elsewhere) then will send a letter to the chancellor for health affairs or the provost indicating whether the leave will necessitate provision for replacement of instructional time. In the case of temporary medical restriction arising out of pregnancy, childbirth, and/or other related conditions, temporary medical leave will be available to the faculty member for a period of up to three months without need for a physician's statement of medical restriction. Such leave is subject to extension under the procedure outlined above. If replacements for instructional time are needed, the salaries for those replacements will be paid from university funds. The university will continue to pay the employer's share of the cost of fringe benefit programs such as health care insurance, group life insurance, or the Faculty/Staff Retirement Plan for a faculty member on temporary medical leave. A faculty member returning from a temporary medical leave must provide evidence from his or her physician that he or she is able to return to work.

Nothing in this policy shall be construed to preclude a part-time temporary medical leave if such a leave takes better account than a full-time leave of the particular nature of a faculty member's temporary medical restriction and the particular needs of his or her department. In no event, however, shall a faculty member who has temporary medical leave be compelled to waive any part of the temporary medical leave to which he or she is entitled under this policy.

If an untenured member of the faculty is on temporary medical leave for a period of at least six weeks but less than six months, one semester during the year(s) of leave shall not qualify as time in service toward tenure, unless the faculty member chooses to waive this provision. If an untenured member of the faculty is

on temporary medical leave more than six months but less than one year, two semesters during the year(s) of leave shall not qualify as time in service toward tenure, unless the faculty member chooses to waive this provision.

If the illness, injury, or other temporary medical restriction extends longer than three months, the Office of Benefits Administration should be contacted (see Long-Term Disability Leaves).

Long-Term Disability Leaves

In case of long-term disability (exceeding four months), the faculty member should contact the Office of Benefits Administration for information regarding benefits under the university's long-term disability insurance program. A faculty member should notify the appropriate dean in writing, with a copy to the department chair and the provost, or, if appropriate, to the chancellor for health affairs, of the application for long-term disability. The department will be notified by the Office of Benefits Administration of the approval/denial of the long-term disability insurance payments; the department should inform the dean, who will notify the provost about the status of the faculty member's application.

Leaves of Absence -- Academic Research

Dean's Leaves for Arts and Sciences Faculty

Arts and Sciences tenured and all regular non-tenure track faculty (e.g., Professors of the Practice and Research Professors) are eligible to apply for these leaves. Dean's leaves provide faculty the opportunity to increase their scholarly activities, productivity and teaching creativity by offering a semester's relief from teaching and departmental responsibilities in order to pursue scholarly projects.

The criteria for Dean's leaves are 1) the quality of the applicant's research and teaching; 2) the lack of other financial assistance/"time off" for the pursuit of the project; and 3) the timeliness of the leave in the applicant's academic agenda/career.

Applicants should submit a narrative proposal (three to five pages) explaining the project, its significance, why the leave is timely, and why other funding is not available, so that the review panel can judge the application against the criteria stated above. The review panel will consist of one member of each academic division and one non-tenure track, regular rank faculty member. Applicants should route their proposals through the department chair by the normal December 1 deadline for leave requests.

Junior Faculty Research Leaves

Tenure-track faculty who do not hold tenure but have been reappointed to a second term appointment, usually for four years, are eligible to apply for a junior faculty leave. The intent of this program is to give junior faculty in Arts and Sciences, Business, Divinity, Engineering, Environment, and Law the opportunity to develop their scholarly potential in advance of their review for tenure.

Qualifying faculty members who are interested in the leave program should submit research proposals to their dean with recommendations from the program director or department chair when appropriate.

Faculty members whose proposals are funded will be entitled to a one-semester leave with pay. This leave will not interrupt the tenure clock nor will it alter the individual's continuous service at Duke University. Faculty members who receive fellowships or grants may supplement their one semester research leave with an additional one-semester leave.

Leaves without Pay/Non-Sabbatical Competitive Leaves

As an administrative policy, the university usually finds a way to grant leaves without pay to members of the faculty who have an opportunity to further their own research or scholarly interests, or otherwise to contribute to the academic program of the university. While the university's fringe benefit pool does not cover benefits for faculty members on leave without pay, professors who have received fellowships may ask their deans to provide, with the understanding that there may be adverse tax consequences to the faculty member involved, the university's contribution from operating budgets within the school. While it may not be possible for the school to cover the university's contribution in all cases, every effort will be made to do so when fellowships are inadequate. All such requests should be reported to the provost. Some schools may provide full or partial funding for academically justified leaves (other than sabbatical leaves) for a limited number of faculty selected through a competitive process instituted by the dean and approved by the provost. Leaves of absence from the university are limited to two years out of every seven except in extraordinary circumstances. Continuous service shall not be interrupted by approved leaves of absence,

and time on leave will count as qualified time for tenure unless the provost determines otherwise when the leave is granted. However, time on leave without pay will not count toward sabbatical leave.

Procedures for applying for leaves without pay may be found under sabbatical leaves below.

Sabbatical Leaves

Sabbatical leaves are provided for in Article XXIII of the University Bylaws. This policy has been adopted to clarify the provisions of the bylaws.

The primary purpose of sabbatical leave is to increase the value of the professor's further service both to his or her profession and to the university. Although there may be exceptions, such a purpose is ordinarily served by the pursuit of scholarship (e.g., for teaching abroad, study, research, or publication undertaken to further the solution of pedagogical and administrative problems). Sabbatical leaves are not to be used for purposes of recreation or general travel.

Application Procedure for Sabbatical Leaves or Academic Leaves of Absence

The following procedure should be followed in applying for either a sabbatical leave or an academic leave without pay.

- (1) A letter requesting the leave should be addressed to the department chair and dean before December 1 of the year preceding the academic year for which leave is requested. In exceptional cases, a slightly later request will be considered. The letter should contain a statement by the faculty member explaining how he or she expects to use the leave, where he or she expects to be during the leave, and a clear statement indicating whether he or she is requesting a sabbatical leave of one semester at full pay, one year at half pay, or a leave of absence without pay for an indicated period.
- (2) The department chair will send a letter to his or her dean, stating whether he or she endorses the applicant's leave request and whether supplemental instructional funds may be needed to meet teaching obligations during the applicant's leave period.
- (3) Copies of these letters should be sent to the provost and, if appropriate, to the dean, School of Medicine/vice chancellor for medical center academic affairs.
- (4) The dean (department chair in the School of Medicine) will send a letter to the provost or dean, School of Medicine, vice chancellor for medical center academic affairs stating whether he or she endorses the requested leave and indicating whether the leave will necessitate provision for replacement of instructional time. Only when both the department chair and dean have endorsed the leave will the provost consider the request. Final responsibility for granting sabbatical leaves rests with the Board of Trustees which acts upon the recommendation of the provost and approval of the president.
- (5) Upon return from leave, the faculty member is expected to give a full report in writing to his or her department chair, dean, and to the provost or dean, School of Medicine/vice chancellor for medical center academic affairs.

Eligibility

Tenured members of the faculty at the rank of professor, associate professor, or assistant professor, including those with part-time administrative duties, are eligible to apply for a sabbatical leave which would be taken during their seventh, fourteenth, twenty-first, etc., year of service to the university. Service to the university includes full-time service as an assistant professor or above. (Qualifying faculty who were appointed prior to September 1982 may count time spent as an instructor in their years of service.)

Full-time leave without pay does not count toward eligibility time for sabbatical leave. Sabbatical leaves not taken when due may accumulate up to three leaves, but may not ordinarily be taken two years in succession.

When eligibility for sabbatical leave is not clearly established, the case should be discussed with the appropriate dean, the provost, or the dean, School of Medicine/vice chancellor for medical center academic affairs.

Granting of Sabbatical Leaves

Normally, a sabbatical leave is not granted if the applicant's request is for the purpose of accepting

remunerative employment. This rule does not apply to the acceptance of fellowships and similar grants which serve the purposes outlined above. Furthermore, there may be other situations in which acceptance of a remunerative position may lead to a fulfillment of the primary purpose of increasing the value of the professor's further service to his or her profession and to the university.

Any person granted sabbatical leave is expected to return for at least one year's service following the leave. Sabbatical leave may be granted for a full year at half salary or for a half year at full salary.

Other Matters Relating to Leaves

- (1) Requests for sabbatical leaves and leaves of absence are due by December 1 of the year preceding the leave. However, some requests cannot be firm at that time, since leaves are often contingent on obtaining funds from outside the university, and notification dates may be in the spring. For planning purposes in the department or school as well as in central administration, in cases where the leaves are contingent on funding or on other factors, it is desirable that the request made before December 1 be, in effect, a letter of intent rather than a firm request. The chair or dean should endorse the leave at that time, implying approval of the leave if the contingency is satisfied. The faculty member should write again to the provost or dean when plans are firm, with copies to the chair and dean or the dean, School of Medicine/vice chancellor for medical center academic affairs as appropriate. The provost will then write the faculty member.
- (2) A faculty member who learns well after December 1 about an opportunity to take a leave during the following year may request the leave. Approval will depend heavily on whether the program can be adjusted to accommodate the absence of the faculty member. Such late requests are usually for leaves of absence rather than sabbaticals.
- (3) Information concerning eligibility status may be obtained by calling the appropriate dean's office or the Office of the Provost.
- (4) Since sabbatical leaves are for the purpose of enhancing the stature of the individual, there should be an opportunity for at least one year of service after taking a sabbatical. Nontenured faculty members should therefore not request a sabbatical for the seventh year. In the event tenure is granted, every year of service in the unmodified rank of assistant professor, associate professor, or full professor is counted toward eligibility.
- (5) Questions arise frequently about the pay period (or absence of pay) in connection with leaves. The following dates apply:
 - A. Sabbatical for fall or spring semester--no change in pay.
 - B. Sabbatical for fall and spring semesters--half pay from July through June.
 - C. Leave of absence during the fall semester--no pay or benefits from July through December.
 - D. Leave of absence during the spring semester--no pay or benefits from January through June.
 - E. Leave of absence for fall and spring semesters--no pay or benefits from July through June.

These dates indicate that the pay period in connection with leaves for the fall semester is the six-month period beginning July 1, and the pay period in connection with leaves for the spring semester is the six-month period beginning January 1. Sabbaticals, even at half pay for the full year, carry full university contributions to benefits as if the faculty member were on full pay. Persons taking leaves of absence can make arrangements, if they wish, through the benefits office to pay both their own contributions and the amount the university would be paying if they were receiving salaries.

- (6) When a grant to the university is used to pay the other half of full-year sabbatical leave pay, or full or partial pay during a leave of absence, written authorization from the principal investigator is needed to charge such pay to the grant. Since fringe benefits are charged to the grant at the audited percentage of salary, it may be advantageous to a faculty member in some cases to receive a fixed sum grant or fellowship directly from the agency rather than through the university; in this way the full sum would be available for salary.

Liability Coverage

Legal Assistance to Participants in the Academic Peer Review

The academic peer review process is essential to the perpetuation of excellence at Duke. The university considers the participation of members of the faculty and professional librarians in the peer review process--both within and outside of Duke--to be part of their regular duties as Duke faculty members or librarians. Responsible participation in this important service to the academic community should not place individuals at personal risk because of their contribution to it. Accordingly, the university is prepared, to the extent permitted and in the manner provided by the North Carolina Nonprofit Corporation Act, to offer legal assistance and indemnification to the faculty members and librarians who face the risk of legal involvement and associated financial expense arising from their service to Duke University as a participant in the peer review process.

Memberships and Dues

Each member of the academic community may belong to any number of professional organizations. However, personal memberships may not be paid by the university from regular departmental funds. In rare instances, it may be advantageous to have the university represented in a particular regional or international organization, and in such cases, special approval for university payment of dues must be requested from the appropriate university officer at the level of vice president. In other instances, a person may be expected to represent the university in a professional organization only because of the administrative position he or she holds at Duke University. Such requests may also be approved.

Nepotism

It is the intent of the university that employees not be involved in decisions affecting the faculty appointment of individual members of their immediate family (including spouse, children, parents, brothers, sisters, step-parents, step-children, step-brothers, and step-sisters) and additional family (includes grandparents, parents-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunts, uncles, grandchildren, and great grandparents). In exceptional cases where the relative is clearly demonstrated to have unique and unusual skills necessary for the position and these skills are not readily available in the labor market, a waiver may be sought. When such conditions exist, a written request for a waiver must be submitted to the provost or his or her designee for approval prior to offering an appointment. Spouses or relatives may be employed, however, as collaborators in subsidized research projects where such collaboration has been specifically approved by the sponsoring agency.

In cases where a waiver has been approved, an individual may be in a position to effect personnel actions (such as retention, promotion, salary, and leaves of absence) affecting members of the individual's immediate and additional family. Prior authorization for these personnel actions must come from the individual's department chair, or in cases where the relative is that of the department chair, the provost or his or her designee.

For the policy regarding employment of relatives in biweekly positions, refer to the Personnel Policy Manual (Policy A-15).

Resignation

Faculty members are expected to follow the general code of ethics of American universities and should resign from the university prior to May 1 if the resignation is to become effective the next academic year. If possible, notification as early as March 1 is appreciated. A person wishing to resign should first inform the department chair and dean and then write a letter of resignation to the dean with a copy to the provost or write the dean, School of Medicine/vice chancellor for medical center academic affairs directly. The letter should include the date on which the appointment is to terminate.

Retirement

Faculty members' eligibility for full or partial retirement benefits is determined by the appropriate plan document. Discussions should be initiated with the chair of the department in which the faculty member

serves at least one year prior to that in question. Tenured faculty members, upon retirement, relinquish privileges associated solely with tenured faculty status (e.g., voting rights with respect to promotion and tenure for tenure-track faculty [see Chapter 3]).

Emeritus Status

By action of the Board of Trustees, and after recommendation by the dean and the provost and approval by the president, regular-rank faculty members who retire at age sixty-five or over, or who have served the university for at least ten years, may receive the emeritus title of the same faculty rank they held at retirement. Along with this title go certain privileges, such as inclusion in faculty mailing lists, invitations to attend appropriate university functions, participation in the tuition grant program, the right to be considered for Arts and Sciences Research Council grants, and subscription to the university's weekly newsletter. In addition, of course, are the financial benefits available to all eligible retired faculty. A brochure describing these benefits is sent by the Academic Council Office to faculty upon notification of their retirement to the Board of Trustees.

Office Space for Professors Emeriti

Normally a professor, upon retirement, will relinquish his or her office, laboratory, and/or studio space, so that it is available for reassignment for active faculty use. However, as professors often continue to contribute after their retirement, through research, teaching, or other service, to the work of the university, a retiring professor may petition the dean, in consultation with the department chair, to allocate space for such purposes. A copy of the petition should go to the appropriate dean and department chair (if applicable). The dean, on the advice of the department chair, will weigh each request against alternative uses for the space in advancing the scholarly purposes of the university. In estimating the probabilities of future contributions by the retiring professor, past contributions will be considered. If space is allocated, it will be preferably for a maximum of two years; however, subsequent petitions may be presented at the expiration of the original assignment. Retiring professors may apply for library carrel space to the appropriate librarian.

Partial Retirement

If a faculty member wishes to partially retire, many benefits such as health insurance, tuition grant, eligibility for retirement benefits, clinical privileges, etc. may be affected. A faculty member interested in partial retirement should initiate discussions with his or her chair or dean.

Retirement Planning Guide for Faculty

This is a publication jointly prepared by the Academic Council Committee on Emeriti and the Office of Benefits Administration to aid in planning for retirement. It is not an all-inclusive document but rather a summary of useful information to use while planning for retirement. In addition, the Committee on Faculty Emeriti makes available through the Academic Council a brochure entitled "Information for Emeriti."

Chapter 5: RESEARCH GRANTS AND CONSULTING POLICIES

Arts and Sciences Research Council

The Arts and Sciences Research Council (formerly the Duke University Research Council) is provided with funds for the purposes of promoting faculty research and development. Composed of faculty members with balanced representation from the major disciplines, it is appointed by the provost upon the recommendation of the Academic Council's Executive Committee. Council funds are awarded to faculty members in the form of research grants and reimbursements for expenses involved in participation in professional meetings.

All full-time members of the faculty of Arts and Sciences are eligible to apply to the council's annual awards program for support of specific, fully documented, research projects.

Early in the spring semester, the council notifies all eligible faculty members of the current program, its procedures, and deadlines for applications. Late applications are not allowed for research grants. The council requests that holders of grants from previous years submit short reports summarizing their accomplishments.

At this time, the program is being administered through the Office of the Dean of the Faculty of Arts and Sciences. Information can be obtained through this office or the departmental office.

Office of Research: 127 Allen Building

Established in 1986, the Office of Research, directed by the Vice Provost for Research, has as its chief mission to enhance, increase and facilitate the pursuit of research and other sponsored activity at Duke University. OR provides a centralized focus for the development of research, programs, and conferences; for the procurement of funds from federal, foundation, state, and corporate sources; and for the development and refinement of university policies that affect sponsored projects. In doing so, OR draws upon the resources and expertise of the offices of Research Support, Sponsored Programs, Science and Technology, and Medical Center Grants and Contracts and works closely with the Office of University Development, the deans, and the Office of the University Counsel. In conjunction with the Research Policy Committee, OR also administers policies on sponsored activities, and in particular on research, and is charged with revising current policies and developing new ones as necessary. Moreover, OR works with relevant offices and individuals to ensure Duke's compliance with a variety of federal and state regulations.

Grant and Contract Funding

In addition to the Office of Research, there are a number of offices and committees that are directly involved in the faculty's grant and contract activities. The four main ones are: the Office of Research Support (for campus faculty), the Office of Grants and Contracts (for Medical Center faculty), the Office of University Development, and the Office of Sponsored Programs.

Office of Research Support: 327 North Building

The Office of Research Support (ORS) serves Trinity College of Arts and Sciences, Fuqua School of Business, the Divinity School, Pratt School of Engineering, Nicholas School of the Environment, and the School of Law by assisting faculty, staff, and students in various aspects of external funding with the aim of enhancing and increasing federal, state, and private funding for research and related activities. ORS facilitates the strategic planning for funding opportunities; develops and implements sponsored projects-related policy; and ensures the university's regulatory compliance. In addition to developing proposals for projects of special institutional interest and helping determine appropriate approaches for university-wide RFPs and coordinating the institutional nomination process, ORS staff advise and assist project directors

with proposals for external support, establish strategies for funding projects, and determine need for and availability of institutional support. In addition, staff are available to review and revise proposals for faculty and staff for project support and to work with faculty, staff, postdoctoral fellows and students to identify potential sources of funding and means of securing funding. To facilitate these efforts, ORS develops, maintains, and continually expands a comprehensive library of funding information in both print and electronic formats and also disseminates information on funding opportunities and trends to faculty and others.

ORS is also responsible for grant and contract management for campus components, for compliance with agency and university policy, and for ensuring university approval of proposed projects and concurrence with institutional commitments. This includes pre-submission review of all proposals (including text, budgets, other administrative components, and institutional commitments, if any), negotiation and acceptance of awards, issuance of subcontracts, and modifications of existing awards (rebudgeting, no-cost extensions, transfers, and other types of changes). ORS serves as a principal liaison between the campus components and funding agencies and works closely with the offices of Sponsored Programs and University Development to ensure proper stewardship of funded projects. ORS staff are available to assist in developing budgets and other administrative components of proposals.

Finally, ORS is responsible for coordinating the Committee for the Protection of Human Subjects in Non-Medical Research and represents the campus administration on the Institutional Animal Care and Use Committee. In addition, ORS works closely with OR to develop and implement university policy on research and sponsored projects, identify areas and issues whose resolution would enhance the environment on campus for the conduct of research and other sponsored activity, review and respond to changes in federal regulations that would affect the university and its research community, and develop and implement strategies and systems to ensure Duke's compliance with sponsor's regulations and requirements, particularly those of federal agencies.

Office of Grants and Contracts (OGC): 107 Seeley G. Mudd Building

The Office of Grants and Contracts (OGC) assists Medical Center investigators with pre-award and some post-award activities. These include providing assistance in identifying external funding sources, developing proposals, and the final processing of proposals prior to submission to the funding agency. Because of the large volume of applications processed through the office, OGC requests the receipt of applications two weeks prior to funding agency deadline. This will allow time for a thorough review. The office also participates in negotiating government and corporate research contracts and in the arranging of site visits for government research grants.

Postaward activities include coordinating approval of contract modifications, the issuing and executing of subagreements, as well as reviewing and approving all Medical Center requests to rebudget NIH and NSF grants funds.

OGC also provides administrative support to the Institutional Animal Care and Use Committee and the Institutional Biosafety Committee. Protocols to be reviewed by these committees should be submitted to the Office of Grants and Contracts.

Office of University Development: 2127 Campus Drive

Serving the fund-raising needs of the entire university community, the Office of University Development works with major funding sources including corporations, foundations, and individuals. Available for use by the faculty is an extensive library of corporate and foundation research materials including directories (state, national, and international), other general information books, and periodicals. In addition, the Office of University Development maintains active files on hundreds of corporations and foundations. Included are relevant correspondence, annual reports, records of grants awarded to institutions of higher education, application filing dates, sources of funds, names of appropriate people to contact, clippings from periodicals, and other materials to help determine interests, past grant-giving records, and Duke connections to past and potential corporate and foundation benefactors.

Office staff are available to assist in identifying corporate and foundation sources and making appropriate contacts. While it is the responsibility of the individual faculty member to prepare proposals in the areas of his or her expertise, the staff is ready to assist in the review of these requests. Specific requests for assistance may be directed to the Corporate and Foundation Relations Office. All corporate and

foundation final proposals should be reviewed by the Corporate and Foundation Office and must be submitted for approval to the Office of Research Support (see previous section).

Office of Sponsored Programs: 705 Broad Street

The Office of Sponsored Programs is responsible for the accounting for all sponsored activity at Duke. A staff of twenty administers the financial reporting, billing, and cash collections for all grants and contracts administered by Duke University. Questions about a grant or contract monthly statement or restricted fund should be addressed to this office.

When the Office of Research Support or the Office of Grants and Contracts receives notification that a grant, contract, or fellowship application has been funded, it transmits to the Office of Sponsored Programs a copy of the proposal, award letter, and any other pertinent documents, and requests that an account be set up by the Office of Sponsored Programs. The office administers the funds and closes the account at the end of the funding period.

Proposal Clearance Procedures and Award Administration

Applications for funds which, if awarded, would be received and administered by the university, require institutional approval and commitment to accept and administer the funds. Therefore, all proposals for external funding to any agency (governmental or non-governmental), with the exception of endowment requests and proposals for certain capital projects, require review, prior to submission, by either the Office of Research Support (ORS) for campus components or the Office of Grants and Contracts (OGC) for the Medical Center.

While the faculty are responsible for preparing the proposal for a grant or contract, the university is responsible for informing itself of the impact the proposal, if funded, would have upon the university and its resources; ensuring that the proposal conforms to university and agency policy; and determining that the university's legal responsibilities can be met should the proposal be funded. As a result, the university has developed proposal review procedures, which are described below as well as in Appendix Q, and has designated two offices for this responsibility, Research Support (ORS) and Grants and Contracts (OGC), as appropriate.

In a similar fashion and for similar reasons, all awards are reviewed and the terms and conditions negotiated by either ORS or OGC prior to the acceptance of an award. ORS and OGC are authorized by the university to commit the institution to sponsor terms and conditions within the constraints of university policy.

While the faculty are responsible for the conduct of the sponsored project, ORS or OGC is charged with reviewing any changes to the proposed statement of work, budget, or project period that would alter the award. Any such changes must be reviewed and approved by either ORS or OGC. Post-award financial accounting of all awards is handled by the Office of Sponsored Programs, which is responsible for financial reporting, billing, and cash collections for awards.

Duke Proposal Approval Form (DPAF)

Persons who intend to solicit funds (other than gifts) from external sponsors which, if granted, would be administered by the university, should complete and submit a DPAF to the Office of Research Support (for campus components) or to the Office of Grants and Contracts (for DUMC components). The form serves several functions. First, it documents that the applicant is aware of the regulations governing the project and is taking care of any required procedures. Secondly, the form alerts the appropriate university officials of the impact of the proposed project on university resources, including space, cost-sharing requirements, or access to specialized facilities. The form also indicates that any special reviews have been completed and that the applicant's chair and dean have reviewed the proposal and approve it. The form also supplies very basic summary information about the proposal, its budget, time period, and sponsoring agency. Copies of the DPAF are available from both offices, from departmental offices and downloadable from both ORS and OGC web pages.

Indirect Cost Recovery on Grants and Contracts

Direct costs of externally sponsored grants and contracts may include the salaries and wages of

personnel working on these projects, the cost of supplies and materials, and other such expenses as travel and equipment that are required for the projects undertaken. In addition to these direct costs, however, the university incurs a significant number of indirect costs that are associated with the project and are required to support it. These indirect, or support, costs cannot be related precisely to any individual grant or contract since they include such items as: (1) the cost of maintenance, heating, lighting, and cleaning the buildings in which the sponsored research is conducted; (2) the administrative costs to the university of such components as purchasing, accounting, and other units that provide services to grant and contract recipients; and (3) central support services and facilities such as the library. These costs are real and the collection of indirect costs ensures the maintenance of the university infrastructure necessary for carrying out sponsored research activity.

Many sponsors--in particular, the federal government--with whom the indirect cost rate is negotiated recognize their obligation to reimburse the university for these indirect expenses as well as the direct expenses that are incurred in the performance of these grants and contracts. This reimbursement is accomplished through the annual calculation of an indirect cost or overhead rate that is applied on a pro-rata basis against certain direct costs charged to all such grants or contracts. Without this recovery, significant amounts of university funds derived from tuition, endowment, and unrestricted gifts would have to be diverted from the support of other university needs.

As a result, it is the university's policy to require the inclusion of full overhead recovery on all proposals for external funding, except for gifts and clinical trials. This policy applies whether the funding derives from federal, state, or non-governmental sources, such as corporations and foundations. Exceptions to this policy are granted in instances where an organization or a particular program within an organization has an official published rate that is lower than the university's negotiated rate. In those instances, the university accepts the lower rate.

Deviation from this policy is not permitted without special approval as outlined in Duke's General Accounting Procedure #200.140 (described below), a copy of which may be obtained upon request from the Office of Accounting Systems and Procedures.

Cost Sharing on Grants and Contracts

As it is the university policy to cost share only when it is demonstrably in the best interest of the university to do so, an agency requirement to cost share is generally necessary before the university will consider committing resources, financial or otherwise, to a project. Cost sharing on externally funded projects can take a variety of forms: waivers or lowered indirect cost rates, the commitment of faculty time and effort, or the use of university funds as additional support for the project and the indirect costs associated with those funds. Waivers or lowered indirect costs are considered only in instances in which the agency, or a particular program within an agency, has a formal indirect cost rate lower than the university's applicable rate.

In those instances in which the sponsor has a formal indirect cost rate that is lower than the university's, the university will generally accept the prevailing rate for that agency or program (for example, NSF's Presidential Faculty Fellows program allows only 10%, and the North Carolina Biotechnology Center pays no overhead). Agency guidelines that are published and that apply equally to all applicants will satisfy the requirement to justify the need to cost share. Therefore, a copy of the solicitation or formal policy should accompany a completed Request for Cost Sharing form. In these instances, no special letter of request is required of the principal investigator (PI).

If, however, the request is for waiver of indirect costs in cases where such waivers are not mandatory--for example, to enhance the competitiveness of a proposal or to enable the PI to achieve more by keeping a larger proportion of the award as direct costs--then a letter of request explaining fully the rationale for the request is required. It should be countersigned by the chair or program director and supported by the dean.

Any decision to cost share should reflect the university's overall priorities within the functions of education and research.

Requests for cost sharing must be made at the time of proposal submission. Cost sharing is not a method for covering unexpected project expenses or for accommodating cuts in a proposal's budget. Retroactive cost sharing is generally not considered to be in the best interest of the university.

A more detailed discussion of this university policy, as well as the procedures to be followed to obtain special permission for deviation from the policy, is included in General Accounting Procedure #162 (a

university statement regarding indirect cost recovery and cost sharing), and may be obtained from the Office of Sponsored Programs upon request.

Appendix Q of this handbook contains a more complete listing of the steps to be followed in applying for externally sponsored funds.

Procedures for Obtaining Authorization to Share Costs in Arts and Sciences, Divinity, Pratt Engineering, the Nicholas School of the Environment, the Fuqua School of Business, Institute of Statistics and Decision Sciences, and Law School

When an applicant for external support wishes the university to consider cost sharing on a proposed grant or contract, the following points should be considered and addressed:

The PI should check with the program or contract officer of the funding agency to determine how important it is that the proposal include cost sharing and to learn the indirect cost policy of the funding agency.

If cost sharing is essential, a budget should be prepared that includes a list of items to be cost shared by the university.

For campus faculty with nine-month appointments, to commit academic-year faculty effort at no cost to the project requires only the completion of the Request for Cost Sharing form.

When cost sharing is done by means of a commitment of university financial resources to support the proposed project (e.g., equipment, nonfaculty staff effort, materials, supplies, travel, etc.), a letter of commitment from the appropriate budgetary authority or authorities should detail the commitment(s) and must accompany the proposal submitted for review. In addition, a Request for Cost Sharing form should be completed.

If cost sharing is requested, faculty should submit to the Office of Research Support, in addition to all the materials regularly submitted for proposal processing, the Request for Cost Sharing form, supporting documentation from the funding agency, the proposal's budget, and, in the case of direct costs other than faculty salary, a letter of commitment from the source of the necessary funds.

Faculty from programs or schools at Duke, other than the Medical Center, whose budgets are governed by formulas (the Law School, Marine Laboratory, Nicholas School of the Environment, Fuqua School of Business, Phytotron, Organization for Tropical Studies, etc.) will need to get their dean's or director's signature on the form.

The request for cost sharing will be approved, denied, or modified during the processing of the proposal by the senior vice president for research administration and policy or designee based upon the completed Request for Cost Sharing form and commitment letters. Appeals of the decision on cost sharing may be submitted to the provost.

The following information is especially important:

- (1) All cost sharing must be accounted for in all proposals, regardless of source of funding. Sponsors will hold the university to that commitment by requiring the university to document on the financial reports that such cost sharing took place.
- (2) When salaries are cost shared on sponsored projects, the same proportion of effort must be devoted to the project as is indicated in the budget. This is the purpose of the Monitored Workload System and other records. An employee, faculty, or staff cannot show cost sharing on a budget as a percent of effort and then spend less time on the project.
- (3) All non-reimbursed (i.e., university funded) faculty effort on externally funded research need not constitute cost sharing. If the faculty member's non-reimbursed research effort can be viewed entirely or partially as what he or she would be doing anyway to fulfill institutional (departmental) responsibilities, often to that extent, cost sharing on the sponsored project is not involved. The budget should describe his or her contribution in these terms, indicating the portion, if any, that is cost shared and the portion that is not. If cost sharing is to be done by a university source providing resources to acquire equipment, materials, or supplies necessary for the project, or bi-weekly salary support, a commitment from the source of these funds must be made in writing and must accompany the Request for Cost Sharing form.
- (4) Cost sharing on a faculty member's salaried effort does not necessarily require an adjustment in that researcher's teaching load.

- (5) Prior approval of cost sharing is essential. Without the documentation of a completed cost sharing form, the Office of Sponsored Programs will process awards without needed cost sharing, be unable to document cost sharing to sponsors, and charge full indirect costs to the grant award.

Procedures for Obtaining Authorization to Share Costs in the Medical Center

- (1) If cost sharing is determined to be essential and required by the funding agency for proposal consideration, the applicant should prepare a budget that includes the items to be cost shared by the university (following the principles indicated earlier in this section).
- (2) A completed Duke Proposal Approval form, the proposed application, and the proposed cost sharing budget are then submitted to the Office of Grants and Contracts (107 Seeley G. Mudd Building).
- (3) The Office of Grants and Contracts will review the proposal and arrange for the chief financial officer of the Medical Center to review the cost sharing request.
- (4) The applicant will be notified when the decision is made by the chief financial officer.

All cost sharing must be accounted for in the proposal budgets for federal grants and contracts. The federal government will hold the university to the commitment and require the university to document such cost sharing. This is the purpose of the effort reports of the Monitored Workload System and other records. The resulting cost sharing documentation must be as indicated in the proposal budget or the award statement.

A more detailed discussion of the university policy, as well as the procedures to be followed to obtain special permission for deviation from the policy, is included in General Accounting Procedure #200.140 (a university statement regarding indirect cost recovery and cost sharing) and may be obtained from the Office of Accounting Systems and Procedures upon request.

Equipment and Grant Transfers

All guidelines for Duke departmental property officers are based on this fundamental concept: assets are owned by Duke and the government for use by particular departments of the university and its hospitals. It is the responsibility of every department to account for the assets it uses. When a department has loose controls over assets, discards equipment needing minor repairs, gives away surplus assets, or sells items below current value, then the premature replacement of equipment by that department penalizes all of Duke. A department's control of the assets it uses should include total accountability for disposal, changes, and transfers of assets and a commitment to secure top value for all items sold or traded in.

A manual titled *Guidelines for Duke Property Officers in the Removal of Assets*, available from Duke University Plant Accounting, explains the procedures a department should follow to ensure proper accountability of Duke assets. The addition of assets to a department through purchasing is currently well controlled by assigning asset numbers on purchase orders and affixing asset tags when equipment is delivered. What is more difficult to control is the disposal of capital equipment. The manual establishes departmental procedures to follow in removing and disposing of capital assets.

When an individual who has been working on a grant at Duke University moves to another institution, a question sometimes arises about the ownership of the equipment that has been purchased on the grant. The equipment, in most cases, is the property of Duke or the government. However, when the principal investigator's grant-funded research activity is transferred to another location, and the granting agency submits a request for certain equipment to be transferred, it has generally been the practice to release the equipment. This also is covered in more detail in the manual.

Private Sector Contracts

Contracts with private industries may include provisions that are contrary to university policy or put the university at risk. Recognizing the potential conflict between the primary missions and interests of a university and private industry and recognizing the potential benefits of university-industry cooperative relationships, the university adopted a policy for industry-sponsored research. All research grants and

contracts must conform to the principles set forth in this policy. All industry-sponsored contracts and grants are reviewed carefully for conformance with these principles. Appendix Q contains the full text of the policy.

Principal Investigator Status

The university grants the privilege to serve as principal investigator to its tenured and tenure-track faculty by virtue of their appointment. Others within the university community may request permission to serve as PI with concurrence of their chair and dean. The full text of the policy may be found in Appendix Q.

Policy on Inventions, Patents, and Technology Transfer

The university has adopted a policy on inventions, patents, and technology transfer. This policy recognizes that although the university does not undertake research principally for the purpose of developing patents and commercial applications, patentable inventions often result from research activities. The policy has been adopted to assure the utilization of such inventions for the common good and to facilitate and encourage patent protection, licensing, and the development and marketing of these inventions when appropriate. The policy is included in Appendix Q.

Policy on Copyrightable Intellectual Property

The university has adopted a policy on inventions, patents, and technology transfer. This policy recognizes that although the university does not undertake research principally for the purpose of developing patents and commercial applications, patentable inventions often result from research activities. The policy has been adopted to assure the utilization of such inventions for the common good and to facilitate and encourage patent protection, licensing, and the development and marketing of these inventions when appropriate. The policy is attached as Appendix Q.

Conflict of Interest

Duke University is committed to ensuring its faculty an open and productive environment in which to conduct teaching, patient care, and research. However, the ever-increasing complexity of our society and the various relationships between faculty members and outside institutions require attention to ensure the avoidance of real or apparent conflict of interest. Conflicts of interest, in the most conventional sense, arise because faculty members may have the opportunity to influence the university's business decisions in ways productive of personal gain. Additionally, faculty members' outside relationships may compromise the integrity of decisions they make as teachers, researchers, and providers of patient care. Consequently, the university has implemented a policy on conflict of interest, The Statement of Conflict of Interest for Duke Faculty, which is found in full in Appendix O. The policy requires consultation with chairs, deans, and others, as well as an annual disclosure. Applicants for National Institutes of Health or National Science Foundation grants are required to disclose at the time of proposal submission any significant financial interests that might affect or be affected by the conduct of the research in that proposal.

Conflict of Commitment

The distribution of a faculty member's effort among, for example, research, teaching, committee responsibilities, and outside consulting will not ordinarily raise problems of conflict of interest unless the university or the government is misled in its understanding of the amount of intellectual effort actually being devoted to the activity in question. Any faculty member planning to do research for the government under a stipulating agreement that a specified fraction of his or her effort will be devoted to the research should check with the offices of Research Support or Grants and Contracts regarding procedures to ensure demonstrable compliance with the indicated requirements. See Appendix Q for additional information.

Consulting

Faculty and senior administrative staff members may spend up to four days per month in outside

activities or consulting work, averaged over an annual period of service (the academic year for faculty on a nine-month basis). Such activities are to be reported to the provost or to the dean, School of Medicine/vice chancellor for medical center academic affairs, with a copy to the department chair. Lectures or brief consulting activities to assist another educational institution need not be reported.

Classified Research

The university does not conduct classified research for federal or industrial sponsors the results of which cannot be published in a scholarly manner. All research conducted at the university must conform to the principles of the university-Industry Policy, which ensures researchers' rights to publish research results without unduly long delays and to engage in scholarly discussion with their colleagues.

Faculty members may arrange on an individual basis to participate in projects involving such research through other institutions. Duke University does not have any level of institutional clearance, nor can it arrange clearance on behalf of its faculty. Clearance is secured on a need-to-know basis by the organization for whom the work is to be done.

Use of Human Subjects in Research

Two committees have been established to ensure competent review of all research projects and activities involving human subjects. The University Committee on the Use of Human Subjects in Non-Medical Research reviews all projects and activities conducted by faculty, postdoctoral fellows, students, and staff from Trinity College of Arts and Sciences, the Pratt School of Engineering, the School of Law, the Divinity School, the Nicholas School of the Environment, and the Fuqua School of Business, as well as all projects and activities that originate in other schools or programs but will take place in campus facilities or involve campus subjects. The Medical Center's two (soon to be three) Institutional Review Boards are charged with reviewing all projects and activities within the Medical Center, as well as those projects originating in other schools and departments that involve the use of (1) Medical Center facilities or the cooperation of Medical Center personnel, or (2) drugs or any other chemical or physical intervention.

Before any project or activity involving human subjects is undertaken, the investigator must submit information to the appropriate committee sufficient to enable it to determine whether the human subjects will be placed at risk and, if so, whether:

- (1) The risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks,
- (2) The rights and welfare of any such subject will be adequately protected,
- (3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provision of the regulation, and
- (4) The conduct of the activity will be reviewed at timely intervals.

The complete statement of principles and procedures for all departments and programs outside the Medical Center is included in this handbook as Appendix P. Copies of the Medical Center's policy on human subjects assurance is available from the Institutional Review Board Office in the Medical Center.

Additional information and forms for submitting nonmedical research projects are available from the Office of Research Support and the department chairs. Additional information and forms for submitting projects in medical research are available from the Institutional Review Board Office in the Medical Center.

Animals in Research

All research, educational, and testing protocols involving live vertebrate animals at Duke University--regardless of funding source--must be reviewed and approved by the Institutional Animal Care and Use Committee (IACUC) and conducted in strict observance of federal guidelines. All Duke-approved protocols must comply with the regulations and procedures of Duke's Division of Laboratory Animal Resources (DLAR), which can provide further information about animal research requirements. Protocol forms are available from the Medical Center Grants and Contracts Office (684-5175) and downloadable from the IACUC web page. Protocols are approved for a three-year period, contingent upon the timely

receipt of annual progress reports. Protocols should describe all animal use activities planned for the entire three-year period, not just those planned for the coming year. At times, it may be necessary to include activities that are projected for a time beyond the three-year period of protocol approval. If the animal use activity is funded by an external sponsor that requires institutional certification of IACUC approval, the protocol must include all animal use activities proposed in the grant application regardless of their timing. In such cases, the entire grant application must be reviewed with the protocol to document concordance.

Use of Recombinant DNA and Biohazards in Research

All research involving recombinant DNA or potential biohazards must comply with federal guidelines and must be registered with the institution. Registration forms are available from the Medical Center Grants and Contracts Office (684-5175). These are reviewed by the Institutional Biosafety Committee for Recombinant DNA Research. Also available are copies of the NIH "Guidelines for Research Involving Recombinant DNA Molecules" and the Duke University Policy for Retrovirus Vector Research.

Radiation Safety

Information on ionizing/non-ionizing radiation safety is available through the Radiation Safety Office (684-2194).

Biohazardous and Chemical Materials

All work involving the use of biohazardous materials (toxic, infectious, carcinogenic, or recombinant DNA) and chemicals must comply with federal, state and local regulations regarding the shipment, handling and disposal of hazardous materials. Hazardous materials include infectious, radioactive, carcinogenic, teratogenic, mutagenic, corrosive, and combustible substances. Detailed information and instructions are available from the Environmental Safety Office (684-6320). Proper handling and labeling of biohazardous and chemical materials is required, as is labeling of rooms in which biohazardous materials are used.

Misconduct in Research

To safeguard the integrity of research conducted at the university, Duke adopted a Code of Policy and Procedures for Dealing with Allegations of Research Fraud or Misconduct in 1989. The full text of the current policy, revised November 1995, may be found in Appendix Q.

Data Retention and Access

Researchers have a responsibility to retain original research results, in whatever form they may take, for a reasonable length of time to protect intellectual property rights, support scholarly publication, and answer any questions that may arise about the conduct of the research. The university likewise has an interest in, and shared responsibility for, assuring that research is appropriately recorded, archived, and available for review under appropriate circumstances. Consequently, in May 1994, the university adopted a Policy on Data Retention and Access, the text of which is available in Appendix Q.

Chapter 6: FACULTY RESPONSIBILITIES WITH RESPECT TO STUDENTS¹

Faculty Responsibilities to Students

The Duke faculty takes its teaching very seriously. Members of the faculty expect Duke students to meet high standards of performance and behavior. It is only appropriate, therefore, that the faculty publish and adhere to comparably high standards in dealing with students. The following list of specific faculty responsibilities to students is predicated on the fact that students are fellow members of the university community, deserving of respect and consideration in their dealings with the faculty.

Class Attendance

In accordance with the Faculty Handbook, instructors will make every effort to attend all class meetings.

Course Content

Instructors will update their courses periodically to reflect the latest scholarship in the fields they teach.

Grading

Instructors will make clear at the outset how grades will be determined, what work in the course will be graded, and what standards will be applied.

Letters of Recommendation

Students depend upon faculty recommendations when applying for jobs or graduate school. If a faculty member agrees to write such a letter, it will be prepared promptly, accurately, and thoroughly.

Office Hours

Faculty members, including part-time faculty, will be available in their offices at least two hours per week. If unable to keep those hours, a faculty member will post a note to that effect.

Scheduling of Examinations, Papers, and Other Exercises

Examination schedules and deadlines for term papers will be established early in the semester and kept.

Syllabuses

At the beginning of each semester, faculty members will distribute course syllabuses covering the course to their classes in order to provide students with a clear prospectus.

Academic Dishonesty

Students at Duke University are responsible for maintaining high standards of academic honesty and personal integrity in all matters, including reporting the results of their studies and research, and taking quizzes, tests, and examinations.

Graduate and Professional Schools

A separate Graduate School Judicial Code and Judicial Board have been established to govern situations of academic dishonesty in the Graduate School. A full description appears in the *Bulletin of the Graduate School*. Professional schools have their own policies governing academic dishonesty that appear in their respective bulletins.

¹This section contains information pertaining to various policies and regulations regarding student-faculty affairs. It is assumed that, unless stated otherwise, these policies are university-wide. For more details on a specific policy or regulation of a school or college, consult the appropriate university bulletin.

Trinity College and the Pratt School of Engineering

The Undergraduate Judicial Board handles cases of academic dishonesty and breaches of community regulations not within the jurisdiction of the University Judicial Board. It is composed of students, faculty members, and academic deans. The Undergraduate Honor Code may be found in Appendix X. A complete statement of policy and procedures appears in the *Bulletin of Information and Regulations*. All entering undergraduates are provided with a copy of the code and these regulations.

Members of the faculty are expected to submit pertinent information on cases of possible misconduct to the Office of Student Development for investigation.² To the extent that faculty members take it upon themselves to adjudicate or penalize students for plagiarism or cheating, this system is seriously undermined.

Academic Freedom of Students

When and if a complaint is lodged against any faculty member asserting that he or she has abridged an individual's academic freedom, the dean shall receive that written complaint and use his or her good offices to resolve the matter in an agreeable fashion. If the dean wishes faculty aid in establishing the merits or extent of the complaint, the dean should appoint a disinterested two-person subcommittee of the Faculty Hearing Committee to provide advice. Cases not resolved by the dean may be brought to the attention of the provost.

Class Changes: Withdrawals and Additions, Academic Year

Divinity School

Policies concerning registration, changes thereof, refunds, withdrawals from single courses, and withdrawal from school are outlined in the *Bulletin of Duke University, Divinity School*.

Graduate School

During the first two weeks of a semester, a graduate student's registration may be changed with the approval of the director of graduate studies in his or her department if no fee reduction is entailed. If fees are to be refunded, the approval of the dean of the Graduate School is required. If a course is discontinued after the two-week period, the status of the student at the time of withdrawal is determined and indicated on the permanent record as WP or WF.

Trinity College and the Pratt School of Engineering

All students are expected to carry a full course load in each semester of enrollment. A full course load is defined as four semester courses; any enrollment above four is considered an overload. Students may drop/add courses, as desired, until the beginning of the second week of classes. While students may add at their discretion in the first week, a permission number from the appropriate instructor must be obtained during the second week. After the first two weeks no course may be added and, in order to withdraw from a course, the student must obtain permission from the appropriate academic dean. After the drop/add period but prior to the last class day preceding the final four weeks of classes, students taking a course overload, i.e., more than four semester courses, may by course withdrawal reduce their schedule to four courses with the permission of the academic dean. With the permission of their academic dean, students enrolled in four full-credit semester courses may for compelling reasons withdraw from one course after the drop/add period but prior to the last class day preceding the final four weeks of classes. When a student is permitted to withdraw from a course, the instructor of the course will assign a grade of WP or WF. During the last four weeks of classes in any semester, or its equivalent in summer terms, a student may withdraw from a course if, in the judgment of the student's dean, compelling and extraordinary circumstances make it necessary for the student to discontinue the course; otherwise, the course is continued to the end of the semester. A course discontinued without approval results in a grade of F. A WE (withdrawal/error) may be assigned when an error in registration has occurred.

²They may consult with their department chair or the appropriate academic dean before submitting this information, if they wish.

School of Law

All students are required to register on the dates prescribed by the School of Law, at which time class schedules must be completed. A student's registration for any semester is not complete until all indebtedness is settled with the Office of the Bursar. Students are not eligible to attend classes or make use of university facilities if they have any outstanding debt to the university.

Students may alter their registration by adding or dropping courses prior to the end of the sixth class day of a semester, except that in specified seminars in which enrollment is limited, no withdrawals will be permitted without the permission of the instructor and dean. Withdrawals after the sixth class day of a semester are permitted only with the permission of the instructor and dean.

School of Nursing--Graduate

During the two-week drop/add period at the beginning of the semester, students may make changes in their schedule. After the drop/add period no course may be added, and in order to withdraw from a course a student must obtain permission from the academic adviser and the dean. The instructor must certify the student's standing in the course as satisfactory or as failing. In the former case a WP will be entered on the permanent record and in the latter a WF. During the last four weeks of classes in any semester, withdrawal from a course will be granted only if, in the judgment of the dean, compelling and extraordinary circumstances make it necessary for the student to drop the course; otherwise, the course must be continued to the end of the semester. A course discontinued without permission will result in a grade of F.

Summer Session

Prior to or during the first three days of classes in a summer term, a student may add or drop a course by using the web-based automated registration system (ACES). Financial penalties may apply. After the third day of class, no course may be added. With permission of the academic dean (the director of the summer session serves as dean for all non-Duke students) or director of graduate studies, students may withdraw from a course until the end of the twentieth class day of a regular summer term; the instructor then assigns a WP or WF grade. Course work discontinued without the approval of the dean or director of graduate studies will result in a grade of F.

Class Lists

Each instructor receives a temporary class list from the registrar on the first day of classes. Students wishing to drop a course after the drop/add period must present a grade form to the instructor. Students in the School of Law wishing to drop a course must present a drop/add form to the instructor and a dean for signature. After six weeks have elapsed in the semester, or three days of a summer term, each instructor receives an amended class list indicating all changes made to that date. Students who wish to audit courses should consult the appropriate bulletin, continuing education office, or academic adviser. Updated class lists are available to all faculty members via the web. Contact the Office of the University Registrar for this access.

Examinations

Trinity College and the Pratt School of Engineering

Instructors for courses offered in Trinity College of Arts and Sciences and the Pratt School of Engineering must announce during the first week of classes the form of the final exercise, if any. Unless departmental or school policy stipulates otherwise, the form of the final exercise is determined by the instructor. Final written examinations may not, however, exceed three hours in length, and final take-home examinations may not require more than three hours of actual writing. Take-home examinations are due at the regularly scheduled hour of an examination, based on the time period of the class. In courses where final examinations are not scheduled, examinations may not be given in the last week of classes.

Instructors must retain all final examination papers for at least one year. They should be available for reference in instances where a grade is questioned.

Regular Scheduling. The official schedule of final semester examinations for Trinity College of Arts and Sciences, the Pratt School of Engineering, and the Graduate School is prepared and distributed by the University Schedule Committee, and no changes may be made in it without the committee's approval. Generally, final examinations are scheduled according to the day and hour at which the course meets during

the semester.

Block Scheduling. When a department offers six or more sections of a course with at least 100 students enrolled, and when the instructor in each of those sections agrees to give a uniformly graded common examination, a written request for a block examination time period may be made to the registrar and the chair of the University Schedule Committee. Such requests must be made by the end of the second week of classes in the previous semester, in order that the Schedule Committee can attempt to meet the request while it is establishing the final examination schedule.

Tests to be given during the regular semester also may be scheduled on a block basis when as many as six or more sections of a course with 100 students are being offered, and when the instructors in those sections agree to give a uniformly graded common examination. Block tests must be approved by the University Schedule Committee. Such tests are scheduled on Tuesday or Thursday between 7:30 a.m. and 8:45 a.m.

Proctoring. All undergraduate examinations and quizzes must be proctored by the instructor or a designee.

School of Law

Examination requirements, submission of papers, and marks of incomplete in the School of Law are governed by its Rules 3-16 through 3-18. The Rules of the School of Law are available from the office of the dean.

Grading

Undergraduate Symbols

The grading symbols used at Duke at the undergraduate level are as follows:

A	Exceptional
B	Superior
C	Satisfactory
P	Pass
D	Low pass
F	Failing

The first five symbols are passing grades. Grades of A, B, C, and D may be modified by a plus (+) or a minus (-). Although the D grade represents low pass, in Trinity College not more than two courses passed with a D grade may be counted among those required for graduation or annual continuation. Courses for which a D grade is earned do, however, satisfy all other requirements.

A grade of F indicates that the student has failed the course and does not receive credit. The course must be repeated and a passing grade earned in order for credit to be awarded. The letter N is not a grading option. It is used by the Office of the Registrar to show that no grade was submitted.

Graduate and Professional School Symbols

At the graduate and professional school level, various systems of symbols are used:

Divinity	A, B, C, D, F, P, NC, I, W, WI, WF, I (permanent)
Fuqua School of Business	SP, HP, P, LP, F
Graduate	E, G, S, F, I, Z
Graduate Nursing	A, B, C, F
Law	Numerical grades from 4.5 to 1.1
Medicine	P, F
Nicholas School of the Environment	E, G, S, F, I, Z

Within the Divinity School, the Graduate School, the School of Nursing, and the Nicholas School of the Environment, all grades except F may be modified with plus (+) or minus (-). Such modifications are entered on the permanent record.

Repetition of Courses: Trinity College and the Pratt School of Engineering

A Trinity College student who receives a grade of D-, D, or D+ in any course will be allowed to repeat the course at Duke with permission of his or her academic dean. Forms to request permission are available in the deans' offices. A Pratt student who has earned a grade of D-, D, or D+ in a required mathematics course or a required engineering course may, with permission of his or her adviser, director of undergraduate studies, and academic dean, repeat the course.

The grade earned in the repeated course as well as the grade earned originally will appear on the transcript, the former identified as a repeat; both grades will be computed in the grade point average, but the course credit will be counted only once toward the minimum number of courses for continuation or toward fulfilling graduation requirements.

Repetition of Courses: Divinity School

Students earning a failure (F) in a required (core or foundational) course must retake the course. Students earning a D (D+, D, D-) in a core or foundational course shall be obliged to retake a regularly scheduled final examination in that course and pass said examination with a grade of C- or better. The retake does not alter the existing grade.

Repetition of Courses: School of Law

Repetition of courses in the School of Law is governed by Law School Rule 3-15. The Rules of the School of Law are available from the office of the dean.

Pass/Fail Grading Option

With the consent of the instructor, students in Trinity College of Arts and Sciences who have declared a major may choose to be graded on a pass/fail basis in one elective, nonmajor course each semester. With the consent of the instructor, and director of undergraduate studies, a student may take for pass/fail credit independent study or internship courses in any department including that of the major. No degree requirements, except for the requirement for thirty-four course credits and the continuation requirements, may be met by a course passed under the pass/fail option, unless the course is offered only on that basis. Preceptorials, discussion sections, seminars, and tutorials may not be taken on the pass/fail basis, unless the course is offered only on that basis.

With the consent of the instructor and the faculty adviser, a Pratt School of Engineering student may choose to be graded on a pass/fail basis in up to four unrestricted electives or social sciences/humanities electives within the thirty-four course program. A student may take no more than one course on a pass/fail basis each semester.

Students enrolling in a course on a pass/fail basis complete all the work of the course but receive either a pass (P) or fail (U) grade in lieu of a standard grade. They may not change status to or from a pass/fail basis after the first two weeks of classes in any semester, or the first three days of the summer term. Students must follow the procedures described on ACES Web for recording the grading status by the published deadline. A pass grade may not be converted subsequently to a regular letter grade, nor may the course be taken again on a regular grade basis.

Pass grades do not count in the grade point average; however, a failing grade (U) in a pass/fail course is computed in the GPA.

Audit

With the instructor's permission, students may register to audit one or more courses except those classified as physical education activity, dance activity, applied music, and studio art. Auditors are not required to submit assignments or take examinations and receive no credit for audited courses. Once audited, a course cannot be repeated for credit. The record shows AD to indicate that a course has been audited. Students may not change a course to or from audit after the end of drop/add. Students must follow the procedures described on ACES Web for recording the grading status by the published deadline.

Z-Satisfactory Work in Progress

The grade Z may be used only in year-long courses to indicate satisfactory work in progress at the end of the first semester when no regular grade is applicable. At the end of the second semester of the course a single grade for the year's work is assigned, and credit added to the cumulative calculation.

X-Absence from Final Examination

Whenever students are absent from a final examination, they receive an X instead of a final grade unless the student's grade in the class is failing, in which case the instructor may submit an F. If no acceptable explanation for the absence has been presented to the appropriate dean's office within forty-eight hours after the scheduled examination time, the X is converted to an F. In extraordinary circumstances, an academic dean may excuse a student's absence from a final examination. It is the responsibility of the student to consult the academic dean within forty-eight hours of the missed exam. However, deferral of a final exam will not be authorized by the academic dean if it is ascertained from the instructor that the student has a history of excessive absence or failure to complete coursework in a timely fashion for the class. If the absence is excused, the students arrange with the dean and the instructor for a makeup examination to be given at the earliest possible time. In the School of Law, arrangements for makeup examinations are made with the dean only. An X not cleared by the end of the fifth week of the following semester is converted to an F. If not enrolled in the university during that following semester, students are given until the end of the fifth week of the next semester of matriculation to clear the X.

I-Incomplete Work

If because of illness, emergency, or reasonable cause a student cannot complete work for a course, the student may request in writing to his or her academic dean the assignment of an I (incomplete) for the course. If the request is approved by the instructor in the course and by the student's academic dean, the I is given. Although normally a Trinity College of Arts and Sciences student's request for the assignment of an I must be approved by the instructor in the course and by the student's academic dean, from whom the appropriate request forms are available, in certain cases the instructor may elect to assign an I without a written request from the student or the approval of the academic dean. The student must satisfactorily complete the work prior to the last class day of the fifth week of the subsequent semester (or earlier if there is a question of the student's continuation in school) or a grade of F will be recorded for the course. An I taken in the fall semester must be resolved in the succeeding spring term; an I taken in the spring or summer must be completed in the following fall term. A student not enrolled in the university during that subsequent semester will have until the end of the fifth week of the next semester of matriculation to clear the I. Students may not complete work in a course after graduation.

To clear an I, the instructor submits to the registrar a final grade recorded on the appropriate form available from the registrar's office. When the course grade is added to the student's official record, the I remains on the record in parentheses.

In the Graduate School one year is allowed for completion. When the course grade is added to the student's official record, the I remains on the record in parentheses. If the course requirements are not completed within one year, the grade of I remains permanently on the student's record and no credit is received for that course.

For the purpose of determining whether a student satisfies continuation requirements, an I is counted as failing to achieve satisfactory performance in that course. If at the end of the fall semester or the summer session an incomplete is a factor in determining continuation, it must be satisfactorily completed in time for final grades to be submitted to the registrar no later than the day preceding the first day of classes for the next semester. If the question arises at the end of spring semester, the I must be resolved prior to the first day of classes for the second term of summer session, whether or not the student plans to attend any terms of the summer session. No student who has incomplete course work from both the spring semester and the summer session may continue into the fall semester.

WP, WF, W--Withdrawal from a Course

The grade symbols WP and WF are used to indicate officially approved withdrawal from a course after the drop/add period. A W is used to designate an administrative withdrawal from courses during a summer term. In order to withdraw from a course, students must first secure permission from their deans after which a grade of WP or WF is assigned by the instructor. If a student discontinues a course without the permission of the appropriate dean, a grade of F is recorded.

W, F--Withdrawal from the University

Students who wish to withdraw from the university must give official notification to their academic dean. For students withdrawing from the university on their own initiative prior to specified times (given in the bulletin for each college or school) before the end of the semester, a W is assigned in lieu of a regular

grade for each course. Thereafter an F is recorded for each course unless the withdrawal is caused by an emergency beyond the student's control. For additional information, consult the bulletin of the appropriate college or school or the student's academic dean.

Reporting Grades: Trinity College, Pratt School of Engineering, Graduate School, Graduate Nursing, Nicholas School of the Environment, Divinity School, Fuqua School of Business

At the appropriate times each semester, instructors are provided with materials on which class grades must be reported. These come to each instructor from the registrar, through the department chair or dean.

The instructor carries or faxes the grade sheet to the Office of the Registrar. All such grade report lists should be returned within forty-eight hours after the final examination is given. Graduating students' grades are due within twenty-four hours after the final examination is given. Grades reported more than forty-eight hours after the last scheduled final examination may not be processed in time to appear on the current semester's grade report. Grade reports are sent to all students at the end of each semester.

Reporting Grades: School of Law

Reporting of grades in the School of Law is governed by its Rule 3-19. The Rules of the School of Law are available from the office of the dean.

Midterm Grades for Undergraduates

Midterm grades are required for all first-year students and only those upperclass students who are doing unsatisfactory work (i.e., D or F). Instructors should submit their midterm reports to the registrar by the date listed on the university schedule. Midterm grades are not recorded on permanent records, but midterm grade reports are sent to first-year students and to their parents or guardians.

Grade Changes

It is important to note that with the exception of I grades and X grades, changes in grades may be made only because of an error in calculation or an error in transcription. Changes in grades may not be based on the late submission of required work, the resubmission of work previously judged unsatisfactory, or on additional work. No changes may be made in a grade after the end of the semester following the one for which the grade was assigned, although cases of error discovered after the deadline may be appealed by the student or the instructor to the Office of the Provost. The purposes of these regulations are to promote accurate record keeping and careful grade reporting, and to protect instructors from student pressure. The procedures vary slightly in the School of Law.

The university requires that changes in grades other than those designated by I or X be indicated in a letter written on departmental stationery, signed by the instructor, and mailed or faxed directly to the university registrar. Grade change requests may not be delivered by the student. The letter should contain the name of the student, the course and section number, the incorrect grade, and the correct grade. The letter must also state that the reason for the change in grade is either an error in calculation or an error in transcription.

Continuation Requirements

All students must show satisfactory progress toward graduation in order to remain in good academic standing. Consult the Bulletin for specific semester and annual continuation requirements.

Scheduling of Classes and Attendance Regulations

Deviations from Regularly Scheduled Class Times

Classes must be met only at the times for which they are regularly scheduled unless prior permission is received from the University Schedule Committee or the appropriate dean. A form for requesting this permission is available in the offices of the deans of the schools and college and of the chairs of Trinity College of Arts and Sciences departments.

Religious Holidays

Although the university calendar does not observe many religious holidays, the various denominational organizations are encouraged to inform the deans of major holidays that may affect the classroom attendance and the submission of graded work of a significant number of students. In the event of a

conflict, students wishing to observe a specific religious holiday should request their instructors to arrange for a postponement or makeup of work. If an instructor is unable or unwilling to grant the request, students should consult their academic deans.

Instructors' Absences

In the event that instructors have legitimate professional commitments that result in absence from class, they should notify both the department chair and the students as early as possible. The class time must be made up by appropriate means to be approved by the department chair or academic dean.

Students' Absences

The university places the responsibility for class attendance upon the student. Students are expected to attend classes regularly and punctually, and to recognize and accept the consequences of failure to attend. Instructors may refer to the appropriate academic dean those students who are causing their work or that of the class to suffer because of their absence or tardiness.

Excused Absences: Trinity College and the Pratt School of Engineering

Students who are absent from a test or have missed a scheduled deadline for an assignment will be excused only for illnesses certified by a medical official of the university or for authorized representation of the university. Official excuses are obtained from the appropriate academic dean. Instructors should not request excuses from deans unless a previously announced examination or assignment is missed.

Field Trips and Other Off-Campus Programs for Students. Instructors who schedule field trips and other off-campus exercises that cause students to be absent from classes must notify each student's dean forty-eight hours in advance of the absence. The instructors must report the date, time, and nature of the activity in which the students will be taking part.

Absence Due to Severe Weather Policy. Duke University is largely a residential campus. It is for this reason that only under extremely critical weather conditions may classes officially be canceled. In some circumstances, certain categories of staff employees will not be expected to report to work even though classes are held. In other circumstances, classes will be cancelled and only the most essential employees for our residential and health care operations will be expected to report to work. The decision to cancel classes will be made only by the president or the provost and will be explicitly communicated as part of media announcements about severe weather closings.

It is understood that weather conditions may make it impossible for an individual faculty member to conduct a specific class meeting even though classes have not been cancelled university-wide. Faculty members should alert their school or departmental administrative office in this case. The university expects individual instructors who are unable to meet scheduled classes to make appropriate alternative arrangements to meet their teaching obligations.

Statement of Harassment of Students Policy

The university has adapted a harassment policy that applies to all members of the university community. This policy and the procedures for resolution of harassment claims may be found in Appendix W.

Student Assistants

Undergraduate

Faculty members wishing to employ undergraduate students as assistants should consult their department chair in Arts and Sciences, Engineering, and Medicine, or dean in other professional schools.

In courses where undergraduate student assistants are used to grade nonobjective examinations, papers, or other class exercises, faculty members should adhere to the following guidelines:

- (1) New student assistants should be properly trained and supervised by the class instructor or by experienced assistants. Where appropriate, the instructor should spot check papers graded by assistants to ensure that proper standards are being followed.
- (2) Students who believe that they have been graded unfairly should have the right of appeal to the course instructor, who must remain ultimately responsible for the grade given.

Graduate

Graduate predoctoral candidates with special training and qualifications are frequently appointed to serve as either research or teaching assistants to individual faculty members in certain departments and schools. The nature of the work assigned to an assistant and amount of time spent at it vary. Faculty members should consult their chair or dean concerning the expected duties of such assistants.

College Work-Study

Employment of students under the federal College Work-Study Program must be arranged through the applicable financial aid office to assure compliance with the regulations governing that program.

Academic Advising, Trinity College and the Pratt School of Engineering

The undergraduate advising system places responsibility on the students for their academic progress, but provides assistance whenever it is needed. In addition to the formal advising system, described below, most faculty members also advise on an informal basis.

The orientation and pre-matriculation advising of undergraduates are handled by the college and school. Subsequent advising differs for Trinity College of Arts and Sciences and the Pratt School of Engineering. Before declaring a major in Trinity College, students confer regularly in the Trinity College Pre-Major Advising Center or in faculty offices with their pre-major advisers, with the academic dean for pre-major students, and, as needed, with pre-professional advisers. Each student selects a department/program major or interdepartmental major in the second, third, or fourth undergraduate semester. After the major is chosen, the responsibility for advising rests with the major department; the academic deans for the various divisions are also available for consultation. Faculty members may be called upon by the dean of Trinity College, the department chair, or both, to do formal academic advising either in the Trinity College Pre-Major Center or within the department.

Undergraduates who desire certification as teachers should be referred to the advisers in the Program in Education as early as possible for advice in planning their program so that they will be eligible for student teaching to meet certification requirements. Each year some upperclass students find that they cannot qualify because they did not begin their planning early enough.

Within the Pratt School of Engineering, students are assigned to faculty advisers who help them plan a suitable program from the time of entrance to the school. Efforts are made to maintain continuity by assigning the same advisers each year, but changes are possible upon request. Advising appointments are necessary at each registration. The adviser's signature is necessary for registration and all course changes. In engineering the adviser's signature is required only after the drop/add period.

The deans of the college and school maintain continuous surveillance over academic records. They also advise students on their academic progress.

Education Records

Family Education Rights and Privacy Act

In accordance with the Family Education Rights and Privacy Act of 1974, Duke University generally permits students to inspect their educational records and protects the information in such records from disclosure to third parties without the student's consent. Since all educational institutions that receive federal financial assistance are subject to the terms of the act, faculty members should be aware that the letters of recommendation they write on behalf of their present or former students may be accessible to those students unless they have voluntarily waived their rights to access. The university's complete policy on student records is attached to this handbook as Appendix R.

Recommendations for Students

Faculty members who have been requested by a student to write a letter of recommendation or who have other stated educational purposes may review the student's academic records in the Office of the Registrar or in the office of the appropriate academic dean. However, it is university policy that faculty members respect confidential information that they acquire about students.

Evaluation of Faculty by Students

The academic administration of the university urges strongly that each member of the faculty administer an evaluation in each class at the end of each semester. Departments and professional schools are free to prepare and use any evaluation form.

Trinity College

The associate dean distributes to the departments in the college a supply of teacher-course evaluation forms for use by the faculty in their courses each semester. Ordinarily, the completed forms are read only by the faculty member and the department chair; however, if departmental policy permits, the forms or certain information on the forms may be released to other officers of the university and, where appropriate, to the editor of the *Teacher-Course Evaluation Booklet* (see below).

Teacher-Course Evaluation Booklet

A committee of students is periodically appointed by the Undergraduate Publications Board to compile and publish a teacher-course evaluation booklet. Based largely on teacher-course evaluation forms made available by the department, these booklets are printed, bound, and then distributed on campus to provide, in the words of one of the committees, "a guide for student selection of professors and courses," and to give faculty members "a reliable mirror in which to view themselves as teachers." These occasional teacher-course evaluation booklets are not official publications of Duke University.

Services Provided by the Office of Student Affairs

Counseling and Psychological Services (CAPS)

The CAPS staff of psychologists, clinical social workers, and psychiatrists provides a range of counseling services, most covered by the student health fee, available to all undergraduate, graduate, and professional students enrolled in the university. These services include evaluation and counseling for personal problems related to family, social, academic, vocational, and sexual matters, as well as psychotherapy for more serious psychological problems. Individual, couples, and group counseling are offered. CAPS staff also provide outreach education programs to student groups, particularly programs supportive of at-risk populations. CAPS administers special group testing programs for the university community, and serves as a local testing center for a variety of national testing programs. CAPS maintains a policy of strict confidentiality concerning information about each student's contact with CAPS personnel. Staff are available for consultation with faculty concerning students or other matters relating to mental health in the university community.

The Career Development Center

The Career Development Center serves to educate the students of Duke University in the arts of self-assessment, career exploration, career planning, and job hunting with the goal of helping them develop rewarding and fulfilling careers. The Center primarily serves the students and alumni of Trinity College, the Pratt School of Engineering, and the Graduate School. It provides various types of assistance including career counseling and access to DukeSource, the Center's group of more than 5,000 alumni/ae and parent career advisers who offer advice from all over the country and overseas in a wide variety of specific career fields. Orientations to the programs of the CDC are held at regular intervals throughout the year. Workshops on curriculum vitae/resume and cover letter writing, interview techniques, researching employers, and general job-hunting strategies are designed to aid students in their on-going searches. Also, a member of the professional staff is on hand for daily walk-in hours to answer quick questions and handle immediate concerns with no appointment necessary. Other opportunities include the Career Discovery Program, the Ventures Internship Program, the Health Careers Internship Program, the Service Learning Project, and On-campus Recruiting Programs.

The Career Development Center library, located on the second floor of the Center, houses a collection of guide books, periodicals, and specially developed materials to aid in career exploration. The collection provides information on a wide range of career fields and employers. CareerNet, the CDC homepage on the Internet, can be accessed at: <http://careernet.stuaff.duke.edu>.

Faculty and Student Activities

Members of the faculty are often called upon to serve on governing boards of, or as advisers to, student

organizations. The University Union and the Publications Board oversee many of the major cultural programs and publications on campus including the Broadway at Duke Series, the yearbook, and the teacher-course evaluation booklet. Faculty members serve as advisers to a variety of clubs and organizations involved in community service, religious affairs, political organizing, cultural activities, club sports and residential life. They serve as resource people rather than in a supervisory role.

The Office of University Life serves as a clearing house/advising center for student organizations and can help faculty members with information about student groups involved in activities of interest to the faculty.

Student Development and Residential Education

The Office of Student Development and Residential Education, the undergraduate dean's office, advises and refers individual students regarding personal problems and concerns, houses students in the residence halls and Central Campus Apartments, and assists students and faculty in developing strong residential communities through planning and implementing programs and other learning opportunities within the residence halls. In addition, the Office responds to disputes and concerns about student behavior, coordinates the undergraduate judicial process, assists with new student orientation, and responds to emergency situations involving students (24-hour, seven days a week emergency coverage). To achieve these goals, the Office works with a staff of 130 graduate and undergraduate Residential Advisors, as well as advises campus organizations including the East Campus Council, the Undergraduate Judicial Board, and the Campus Council.

Sexual Assault Support Services

Duke's Office of Sexual Assault Support Services (SASS) was created within the Division of Student Affairs to provide a central on-campus resource for information on and assistance after sexual violence. SASS offers prevention education to the Duke community and direct service to student survivors, their friends, and families. The SASS office works closely with other university departments to provide comprehensive counseling, medical services, and law enforcement, judicial, legal, academic or residential intervention and advocacy.

The SASS Coordinator can be paged 24 hours a day (the number appears in the Duke Directory). Appointments may be scheduled during business hours by calling or visiting the SASS office, adjacent to the Women's Center on West Campus.

Services Provided by the Duke University Health Service

Student Health Service

The Student Health Service is a division of Duke University Medical Center's Department of Community and Family Medicine. The primary site for student health care is the Student Health Module, located at the Marshall Pickens Building, at the corner of Erwin Road and Trent Drive. The East Campus Wellness Center, a clinic primarily for advice, minor illness, or injury for first-year students, is located in Wilson House on East Campus. The Healthy Devil Health Education Center is located in House O, West Campus. The Healthy Devil On-Line web site is a 24-hour information resource.

Other services provided by the Student Health Service include: infirmary care in Duke Hospital South; Student Health Physical Therapy in the basement of Card Gym (West Campus); an allergy clinic and sexual health and contraception.

Chapter 7: UNIVERSITY LIBRARIES

The Perkins Library system and the Divinity, Law, Business, and Medical Center libraries comprise the university libraries. The Perkins system includes the William R. Perkins Library, or main library, and several other more specialized libraries: Lilly Library and the Music Library on East Campus; the Engineering, Biological and Environmental Sciences, Math/Physics, Chemistry, and Special Collections libraries on West Campus. The Perkins Library system is administered by the university librarian, who reports to the Office of the Provost. The Divinity School Library is affiliated with the Perkins system, although its librarian reports to the dean of the Divinity School. The School of Law, Fuqua School of Business, and the School of Medicine have separate libraries that are administered by librarians who report to their respective deans. The World-Wide Web address for the Duke University Libraries is <http://www.lib.duke.edu>.

William R. Perkins Library

The Perkins Library houses books, journals, and on-line resources supporting the humanities and social sciences, as well as special collections and extensive holdings of United States federal and state documents and the public documents of many European and Latin American countries. The library is an official depository for U.S., North Carolina, and European documents. An international focus is evident throughout the library collections, reflecting the global strengths of area programs at the university.

The Research Triangle institutions of Duke, the University of North Carolina at Chapel Hill, North Carolina State University, and North Carolina Central University have a long history of resource sharing and cooperation organized as the Triangle Research Library Network (TRLN). Strong research collections that complement each other have been built in many subject areas, particularly those with an international focus.

Because of the increase in the number of monographs and new journals that are published, as well as rising costs, it has become necessary for the Triangle institutions to share infrequently used journals and expensive reprint collections. Requests to duplicate these and other library materials are reviewed closely. To the extent that cooperation is successful, the Duke community may be assured of access to this larger collection of resource materials.

A corps of subject and area studies bibliographers manages the Perkins Library collections. These bibliographers are responsible for selection of materials and are available to assist faculty and guide them to the library's collections and services. A directory of bibliographers is available at the Perkins reference desk.

Circulation

Members of the faculty may borrow most books for one year, but books are subject to recall after two weeks when needed by another borrower. All books borrowed prior to April of each year must be returned or renewed before May 31. If a faculty member does not respond to an overdue notice, then after 30 days the library staff assumes that the book is lost. At that time a notice is sent imposing a billing fee of \$5, a \$25 processing fee, and a charge for replacement of the volume. If the volume is returned at this point, all charges are canceled except the billing fee of \$5. If the volume has not been returned after a reasonable interval following the bill, the total amount is deducted from the faculty member's net pay in the subsequent pay period. Periodicals are generally restricted to library use with overnight check-out available to faculty.

The circulation desk staff, upon request, will provide location service for materials not on the shelves. If a needed book has been checked out to a student or colleague for longer than two weeks, a call-in may be requested. Recalls not returned by time of a second notice are charged \$1.00 per day from the date of the second notice and are billed as lost after 30 days.

The Perkins Library has an arrangement with the UNC libraries at Chapel Hill, with North Carolina State University, and with the newest TRLN partner, North Carolina Central University, which permits direct borrowing by members of the Duke faculty from these libraries. Cooperative borrower's cards may be obtained through the Perkins circulation desk and from most branches. Books borrowed from NCCU, UNC, or NC State are subject to the loan regulations imposed by the lending library.

Study Carrels

A limited number of carrels are available for assignment to members of the faculty whose work requires the use of the main collection in Perkins. Closed carrels are available by written application to the head of circulation. Carrels are generally assigned for one year and must be renewed for each subsequent year, if needed.

Interlibrary Loan

Interlibrary loan (ILL) service is offered to Duke faculty, staff, and students. Through an extensive network of libraries and document delivery services, ILL obtains books, microforms, dissertations, journal articles, reports, and other materials not available on campus. Materials may be borrowed from the Center for Research Libraries (CRL), a cooperative, member-based library of specialized research materials in Chicago. Members of the Duke community may submit requests to the Perkins Interlibrary Loan office by e-mail at the address ILL1@MAIL.LIB.DUKE.EDU, or by completing a paper form in the ILL office, at the Perkins reference desk, or at any other Perkins system library. The Interlibrary Loan office is located in 117 Perkins and is open Monday-Friday from 8:00 a.m. to 5:00 p.m. Staff at the Perkins reference desk provide assistance at other times. The Medical, Law, and Business libraries provide interlibrary loan service for their respective faculty and students.

Reference Services

Professional reference service is available for faculty members, students, and staff in all campus libraries. In Perkins Library, the Special Collections Library (located in the older portion of the Perkins building), and the Divinity School Library there are reference departments with distinct reference desks. In the other Perkins system libraries, in the Public Documents and Maps Department in Perkins Library, and at other public service areas, reference questions should be asked at the general service desks.

Reference librarians in Perkins Library are on duty most hours the library is open. They provide Reference librarians in the Perkins Library are on duty most hours the library is open. Card catalogue assistance, general and specialized assistance in the use of electronic and print reference sources, assist with document retrieval, and fulfill requests for specific information needs. Reference librarians also provide, upon request, group instruction in the use of library materials for classes in the humanities, social sciences, and sciences.

Reserves

Requests to reserve materials for class use should be submitted on standard reserve list forms available in Perkins Library. All reserve lists are dated and processed in order of receipt and should be handed in four to six weeks before the beginning of the semester. Faculty members who provide lists early receive obvious advantages. If books needed for reserve are not included in the library's holdings or if there is an insufficient number of copies, order information should be directed to reserve staff immediately. The library generally allocates no more than one copy per thirty students in a class. Faculty may place personal copies of items on reserve when necessary.

Copyright issues and changing technology have complicated the matter of reserves. Faculty and reserve staff will determine together, on a case-by-case basis, the form in which articles will be circulated.

Guides

A series of guides and information sheets that describe additional procedures and special collections in greater detail has been prepared by the library staff. These may be obtained near the reference desk in Perkins Library or in the branch libraries or library departments such as the Public Documents and Maps Department.

School of Law Library

The School of Law Library serves both the university and the local legal community. It features comprehensive coverage of Anglo-American law and contains a substantial collection of foreign and international legal materials, as well as a large treatise collection on subjects relevant to legal research. Services and collections are described in the *Library Guide*.

Selection of Library Holdings

Book selection and collection development policy reflects the teaching and research programs of the Law School. Book selection is done by the library staff with the advice of the faculty.

The faculty is encouraged to make suggestions for book and periodical purchases. The library makes every effort to purchase materials recommended by the faculty.

Circulation

The law library collection is largely for research and most materials do not circulate. Unless on reserve, treatises may be borrowed for use outside the library by Duke faculty and staff upon presentation of a university I.D. card. Loans are for one month, subject to recall after two weeks if requested by another patron, or immediately if the item is needed for reserve. All loans may be renewed unless there is a request for the item.

Special Services

University faculty members may request a library tour and legal research class for their students through the information services department. Law library materials can be placed on reserve for in-house use by nonlaw students; generally, items for this purpose are placed on reserve in Perkins. Faculty members may borrow law library materials for photocopying in their own departments or may arrange for account transfers with the law library.

Self-service card-operated photocopying facilities are available for law library users.

Library Carrels and Computers

Law library carrels and computers are reserved for law student use. If a faculty member needs to reserve a library work space, the director of the library should be consulted.

Reference Services

Law-trained reference librarians are available to assist with the location and use of legal materials and to suggest research strategies to solve particular legal research problems.

Medical Center Library

Circulation

All readers, whether students, faculty, or staff, are bound by the same lending regulations. In signing a charge card the borrower agrees to comply with the library's circulation rules. Details of loan services may be found in the library guide; in general, books may be borrowed for a two-week period, and bound journals for one day; up to two renewals may be requested for books only if there has been no other call for the item. Faculty of non-Medical Center departments will be issued a borrower's card upon request to the circulation department with appropriate university identification.

Facilities

The library has equipment for the use of video cassette tapes, slide transparencies, and audio cassette tapes. Media materials are integrated into the book and journal collections, and are represented in the library catalogues. Special assistance in locating audio-visual materials is available from the readers' services department. In addition, the library provides access to a wide variety of networked on-line searching.

Carrels

Closed carrels and group study rooms are restricted to the exclusive use of Medical Center students and personnel and are available daily on a first come, first served basis only.

Photocopying

Self-service card-operated copiers are available on each stack floor and in the current journal area. Cards may be purchased in the library. Arrangements may be made for departmental billing of self-service photocopy charges via a properly executed I.R.I. form. Details concerning photocopy services may be obtained at the circulation desk.

Reference and Bibliographic Services

Librarians are available to aid in the location of library materials; to decipher or verify references; to respond to brief queries for biographical information, addresses, telephone numbers, etc.; to instruct in the use of library catalogues, special bibliographies, and various indexing and abstracting services; to provide bibliographic search services, usually through the computerized bibliographic files made available by the National Library of Medicine and other on-line data base suppliers; and to assist Medical Center users in obtaining items that the library does not own, through the interlibrary loan service. Tours or instructional seminars tailored to individual groups may be arranged through the readers' services department.

Reserve Collection

In order to provide maximum access to materials in heavy demand, the library maintains a reserve collection. This collection consists of books and photocopies of journal articles assigned by faculty members for specific courses or seminars, as well as frequently used basic textbooks. Materials are restricted to library use except for overnight charges. Faculty members are sent forms on which to request materials each fall; these must be returned at least two weeks before the beginning of the semester. The library will provide a maximum of two photocopies of any journal article for reserve.

Guidebooks

A library guide to the services and facilities has been prepared for the use of readers. Detailed information sheets on resources useful for various disciplines may also be found at the information desk.

Fuqua School of Business Library

The Fuqua School of Business (FSB) Library collects books, journals, and specialized materials in the areas of accounting, finance, economics, marketing, organizational behavior, operations management, and quantitative methods. The library is intended primarily for use by the faculty and students of the Fuqua School of Business.

Selection of Library Holdings

In addition to maintaining its own acquisitions program, the FSB Library purchases materials recommended by the faculty and students of the Fuqua School of Business. Requests for materials should be sent to the library with any accompanying information, such as publishers' brochures. After books have been received and catalogued, they may be mailed to the requestor's office, if the library has been requested to do so.

Circulation

Faculty and PhD students in the Fuqua School of Business may borrow materials for one semester; MBA students may borrow materials for two weeks. Materials may be renewed unless they have been requested by another user.

Special Services

The FSB Library provides a number of special services for FSB faculty and students, including computer searching, library instruction, and selective dissemination of information (SDI). Computer searching and library instruction are provided as part of the daily reference service. The cost of searching bibliographic data bases is subsidized for students in the Fuqua School of Business. Library instruction is available to individuals, groups, or classes of students, and a session that addresses a specific research problem may be scheduled with the librarian. An SDI service, based on the library's 200-title current journal collection, is available for FSB faculty and may be arranged with the librarian.

Appendix A: THE INDENTURE OF TRUST BY WHICH THE UNIVERSITY WAS CREATED

THE RESTATED CHARTER OF DUKE UNIVERSITY

THE BYLAWS OF DUKE UNIVERSITY

The Indenture of Trust

Among the provisions of James B. Duke's Indenture of Trust was an educational institution to be known as Duke University, to the building and support of which he made provision at the time of execution of the Indenture and later by additions thereto by the operation of his will. In respect to Duke University the Indenture contains the following provisions:

I. (In Article FOURTH) The Trustees hereunder are hereby authorized and directed to expend as soon as reasonably may be a sum not exceeding Six Million Dollars of the corpus of this trust in establishing at a location to be selected by them within the State of North Carolina an institution of learning to be known as Duke University, for such purpose to acquire such land and erect and equip thereon such buildings according to such plans as the Trustees may in their judgment deem necessary and adopt and approve for the purpose, to cause to be formed under the laws of such state as the Trustees may select for the purpose a corporation adequately empowered to own and operate such properties under the name of Duke University as an institution of learning according to the true intent hereof, and convey to such corporation when formed the said lands, buildings and equipment upon such terms and conditions as that such corporation may use the same only for such purposes of such University and upon the same ceasing to be so used then the same shall forthwith revert and belong to the Trustees of this trust as and become a part of the corpus of this trust for all purposes thereof.

However, should the name of Trinity College, located at Durham, North Carolina, a body politic and incorporate, within three months from the date hereof (or such further time as the Trustees hereof may allow) be changed to Duke University, then, in lieu of the foregoing provisions of this division "FOURTH" of the Indenture, as a memorial to his father, Washington Duke, who spent his life in Durham and whose gifts, together with those of Benjamin N. Duke, the brother of the party of the first part and of other members of the Duke family, have so largely contributed toward making possible Trinity College at that place, he directs that the Trustees shall expend of the corpus of this trust as soon as reasonably may be a sum not exceeding Six Million Dollars in expanding and extending said University, acquiring and improving such lands, and erecting, removing, remodeling and equipping such buildings, according to such plans, as the Trustees may adopt and approve for such purpose to the end that said Duke University may eventually include Trinity College as its undergraduate department for men, a School of Religious Training, a School for Training Teachers, a School of Chemistry, a Law School, a Coordinate College for Women, a School of Business administration, a Graduate School of Arts and Sciences, a Medical School, and an Engineering School, as and when funds are available.

II. (In Article FIFTH) Thirty-two percent of said net amount not retained as aforesaid for addition to the corpus of this trust shall be paid to that Duke University for which expenditures of the corpus of the trust shall have been made by the Trustees under the "Fourth" division of this Indenture so long as its name shall be Duke University and it shall not be operated for private gain, to be utilized by its Board of Trustees, in defraying its administration and operating expenses, increasing and improving its facilities and equipment, the erection and enlargement of buildings and the acquisition of additional acreage for it, adding to its endowment or in such other manner for it as the Board of Trustees of said institution may from time to time deem to be to its best interests, provided that in case such institution shall incur any

expense or liability beyond provisions already in sight to meet same, or in the judgment of the Trustees under this Indenture be not operated in a manner calculated to achieve the results intended hereby, the Trustees under this Indenture may withhold the whole or any part of such percentage from said institution so long as such character of expense or liabilities or operations shall continue, such amounts so withheld to be in whole or in part either accumulated and applied to the purposes of such University in any future year or years, or utilized for the other objects of this Indenture, or added to the corpus of this trust for the purpose of increasing the principal of the trust estate, as the Trustees may determine.

III. (In Article SEVENTH) I have selected Duke University as one of the principal objects of this trust because I recognize that education, when conducted along sane and practical, as opposed to dogmatic and theoretical, lines, is, next to religion, the greatest civilizing influence. I request that this institution secure for its officers, trustees, and faculty men of such outstanding character, ability, and vision as will insure its attaining and maintaining a place of real leadership in the educational world, and that great care and discrimination be exercised in admitting as students only those whose previous records show a character, determination, and application evincing a wholesome and real ambition for life. And I advise that the courses at this institution be arranged, first, with special reference to the training of preachers, teachers, lawyers and physicians, because these are most in the public eye, and by precept and example can do most to uplift mankind, and second, to instruction in chemistry, economics, and history, especially the lives of the great of the earth, because I believe that such subjects will most help to develop our resources, increase our wisdom and promote human happiness.

IV. (In Article THIRD) As respects any year or years and any purpose or purposes for which this trust is created (except the payments hereinafter directed to be made to Duke University), the Trustees in their uncontrolled discretion may withhold the whole or any part of said incomes, revenues and profits which would otherwise be distributed under the "Fifth" division hereof, and either (1) accumulate the whole or any part of the amount so withheld for expenditures (which the Trustees are hereby authorized to make thereof) for the same purposes in any future year or years, or (2) add the whole or any part of the amounts so withheld to the corpus or the trust, or (3) pay, apply and distribute the whole or any part of said amounts to and for the benefit of any one or more of the other purposes of this trust, or (4) pay, apply and distribute the whole or any part of said amounts to or for the benefit of any such like charitable, religious or educational purpose within the State of North Carolina and/or the State of South Carolina, and/or any such like charitable hospital purpose which shall be selected therefore by the affirmative vote of three-fourths of the then Trustees at any meeting of the Trustees called for the purpose, complete authority and discretion in and for such selection and utilization being hereby given the Trustees in the premises.

Restated Charter of Duke University

Section 1. That A.P. Tyer, J.H. Southgate, B.N. Duke, G.A. Oglesby, V. Ballard, J.A. Long, J.F. Bruton, J.N. Cole, F.A. Bishop, J.G. Brown, C.W. Toms, J.W. Alspaugh, W.R. Odell, J.A. Gray, F. Stikeleather, Kope Elias, S.B. Turrentine, P.H. Hanes, T.F. Marr, G.W. Flowers, M.A. Smith, R.H. Parker, W.J. Montgomery, F.M. Simmons, O.W. Carr, R.A. Mayer, N.M. Journey, Dred Peacock, B.B. Nicholson, W.G. Bradshaw, E.T. White, T.N. Ivey, J.B. Hurley, R.L. Durham, W.C. Wilson, and their associates and successors shall be, and continue as they have been, a body politic and corporate under the name and style of "Duke University," and under such name and style shall have perpetual existence and are hereby invested with all the property and rights of property which now belong to the said corporation, and said corporation shall henceforth and perpetually, by the name and style of "Duke University," hold and use all the authority, privileges, and possessions it had or exercised under any former title and name, and be subject to all recognized legal liabilities and obligations now outstanding against said corporation.

Section 2. That the purposes for which such corporation is organized are to acquire, own, operate, provide, maintain and perpetuate an institution of higher learning or other institutions of learning and all properties, facilities and services necessary or appropriate in connection therewith; to acquire, own, operate, provide, maintain and perpetuate hospital facilities to serve and benefit the general public; to acquire, own, operate, provide, maintain and perpetuate such other institutions, organizations, associations, clinics, corporations, partnerships, properties, facilities and services as are appropriate in furtherance of the educational, charitable, scientific, literary or public service purposes; and generally to have and exercise all powers granted to non profit corporations under the laws of the State of North Carolina for any lawful educational, charitable, scientific, literary, or public service purposes; provided, however, that notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended (or the corresponding provision of any future United States Internal Revenue law) or (b) by a corporation, contributions to which are deductible under Sections 170 (c) (2), 2055 and 2522 of the Internal Revenue Code of 1954, as amended (or the corresponding provisions of any future United States Internal Revenue law).

Section 3. That the Trustees shall be thirty-seven in number, thirty-six shall be elected. The President of the University shall be the thirty-seventh Trustee, serving ex officio. Of the thirty-six elected Trustees, twelve shall be elected by the North Carolina Conference of the United Methodist Church; twelve by the Western North Carolina Conference of the said church; and twelve by the graduates of said University; provided, however, that no person shall be elected a Trustee till he has first been recommended by a majority of the Trustees present at a regular meeting; and the Trustees shall have power to remove any member of their body who may remove beyond the boundary of the State or who may refuse or neglect to discharge the duties of a Trustee. The term of office of elected Trustees shall be six years, and they shall be so arranged that four Trustees shall be elected by each Conference and four by the graduates every two years. The Trustees shall regulate by bylaws the manner of election of the Trustees to be chosen by the graduates. Should there exist a vacancy by death, resignation, or otherwise of any Trustees, the same shall be filled for the unexpired term by the Board of Trustees. That the present trustees shall continue and remain in office during the term for which they have been heretofore respectively elected.

Section 4. That the said corporation shall be under the supervision, management and government of a president and such other persons as said Trustees may appoint; the said president, with the advice of the other persons so appointed, shall from time to time make all needful rules and regulations for the internal government of said University and prescribe the preliminary examinations and the terms and conditions on which pupils shall be received and instructed.

Section 5. That said Trustees shall have power to make such rules, regulations and bylaws and to take such other action not inconsistent with the Constitution of the United States and of the State of North

Carolina as may be necessary or appropriate for the good government of the corporation and its various operations and management of the property and funds of the same, and to exercise all powers granted to non-profit corporations under the laws of the State of North Carolina.

Section 6. That the Trustees shall have power to fix the time of holding their annual and other meetings, to elect a president and professors for said University, to appoint an executive committee to consist of not less than seven members, which committee shall control the internal regulations of said University and fix all salaries and emoluments, and to do all other things necessary for an institution of learning not inconsistent with the laws of this State and of the United States.

Section 7. That the Faculty and Trustees shall have the power of conferring such degrees and marks of honor as are conferred by colleges and universities generally and that five trustees shall be a quorum to transact business.

Section 8. Upon the dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to educational, charitable, religious, scientific, literary, or other organizations which would then qualify under the provisions of Section 501 (c) (3) of the Internal Revenue Code and the Regulations thereunder as they now exist or as they may hereafter be amended.

Section 9. That all laws and parts of laws or of the Charter heretofore granted which are in conflict with this act are hereby repealed.

Section 10. That this act shall be in force from and after its ratification and acceptance by the Board of Trustees. This Restated Charter purports merely to restate but not to change the provisions of the original Articles of Incorporation as supplemented and amended; and there is no discrepancy, other than as expressly permitted by Section 55A-37.1 of the General Statutes of North Carolina, between said provisions and the provisions of this Restated Charter.

The Bylaws of Duke University

Revised May 14, 1999

ARTICLE I. AIMS

1. The aims of Duke University ("University") are to assert a faith in the eternal union of knowledge and religion set forth in the teachings and character of Jesus Christ, the Son of God; to advance learning in all lines of truth; to defend scholarship against all false notions and ideals; to develop a Christian love of freedom and truth; to promote a sincere spirit of tolerance; to discourage all partisan and sectarian strife; and to render the largest permanent service to the individual, the state, the nation, and the church. Unto these ends shall the affairs of this University always be administered.

ARTICLE II. BOARD OF TRUSTEES

1. Powers. All powers of the University shall be vested in a Board of Trustees ("Board") consisting of thirty-six elected members ("Trustees") and the President of the University, ex officio.
2. Nomination and Elections. The thirty-six elected Trustees shall be elected as follows: twelve by the North Carolina Conference of the United Methodist Church; twelve by the Western North Carolina Conference of the United Methodist Church; and twelve by the graduates of Duke University. Any student, faculty member, alumnus, Trustee, or other friend of the University may offer candidates for consideration. A roster of such candidates shall be kept in the office of the University Secretary, and it shall be reviewed whenever vacancies are expected to occur. The Executive Committee shall then make its recommendations to the Board of Trustees, and the Board, after hearing the recommendations of the Executive Committee, and by a majority of the Trustees present at any regular meeting, shall nominate the persons to be elected Trustees and submit its nominations to the appropriate conference of the United Methodist Church and the graduates.
No person who shall have attained the age of seventy years shall be elected a Trustee, and except as provided elsewhere herein, no person who is an employee of Duke University or any subsidiary or affiliate thereof shall be elected a Trustee.
3. Term. The term of office of a Trustee shall be six years, beginning on the first day of July following election. Terms shall be so arranged that four Trustees shall be elected by each Conference and four by the graduates every two years. No person shall serve more than two consecutive six-year terms, with renewed eligibility for election to the Board following not less than two years absence of membership.
4. Vacancies. Any vacancy in the membership of the Board shall be filled for the unexpired term by a majority vote of the Trustees present at a regular meeting of the Board from the roster of nominees.
5. Retirement. A Trustee shall retire on the first day of July after attaining the age of seventy years.
6. Emeritus. The Board may elect a retiring Trustee a Trustee Emeritus. Trustees Emeriti shall be entitled to receive notice of all meetings of the Board and attend and participate in designated meetings, but shall not have the right to vote. Trustees Emeriti may be invited by the Chairman of the Board to sit as a member of any committee other than the Executive Committee.
7. Removal. Any Trustee who may refuse or neglect to discharge the duties of a Trustee may be removed by the affirmative vote of three-fourths of the members of the entire Board of Trustees.

ARTICLE III. MEETINGS OF THE BOARD

1. Annual Meeting. Annual meetings of the Board of Trustees shall be held on the day next preceding the day on which the graduation exercises take place.
2. Regular Meetings. Unless otherwise provided by the Board, regular meetings of the Board shall be held on the Friday preceding the day on which Founders' Day is celebrated, on the first Friday in December, and on the last Friday in February.

3. Special Meetings. Special meetings shall be held upon the call of the Chairman, or upon written request of twelve or more Trustees addressed to the Secretary, with a copy to the Chairman specifying the business to be transacted at the meeting.
4. Notice. The Secretary shall give at least five days' notice to each member of the Board stating the time and place of all meetings, and the purpose of any special meeting.
5. Place. All meetings of the Board of Trustees shall be held at Duke University in the City of Durham, North Carolina, except that the Trustees by vote, or written assent, of a majority of the then members of the Board may designate another place for any meeting.
6. Quorum. A majority of the then members of the Board of Trustees shall be a quorum for the transaction of business. A Trustee shall be deemed present at a meeting of the Board of Trustees if that Trustee participates in the meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.
7. Presumption of assent. A Trustee who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless that Trustee's contrary vote or abstention is recorded or that Trustee's dissent or abstention is otherwise entered in the minutes of the meeting or unless that Trustee shall file a written dissent or abstention to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent or abstention by registered mail to the University Secretary immediately after the adjournment of the meeting. Such right to dissent or abstention shall not apply to a Trustee who voted in favor of such action.
8. Action Without a Meeting. Any action required or permitted to be taken by the Board of Trustees at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees and filed in the minutes of the proceedings of the Board of Trustees.

ARTICLE IV. OFFICERS OF THE BOARD

1. Officers of the Board. The officers of the Board shall be a Chairman, a Vice Chairman and a Secretary.
2. Election. The officers of the Board of Trustees shall be elected at its annual meeting for a term of one year or until their successors are elected and qualified.
3. Duties.
 - a. The Chairman shall preside at all meetings of the Board, shall represent the Trustees at public meetings of the University, and shall be a member of and Chairman of the Executive Committee.
 - b. The Vice Chairman shall perform the duties of the Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.
 - c. The University Secretary shall also be the Secretary of the Board of Trustees. The Secretary shall record the minutes of all meetings of the Board and its Executive Committee and shall have custody of the Charter, Bylaws, minutes, records and other documents of the Board and its Committees. The Secretary shall send a copy of the minutes to each member of the Board promptly after each meeting of the Board and of the Executive Committee.
4. Vacancies. A vacancy in any office of the Board of Trustees may be filled for the unexpired term by the Board of Trustees.

ARTICLE V. COMMITTEES OF THE BOARD

1. Standing committees. The standing committees of the Board shall be:
 - a. The Executive Committee
 - b. The Business and Finance Committee
 - c. The Building and Grounds Committee
 - d. The Institutional Advancement Committee
 - e. The Academic Affairs Committee
 - f. The Medical Center Affairs Committee
 - g. The Student Affairs Committee
2. Other committees. The Board may authorize and establish other committees from time to time.

3. Committee Membership.
 - a. The Board of Trustees shall elect the chairs (who shall be Trustees) and other Trustee members of the committees at the annual meeting. A Trustee shall normally serve two years on a committee before being considered for election to a different committee. Insofar as practical, Trustee membership on the committees shall be rotated.
 - b. The Board of Trustees, in its discretion, may elect representatives of the faculty and student body from lists of nominations developed by the President in consultation with representative student and faculty groups. The term of any faculty and student committee member who may be elected shall be one year. The election of other committee members shall be effected by the Board of Trustees in accordance with the membership requirements of each committee.
 - c. The number of Trustee members and non-Trustee members of any standing committee shall be determined by the Board of Trustees, and the Trustees may authorize and elect such committee members at any meeting.
 - d. The committees of the Board shall have the powers and duties set forth in these Bylaws and such other powers and duties as the Board may delegate to them.
4. Vacancies. Any vacancy in the membership or the chairmanship of a committee shall be filled by the Chairman of the Board of Trustees after consultation with the President of the University.
5. Meetings. Each committee shall meet at such times and places and upon such notice as it may determine, and shall file a copy of the minutes of each meeting with the University Secretary .
6. Attendance by the Chairman and the President. The Chairman of the Board of Trustees and the President of the University shall be entitled to attend the meetings of each committee and to participate in all discussions of such committee.
7. Quorum. A majority of the then members of a committee shall be a quorum for the transaction of business. A member shall be deemed present at a meeting of the committee if that member participates in the meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other.
8. Action Without a Meeting. Any action required or permitted to be taken by a committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the committee and filed in the minutes of the proceedings of that committee.

ARTICLE VI. EXECUTIVE COMMITTEE

1. Membership. The Chairman of the Board (to serve as Chairman), the Vice Chairman of the Board (to serve as Vice Chairman), the President of the University, the Chairman of each standing committee, and not more than four Trustee members at large shall constitute the Executive Committee of the Board.
2. Powers and Duties. The Executive Committee shall:
 - a. Subject to the provisions of the Charter and these Bylaws, exercise all powers of the Board of Trustees in the interim between meetings of the Board.
 - b. Appoint members of the Board of Directors of the University's affiliated nonprofit support corporation, the Duke Management Company, which is charged by the Board of Trustees with the management of the University's investment assets. The Executive Committee shall also exercise oversight of the Duke Management Company's operations and the investment process, review its annual budgets, review any proposed bylaw amendments or other change to its governance documents, and set the times and form for investment performance reports to be made to the Board of Trustees.
 - c. Exercise oversight of the University's affiliated nonprofit support corporation, Duke University Health System, Inc., which has been formed to own and operate an integrated health system. This responsibility is set forth in detail in Article XXVII herein.
 - d. Exercise responsibility for the oversight of outreach programs of the Medical Center including but not limited to entities in which the University has an interest relating to the mission of the Medical Center.

- e. Appoint such other committees, which may be made up of members selected from Trustees, officers, alumni, students and friends of Duke University, which shall include at least one Trustee; and with appropriate powers and duties, as may be deemed necessary and proper by the Executive Committee.
- f. Coordinate the activities of the other standing committees.
- g. Exercise other duties as prescribed in the Charter or as may be delegated by the Board of Trustees.
- h. Report its actions to the Board of Trustees.

ARTICLE VII. BUSINESS AND FINANCE COMMITTEE

- 1. Membership. The Business and Finance Committee shall be composed of not less than four Trustees, at least one faculty member, at least one student, and at least one member of the University administration who shall be appointed by the President.
- 2. Powers and Duties. The Business and Finance Committee shall:
 - a. Keep informed on, consider proposals for, and make recommendations with respect to, the general business affairs and financial organization of the University including the internal and external debt structure of the University.
 - b. Receive and review the annual budgets and tuitions and fees schedule of the University and recommend their approval or modification.
 - c. Maintain an ongoing analysis and review of quarterly operating statements of the University and serve as the audit committee of the Board of Trustees.
 - d. Appoint external auditors and submit their reports with recommendations for action.
 - e. Review proposals for endowment spending policies and the institutional reinvestment account payout index and recommend approval or modifications of the same.
 - f. Review requests for the establishment of, and withdrawal from, quasi-endowment funds and special endowment funds.
- 3. Reporting. The Committee shall report its findings and recommendations to the Board of Trustees or the Executive Committee.

ARTICLE VIII. BUILDING AND GROUNDS COMMITTEE

- 1. Membership. The Building and Grounds Committee shall be composed of not less than four Trustees, at least one faculty member, at least one student, and at least one member of the University administration who shall be appointed by the President.
- 2. Powers and Duties. The Building and Grounds Committee shall consider proposals for, and make recommendations with respect to:
 - a. The acquisition and sale of all real property by the University.
 - b. The siting, construction and financing of all buildings, including renovations thereof, and related appurtenances such as utilities, roads, and parking areas and the commissioning of Project Architects and Engineers, and approval of proposed contractors for construction projects; provided, however, that all internal and external debt financing shall be finally approved by the Business and Finance Committee.
 - c. Evaluation and promulgation of a continuing Master Plan for long-range development of the total physical environment of the University, including inherent standards of aesthetics and quality.
 - d. Naming of facilities and parts of facilities.
 - e. The acceptance of all new construction on behalf of the University.
 - f. The oversight of Duke Forest operations, procedures, and uses, and all planning for those land holdings.
- 3. Reporting. The Committee shall report its findings and recommendations to the Board of Trustees or the Executive Committee.

ARTICLE IX. INSTITUTIONAL ADVANCEMENT COMMITTEE

- 1. Membership. The Institutional Advancement Committee shall be composed of not less than four Trustees, at least one faculty member, at least one student, at least one member of the University administration who shall be appointed by the President, and the President of the Duke University General Alumni Association, ex officio.

2. Powers and Duties. The Institutional Advancement Committee shall consider proposals for, make recommendations with respect to, and assist the President in, the financial development, fund raising, public relations, government relations, and alumni affairs of the University, and carry out other projects and assignments as directed by the Board.
3. Reporting. The Committee shall report its findings, recommendations and results to the Board of Trustees or the Executive Committee.

ARTICLE X. ACADEMIC AFFAIRS COMMITTEE

1. Membership. The Academic Affairs Committee shall be composed of not less than four Trustees, not less than two faculty members, not less than two students, and at least one member of the University administration who shall be appointed by the President.
2. Powers and Duties. The Academic Affairs Committee shall:
 - a. Consider proposals for, and make recommendations with respect to: the educational role of each school, college, and unit of the University and for the University as a whole; provisions for the admission of students at all levels; the academic life and activities of students; educational, research, and library programs; and the coordination of all educational activities.
 - b. Promote and coordinate activities of the Boards of Visitors, review their findings, and transmit their reports to the President and to the Board of Trustees. The President shall appoint the members of the Boards of Visitors.
 - c. Designate five Trustees who, along with an equal number of faculty members designated by the President, and the President, ex officio, shall serve as a Committee on Honorary Degrees to make recommendations to the University faculty and the Board of Trustees.
 - d. Serve as a Committee on Earned Degrees.
 - e. Serve as liaison with the University faculty with respect to academic affairs.
3. Reporting. The Committee shall report its findings and recommendations to the Board of Trustees or the Executive Committee.

ARTICLE XI. MEDICAL CENTER AFFAIRS COMMITTEE

1. Membership. The Medical Center Affairs Committee shall be composed of not less than four Trustees, at least two faculty members, at least two students, the Chancellor for Health Affairs, ex officio, and the Dean of the School of Medicine, ex officio.
2. Powers and Duties. The powers and duties of the Medical Center Affairs Committee are limited in scope to the School of Medicine, the School of Nursing, Allied Health Programs, and their related libraries. Within these limitations, the powers and duties of the Medical Center Affairs Committee shall be the same as those of the other standing committees of the Board, except the Executive Committee; said committees retaining their respective powers and duties concerning Medical Center matters.
3. Reporting. The Committee shall report its findings and recommendations to the Board of Trustees or the Executive Committee.

ARTICLE XII. STUDENT AFFAIRS COMMITTEE

1. Membership. The Student Affairs Committee shall be composed of not less than four Trustees, at least two faculty members, at least three students, and at least one member of the University administration who shall be appointed by the President.
2. Powers and Duties. The Student Affairs Committee shall inform itself concerning, consider proposals for, monitor coordination of, and make recommendations with respect to, all student affairs at the University other than programs of research and instruction.
3. Reporting. The Committee shall report its findings and recommendations to the Board of Trustees or the Executive Committee.

ARTICLE XIII. OFFICERS OF THE UNIVERSITY

1. The Officers of the University shall be a President, a Provost, one or more vice presidents, a Chancellor for Health Affairs, a Treasurer, a University Secretary, and a University Counsel. Upon recommendation of the President, the Board of Trustees may elect such other officers as it may determine are necessary, including but not limited to a Chancellor and one or more vice chancellors. One person may hold more than one office, except that the offices of President and Secretary may not be held by the same person.

2. The Officers of the University shall be elected by the Board of Trustees at its annual meeting for a term of one year and shall serve until their successors are elected and have taken office.
3. A vacancy in any office of the University may be filled, for the unexpired term, by the Board of Trustees or by the Executive Committee.
4. The Officers of the University and the personnel under them shall be bonded to the extent periodically determined to be appropriate by the Executive Committee.

ARTICLE XIV. PRESIDENT

1. The President shall be the chief educational and administrative officer of the University. The President shall be responsible to the Board of Trustees for the supervision, management, and government of the University, and for interpreting and carrying out the policies of the Board of Trustees. The President shall have the powers and duties set forth in the Charter and in these Bylaws, and such other powers and duties as the Board of Trustees shall delegate.
2. The President, or someone designated by the President, shall preside at all academic functions and represent the University before the public.
3. The President shall preside at all meetings of the University Faculty. The President may veto any action taken by the University Faculty or any action taken by the faculty of any college or school in the University and state the reasons for such action.
4. The President shall submit a proposed annual budget for the University to the Board of Trustees prior to the beginning of the fiscal year covered by the budget.
5. The President shall submit to the Board of Trustees an annual report on the condition, operation, and needs of the University.
6. The President shall recommend to the Board of Trustees persons to be officers of the University other than the President.

ARTICLE XV. PROVOST

1. The Provost shall be the executive officer, under the President, responsible for all educational affairs and activities, including research. The Provost shall have the powers and duties assigned by the President and shall report to the President.
2. The Provost shall be a member of the faculty of each college and school, and an ex officio member of each committee (other than Committees of the Board of Trustees) or other body concerned with matters for which the Provost is responsible.
3. The Provost shall receive recommendations developed by the faculty and educational officers for consideration and recommendation to the President.

ARTICLE XVI. EXECUTIVE VICE PRESIDENT

1. The Executive Vice President shall be the executive officer, under the President, responsible for all business and finance, including accounting and auditing, preparation of budgets, fiscal planning, and operating of services of the University. The Executive Vice President shall have the powers and duties assigned by the President and shall report to the President.
2. The Executive Vice President shall have custody of all funds, records, contracts, agreements, deeds, and other documents of the University or relating to its operations or properties, except minutes of meetings.
3. The Executive Vice President shall submit to each regular meeting of the Executive Committee and the Board of Trustees a report on the finances of the University and shall submit to the Board of Trustees at the end of each fiscal year an account of all receipts and disbursements for the preceding fiscal year and a statement in such detail as the Board of Trustees may require of the financial condition of the University at the end of such fiscal year.

ARTICLE XVII. CHANCELLOR FOR HEALTH AFFAIRS

1. The Chancellor for Health Affairs shall be the executive officer, under the President, responsible for all operations of the Medical Center. The Chancellor for Health Affairs shall have the powers and duties assigned by the President and shall report to the President.
2. The Chancellor for Health Affairs shall be the Executive Dean of the School of Medicine, shall serve as the chief academic officer of the Medical Center, and shall report to the President through the Provost on academic matters.

3. The Chancellor for Health Affairs shall also serve as President and Chief Executive Officer of Duke University Health System, Inc. and President of the Medical Staff, Duke University Hospital.

ARTICLE XVIII. TREASURER

1. The Treasurer shall report to the President or such officer of the University as the President may direct.
2. The Treasurer shall prepare, or cause to be prepared, a true statement of the corporation's assets, liabilities, and operating results as of the close of each fiscal year in accordance with generally accepted accounting principles for colleges and universities. The Treasurer shall coordinate the work of the external auditors employed by the University in the audit of those financial statements.
3. The Treasurer shall manage the Corporation's external debt and the related reporting and payment requirements associated with external debt compliance matters. In this capacity, the Treasurer shall function as the University's primary liaison with external debt rating agencies.
4. The Treasurer shall be responsible for the University's banking relations including, but not limited to, debt-related investment banking relationships and other depository banking account functions.
5. The Treasurer shall in general perform all of the duties incident to the Office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or by the Board of Trustees, or by these Bylaws.

ARTICLE XIX. UNIVERSITY SECRETARY

1. The University Secretary shall report to the President and shall have all of the powers and duties set forth in these Bylaws and the powers and duties commonly incident to the office. The Secretary also shall have the powers and duties assigned by the President.
2. The Secretary shall be the custodian of the seal of the corporation and shall affix and attest to same on all duly authorized contracts, deeds and other documents.

ARTICLE XX. UNIVERSITY COUNSEL

1. The University Counsel shall report directly to the President, and at the request of the Board of Trustees, shall report directly to that body.
2. The University Counsel shall be responsible for providing legal counsel, advice and representation to the University in all matters and proceedings, and when appropriate shall employ outside counsel to assist in the carrying out of these responsibilities.
3. The University Counsel shall act as counsel to the Board of Trustees and the Executive Committee.
4. The University Counsel may sign and execute pleadings, powers of attorney pertaining to legal matters, and any other contracts and documents in the regular course of his duties, and may delegate this authority to professional members of the staff of the University Counsel.

ARTICLE XXI. FACULTY

1. The University Faculty shall be composed of the officers of the University as elected by the Board of Trustees, all deans, professors, associate professors, and assistant professors, and all other full-time members of the instructional staff, Registrar, and the University Librarian, and such other persons as may be designated by the President and approved by the Executive Committee or the Board of Trustees.
2. The University Faculty shall be responsible for the conduct of instruction and research in the various colleges and schools in the University. It may also consider and make recommendations to the President regarding any and all phases of education at the University.
3. The University Faculty shall approve and recommend to the Board of Trustees the persons it deems fit to receive degrees or other marks of distinction, and the establishment of any new degree or diploma.
4. The University Faculty may organize and exercise its functions through appropriate councils, committees, or other bodies.
5. Each college and school in the University may have a faculty of its own, which shall be composed of the President, the Provost, appropriate University administrators, and all members of the University Faculty in the particular college or school. Each such faculty shall

function under the President and other officers of educational administration and subject to the regulations of the University Faculty.

ARTICLE XXII. APPOINTMENTS, PROMOTIONS AND TENURE

1. Appointment and promotion. Members of the University Faculty shall be elected, appointed, or promoted by the Board of Trustees or the Executive Committee upon the recommendation of the Provost, with the approval of the President.
2. Tenure. Members of the University Faculty with an unmodified rank of assistant professor, associate professor or professor in the defined faculty unit (including departments) of their primary appointment shall have tenure after eight years of continuous service at the University, or such shorter period as may be determined for individual cases by the Board of Trustees or its Executive Committee. In the Medical Center, however, probationary service for tenure may be extended up to, but no more than, three years to faculty positions within defined faculty units (including departments) to provide the extra time deemed necessary to judge tenure qualifications with requisite certainty.
 - a. Continuous service shall not be interrupted by approved leaves of absence, but time on leave shall ordinarily not be deemed to interrupt continuous service and shall count as qualified time for tenure; however, the Provost may determine, in individual instances when a leave is granted or for a defined class of leaves, that time on leave should not count as qualified time for tenure.
 - b. Service as a member of the University Faculty with a rank other than the unmodified rank of assistant professor, associate professor or professor shall neither entitle the faculty member to tenure nor count toward the continuous service of a professor, associate professor or assistant professor who has served previously in such a position. Modified ranks among the faculty are defined in the *Faculty Handbook*.

ARTICLE XXIII. SABBATICAL LEAVES

1. Each tenured member of the University Faculty of the rank of professor, associate professor, or assistant professor shall be eligible for sabbatical leave after each six years of service to the University in faculty positions of regular rank. Such leave may be taken for a full year at half salary or a half year at full salary.
2. Sabbatical leave may be granted by the Executive Committee upon the written recommendation of the dean of the appropriate college or school, approved by the Provost and the President.
3. The year in which sabbatical leave is taken will not count towards eligibility time for subsequent sabbatical leave.

ARTICLE XXIV. STUDENT BODY

1. The student body of Duke University shall be composed of all full-time and part-time students regularly enrolled in the University.
2. The student body may consider and make recommendations to the President regarding any and all phases of education and student life at the University.
3. The student body may organize and conduct its affairs under elected representative government or governments and through appropriate councils, committees, or other bodies.

ARTICLE XXV. ALUMNI

1. The Alumni of Duke University shall be composed of persons who were enrolled for at least two semesters at the University in programs that lead toward degrees. Individual schools, colleges and other components of Duke University may adopt policies which recognize as alumni of that component individuals who attended courses of study or training programs not leading to degrees.
2. The Alumni may consider and make recommendations to the President and to the Board of Trustees regarding any and all phases of education and alumni affairs of the University.
3. The Alumni shall organize and conduct its affairs through The Duke University Alumni Association and elected representatives to appropriate boards, councils, committees and other bodies which are a part of that Association.

ARTICLE XXVI. THE UNIVERSITY LIBRARIES

1. The University Libraries are composed of:
 - a. the William R. Perkins Library and its branches;
 - b. the School of Law Library;
 - c. the Medical Center Library and its branches; and
 - d. the Fuqua School of Business Library.
2. The University Libraries shall be responsible for such development and dissemination of scholarly and informational resources required by the academic community for instruction, research, study and publication, as designated by the Provost.
3. Professional librarians of the University Libraries shall be composed of the University Librarian, the Librarian of the School of Law, the Director of the Medical Center Library, the Librarian of the Fuqua School of Business, and other such persons as may be designated by the Provost with the approval of the President. The professional librarians shall be appointed or promoted by the Provost, with approval of the President, after the Provost has received recommendations from the University Librarian, the Librarian of the School of Law through the Dean of the School of Law, or from the Director of the Medical Center Library through the Chancellor for Health Affairs.
4. The professional librarians of the University Libraries may organize and exercise their functions through appropriate councils, committees, or other bodies.
5. The University Libraries shall function under the President and other officers of educational administration, and subject to the regulations of the professional librarians of the University Libraries, as approved by the Provost.

ARTICLE XXVII. DUKE UNIVERSITY HEALTH SYSTEM, INC.

1. Duke University Health System, Inc. is a separate, controlled, affiliated nonprofit corporation which was formed by the University to own and operate the integrated health system which includes Duke University Hospital and its affiliated health care clinics and other health care activities.
2. The Executive Committee of the Board of Trustees of the University shall have the principal responsibility for oversight of Duke University Health System, Inc., including:
 - a. the appointment of members of the Board of Directors of Duke University Health System, Inc.;
 - b. the receipt and review of operational, financial and other reports and documentation submitted to the University by Duke University Health System, Inc. in accordance with its Charter and Bylaws and the submission of those reports to the full Board of Trustees of the University for review and action as required;
 - c. the receipt and review of any proposed changes in the Articles of Incorporation or Bylaws of Duke University Health System, Inc. and the submission of those proposed changes to the full Board of Trustees of the University for review and action;
 - d. the exercise of oversight of the operation of Duke University Health System, Inc. as required by the Charter and Bylaws of Duke University Health System, Inc.; and
 - e. any other activities which may be required to carry out the responsibilities of Duke University with regard to Duke University Health System, Inc.

ARTICLE XXVIII. FISCAL YEAR, ACADEMIC YEAR AND ACADEMIC CALENDAR

1. The fiscal year of the University shall commence on July 1 and end on the following June 30.
2. The academic year of the University shall commence on or about September 1 and end one calendar year later.
3. The President shall establish the academic calendar for each academic year, and designate the day on which the graduation exercises shall take place.

ARTICLE XXIX. SEAL

1. The corporate seal of the corporation shall consist of the seal, which is impressed in the space below, and which is hereby adopted as the corporate seal of the corporation.

[CORPORATE SEAL]

ARTICLE XXX. INDEMNIFICATION

1. Every Trustee and officer of the University shall be indemnified to the full extent permitted under the provisions of the North Carolina Nonprofit Corporation Act currently in effect and as that statute may be amended from time to time.

ARTICLE XXXI. PROCEDURE

1. Waiver of notice. Whenever any notice is required to be given to any Trustee by law, the Articles of Incorporation or these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.
2. Rules of order. Roberts Rules of Order as last revised shall govern the proceedings of all meetings of the Board of Trustees.

ARTICLE XXXII. AMENDMENT OF BYLAWS

1. These Bylaws may be amended at any regular meeting of the Board of Trustees by the affirmative vote of two-thirds of the then membership of the Board, provided that the proposed amendment is mailed by the Secretary of the Board to each member at least twenty (20) days before the meeting. In any event, a review of these Bylaws shall be included as a regular agenda item for the annual meeting of the Board held in accordance with Article III.1. herein to determine whether or not revisions to these Bylaws are required.

END OF BYLAWS

Revised May 14, 1999

Appendix B: BYLAWS OF THE UNIVERSITY FACULTY

BYLAWS OF THE ACADEMIC COUNCIL

Bylaws of the University Faculty

- I. The university faculty shall meet annually at a date set by the Executive Committee of the Academic Council, at which time the president of the university shall usually present a report on the state of the university, and at which time the chair of the Academic Council shall report on the activities of the council for the previous year and on plans for the ensuing year. The university faculty shall also meet at the call of the president or the provost or upon the written request of the Executive Committee of the Academic Council or of fifty members of the faculty.
- II. All powers and functions of the university faculty, insofar as their powers or functions are not exercised in the individual departments, schools, colleges, and divisions of the university, are hereby delegated to the Academic Council, to which is also delegated the power the university faculty possesses to resolve jurisdictional disputes among the various component faculties of the university.
- III. These bylaws of the university faculty may be amended by a majority of those members of the faculty present at a meeting of the university faculty, provided that the text of any proposed amendment has been circulated to the members of the university faculty at least ten days prior to any such meeting.
- IV. The Academic Council shall have the power to establish its own bylaws except that no amendment affecting the composition of the council shall be effective until it has been approved by the university faculty in accordance with Article III of the Bylaws of the University Faculty.
- V. A. Eligibility to vote at meetings of the university faculty and in Academic Council elections shall include all tenured and tenure-track members of the faculty and persons meeting all of the following criteria:
 1. The individual has an appointment in at least one Duke University school, department, program, institute, or center that provides credit toward an academic degree.
 2. Said individual's primary responsibilities are directed toward the university's goals and efforts with performance of his or her role principally at the university, and in accord with criteria for full-time status as defined by the unit in which the primary appointment is held.
 3. The activity of his or her work has an obvious instructional component either in relation to the degree-granting mechanisms of the university or in relation to those individuals at the university who are undertaking further training/studies beyond graduate degree programs.
 4. There is intent of ongoing contractual relationship to the university (e.g., tenure-track; repetitive contract; participation in continuing research grants; etc.); and that such relationship is subject to either the appointment, promotion, and tenure process or to an alternative process approved by the provost for non-tenure track positions.
- B. The Academic Council is empowered to determine which faculty titles are consistent with the above criteria and which faculty are therefore eligible to vote in meetings of the university faculty and in elections to the Academic Council.
- C. Only faculty with the unmodified titles of professor, associate professor, and assistant professor, or with unique tenured titles associated with named chairs, are eligible to serve on the Academic Council.

Bylaws of the Academic Council

I. Membership of the Academic Council

A. The Composition of the Council

1. The Academic Council shall consist of the president, the provost of the university, and the chair of the Academic Council as members ex officio, and of elected members of the three divisions of the Faculty of Arts and Sciences (humanities, social sciences, and natural sciences and mathematics), of the two divisions of the School of Medicine (clinical and basic sciences), and of the other professional schools. One member of the council shall be elected for each eight members of the faculty and for any remaining fraction of four or more members of the faculty of any such division or school. However, each division or school is entitled to at least one member but to no more than ten members.
2. The term of office of elected members shall be two years. No member shall be eligible for election for more than three successive full terms.

B. Mode of Election

1. Nominations and elections to the council shall be conducted by an Elections Committee consisting of three members of the faculty appointed by the Executive Committee of the Academic Council, and of the faculty secretary of the Academic Council.
2. All nominations and elections to the council shall be by secret ballot among all members of the university faculty defined as eligible to vote in the Bylaws of the University Faculty, Article V. The nominating ballot for each division or school shall list those faculty members eligible to serve on the council according to said Article V of the Bylaws of the University Faculty, on a date early in the spring term, and shall alternate listing them in forward and reverse alphabetical order, year by year. The ballot shall indicate which among these faculty members have already been elected for the coming academic year and which will be on leave or be otherwise unavailable to serve a full term.
3.
 - a. Annual elections shall be so conducted that in divisions and schools entitled to elect ten members, at least one member shall be an assistant professor and at least two members shall be associate professors, if numbers in those ranks permit. The nominating ballot shall indicate the number of persons to be nominated in each such category in order to fulfill this requirement. Each faculty member in the division or school may then vote, if entitled to do so, by a date specified, and shall vote for at least as many assistant professors as are specified on the ballot, for at least as many associate professors as are specified on the ballot, and for the total number specified for all ranks. Ballots failing to conform to these specifications shall be invalid. Rank held at the time of nomination ballot listing shall obtain throughout the election process for the purpose of achieving distribution by rank under this bylaw.
 - b. From the results of the nominating ballot in each division or school, the Elections Committee shall prepare an election ballot listing twice the number of nominees in each rank category as there are council members to be elected in that rank category, not including alternates further to be identified. The names listed shall be chosen in descending order of numbers of nominating ballot votes received, listed in forward or reverse alphabetical order year by year, resolving tied numbers by lot, and after ascertaining that each such nominee is willing to serve if elected. In each division or school each university faculty member who is entitled to vote under Article V of the Bylaws of the University Faculty may then vote, by returning the relevant election ballot by a date further specified, and shall vote for at least as many assistant professors as are specified on the ballot, for at least as many associate professors as are specified, and for the total number specified for all ranks. Ballots not conforming to these specifications shall be invalid. Those nominees receiving the highest number of votes in each rank category, up through the number to be elected in such rank category, shall be declared elected, with ties resolved by lot.

4. When a division or school is entitled to fewer than ten members, it shall follow the mode of election prescribed in the previous paragraph except that it shall not be bound to achieve distribution by rank.
- C. Time of Election. Elections shall regularly be held in the spring semester, and the first regular meeting of the council in which the newly elected members shall sit shall be held in April.
- D. Vacancies¹
1. Vacancies which may occur on the Academic Council between elections shall be filled by reference to a list of alternates developed in each division or school by the Elections Committee. Such lists shall be in descending order of numbers of votes received on the election ballot among all nominees not elected, not having declined to serve anytime during the entire two-year term, and having received at least two nominating votes. Ties on the alternate list are resolved by lot.
 2. Should an elected member of the council anticipate an absence from three or more successive meetings of the council due to sabbatical or leave of absence from the university faculty or due to disability, the chair of the Academic Council shall, at the member's request, appoint a temporary substitute for the term of the leave or the period of disability. The substitute shall be the first available alternate from the school or division which the substituted member represents. The elected member may reassume membership on the council upon termination of the sabbatical, leave of absence or disability and the alternate shall reassume his or her position as the first available alternate on the alternate list. Such requests for substitution shall be made prior to the anticipated absences. If there is no available alternate, the chair of the council may designate a temporary replacement from the same school or division.
 3. Except as provided in paragraph 2, when an elected member has resigned or been absent from three successive meetings of the council without accepted prior notice, a vacancy shall be recognized. After acceptance of the resignation or notification of the repeatedly absent member that such membership has lapsed, the vacancy shall be filled until the next election by the next available alternate on the list for that school or division. If there is no available alternate under that provision, the replacement shall be designated by the Executive Committee of the Academic Council.
- E. Meetings
1. The Academic Council shall meet monthly during the regular academic year, September through May, at dates, times, and places specified by the Executive Committee of the Academic Council. It shall meet at other times at the call of its chair or Executive Committee or upon the written request of ten of its members.
 2. A simple majority of the elected members of the council shall constitute a quorum, except for approval of degrees in course, when the members present shall constitute a quorum.
 3. Members of the council shall serve in person.
 4. Only elected members shall vote on matters brought before the council with the exception that, in the case of a tie, the chair may cast the deciding vote.

II. The Chair and the Executive Committee of the Council

- A. 1. The Academic Council shall nominate and elect by secret ballot a chair who shall serve a term of two years. The Executive Committee of the Academic Council shall appoint a five-person committee from the university faculty to nominate two persons for chair of the Academic Council. Additional nominations may be made from the floor. Any member of the university faculty who has given consent is eligible to serve as chair of the council. The new chair shall take office on July 1, and shall be elected not later than the February meeting of the council. The chair shall be an ex officio member of the Academic Council and shall not be counted as a representative of any division or school of the university. The chair shall be responsible for the appointment, direction, and supervision of the administrative and secretarial personnel of the Academic Council and for preparing and administering the council's budget.

¹Customarily, faculty members have been considered unavailable for election to the council if they expect to take a leave or sabbatical in the year following a given election. This provision concerns primarily those who need to plan for an absence subsequent to their election to the council.

2. In the event of a vacancy in the office of the chair, the Executive Committee of the Academic Council shall call a special election to elect a new chair to serve the balance of the preceding chair's term. Such special election shall be conducted at the earliest practicable regular or special meeting of the council. Until such special election, the vice chair of the Academic Council shall serve as acting chair.
 3. No person elected as chair shall be eligible for election to more than two consecutive full or partial terms in that office.
- B. There shall be a faculty secretary of the Academic Council nominated by the Executive Committee from the ranks of the university faculty and the faculty emeriti and annually elected by the council at its April meeting. The faculty secretary will be an ex officio member of the Executive Committee of the Academic Council, without vote.
- C. 1. The Academic Council shall elect six of its members who, together with the chair and the faculty secretary, shall constitute the Executive Committee of the Academic Council. The six members shall serve two-year terms, three members being elected each year, except as more may be needed to fill vacancies. With the exception noted in paragraph 3 below, current members of the Executive Committee shall not be eligible for re-election. With the exception of the faculty secretary, only members of the council may serve on the Executive Committee, membership ceasing if one is not re-elected to the council before expiration of a term on the Executive Committee.
2. The annual election of members of the Executive Committee shall be held in the spring after the election of new members of the Academic Council. For each position to be filled, the Executive Committee shall nominate two council members. These two lists of nominees shall be circulated to the members of the council at least two weeks prior to the election. At the election meeting, any five council members may, by petition, nominate an additional list of candidates, one for each position. If more than one additional list is nominated, there shall be a preliminary election involving only the nominees on the additional lists to choose a single list to be added to those submitted by the Executive Committee. The preliminary election shall be by secret ballot, position by position, until one candidate for each position has a majority. A valid ballot must contain one selection for each position. If no more than one additional list is nominated, or upon completion of a preliminary election as described above, the nominations shall be closed. Election shall then proceed by secret ballot, position by position, until one candidate for each position has a majority. A valid ballot must contain one selection for each position.
 3. In the event of a vacancy in the membership of the Executive Committee, a council member shall be chosen by the Executive Committee to serve until the next annual election. If at that time there remains an unexpired year in the term, the council shall elect, in the manner described above, a member to serve the remainder of the term. In this case, the member previously chosen by the Executive Committee shall be eligible for election to complete the term.
 4. Each year, after the election of new members, the Executive Committee shall choose from its members a vice chair of the Academic Council.
- D. The Executive Committee shall serve as the committee on committees for both the council and the university faculty. The Executive Committee may set up such ad hoc committees of the council as it finds needed. Members of the committees shall be drawn principally from the members of the council and other members of the faculty, but other persons may be appointed to such committees as the Executive Committee, in its discretion, deems advisable. The Executive Committee shall also nominate all faculty representatives on all university committees, including search committees and committees of the Board of Trustees, on which the faculty shall be accorded representation. All faculty representatives so nominated shall report to the Academic Council on their activities on these committees at the request of the Executive Committee, but in no event less frequently than once in each academic year for faculty representatives chairing such committees.

III. Amendments. These bylaws may be amended by the vote of a majority of the entire membership of the Academic Council, provided that the text of any such amendment, without significant deletion or addition, has been circulated to the members of the Academic Council at least ten days prior to the meeting at which such vote is taken. Provided further, that, as stipulated in Article IV of the Bylaws of

the University Faculty, no amendment to these bylaws affecting the composition of the membership of the council shall be effective until approved by the university faculty in accordance with the procedures specified in Article III of the Bylaws of the University Faculty.

Revised October 25, 1991

Appendix C: ACADEMIC FREEDOM AND ACADEMIC TENURE

FACULTY PARTICIPATION IN THE APPOINTMENT AND RETENTION OF ADMINISTRATORS

CONFIDENTIALITY POLICY

REPORT OF THE AD HOC COMMITTEE ON PROCEDURES FOR APPOINTMENTS, REAPPOINTMENTS AND PROMOTIONS FOR REGULAR, NON-TENURE TRACK FACULTY

Academic Freedom and Academic Tenure

This document embodies an agreement between the president and the faculty as to policies and procedures with respect to academic freedom, academic tenure, and certain matters of due process. The document was first drawn up in 1965; some amendments and additions were made in 1975. Agreement to the terms of the document as revised was given on behalf of the faculty by vote of the Academic Council on February 19, 1976. In a letter to the chair of the Academic Council dated February 11, 1976, the president gave his approval. (1982 and 1987 revisions reflect changes in University Bylaws only.)

I. Academic Freedom

- A. To teach and to discuss in his or her classes any aspect of a topic pertinent to the understanding of the subject matter of the course being taught.
- B. To carry on research and publish the results subject to the adequate performance of his or her other academic duties.
- C. To act and to speak in his or her capacity as a citizen without institutional censorship or discipline.

II. Academic Tenure

- A. Academic tenure may be achieved for a specific period of time in the case of "term appointments" or indefinitely in the case of "continuous academic tenure appointments." Article XXII, paragraph 2 of the University Bylaws states: "Members of the University Faculty with an unmodified rank of assistant professor, associate professor or professor in the defined faculty unit (including departments) of their primary appointment shall have tenure after eight years of continuous service at the University, or such shorter period as may be determined for individual cases by the Board of Trustees or its Executive Committee.¹ In the Medical Center, however, probationary service for tenure may be extended up to, but no more than, three years to faculty positions within defined faculty units (including departments) to provide the extra time deemed necessary to judge tenure qualifications with requisite certainty."

¹Persons hired as instructors prior to May, 1981, will be covered by the earlier policy that allowed instructors to earn time toward tenure.

- B. A faculty member at the regular tenure-track rank of assistant professor or above with continuous full-time service at Duke University for a total period of eight years in the unmodified rank of assistant professor, associate professor, or professor, and whose appointment extends beyond the eighth year of full-time service (eleventh in the Medical Center), attains continuous academic tenure at the beginning of his or her ninth (or twelfth) year of service. By specific action of the Executive Committee of the Board of Trustees, a full-time faculty member at the regular tenure-track rank of assistant professor or above may be granted continuous academic tenure before completing eight (or eleven) years of full-time continuous service at the university. If years of service at other institutions are to be counted toward the award of continuous academic tenure, this fact will be stated in the initial letter of appointment.
- C. Persons holding administrative positions achieve academic tenure by reason of their academic instructional rank as provided by paragraph B.
- D. A faculty member who has been granted continuous academic tenure will not lose his or her tenure status if, with mutual consent of the university and the faculty member and with periodic review of the university, he or she transfers to part-time service.

III. Mutual Obligations. The principles of academic freedom and academic tenure impose certain obligations both upon Duke University and upon members of the faculty.

- A. The university will give a faculty member at the time of appointment a precise statement in writing of the conditions of the appointment. This statement should include the rank, the salary, and the duration of the appointment (a date of termination or a statement that the appointment carries continuous academic tenure). All subsequent letters involving reappointment or promotion should specify the rank and the duration of the appointment.
- B. The university may terminate the appointment of a full-time academic staff member having a term appointment prior to the expiration of the appointment, or may terminate the appointment of an academic staff member having continuous academic tenure prior to retirement, for misconduct or neglect of duty; or because of a change in the academic program, made with the advice of the appropriate body or bodies of the faculty, as a consequence of financial exigency or for any other reason which discontinues or reduces a segment of the university's research or educational program. Whenever an appointment is terminated because of a decision not to continue a segment of the research or educational program, every effort will be made to reassign the academic staff involved to other university programs. If an academic position is terminated, it will not be reestablished and filled with new academic staff within a period of two years unless the appointment has been offered to the staff member who was originally displaced and he or she has declined the appointment.
- C. In case of the termination of a term appointment prior to its stated expiration date because of a change in the academic program, and in case reassignment to another position is not feasible, the university will pay the incumbent one academic year's salary or will notify him or her one year prior to the date on which the appointment will be terminated.
- D. In case of a term appointment, the university will notify the incumbent in writing of its intention to renew or not to renew the appointment as follows:
 1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.
 2. No later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
 3. At least twelve months before the expiration of an appointment after two or more years in the institution.
 4. If the university is unable to provide notice of its intention not to renew the appointment by the date or time specified above, it will pay the incumbent the appropriate fraction of his or her academic year's salary in lieu of notice.

- E. In the case of termination of a continuous academic tenure appointment because of a change in the academic program, and in the case that reassignment to another position is not feasible, the university will pay the incumbent one academic year's salary or will notify him or her one year prior to the date on which the appointment will be terminated.
- F. The university will not extend the appointment of a full-time lecturer (associate in the Medical School) for more than seven years (eleven in Medicine) except in unusual circumstances which are to the advantage of the lecturer.
- G. As members of learned professions, faculty members of Duke University should remember that the public may judge their professions and their institution by their actions. They should also remember that in a deeper sense they cannot separate freedom as a member of the academic community from their responsibility as a privileged member of society. While the university will always protect freedom to espouse an unpopular cause, faculty members have a responsibility not to involve the university. Hence, when speaking, writing, or acting in the capacity of a private citizen, they should make every effort to indicate that they are not spokespersons or representatives of the university.
- H. A faculty member who resigns voluntarily should give due consideration to the problems that may arise in obtaining a replacement and should fix the effective date of resignation with this commitment in mind.
- I. A faculty member should devote his or her professional efforts primarily to the promotion of the academic objectives of the university.

IV. The Faculty Ombudsman and Faculty Hearing Committee. The faculty ombudsman exists to receive complaints from members of the faculty, to investigate these complaints, to attempt to resolve these complaints through conciliation, and, if conciliation fails, to make a report to the Faculty Hearing Committee. The ombudsman will receive from any faculty member a complaint on any question involving dismissal for misconduct or neglect of duty, termination of appointment prior to its expiration date, tenure status, alleged violations of academic freedom, or alleged violations of academic due process with respect to adverse employment or disciplinary action, alleged racial discrimination with respect to adverse employment action, alleged damaging instances of harassment by other members of the university community after failure of a university officer or agency to resolve the matter, and appeals from a harassment grievance hearing panel or actions by university officials based on a panel's findings. The jurisdiction of the ombudsman and Faculty Hearing Committee is set out in detail in Appendix M.

V. Hearing Procedures for Cases Involving Dismissal

- A. Proceedings to dismiss a member of the university faculty who has tenure or whose term appointment has not expired shall be initiated by the president only after he or she has made sufficient investigation to determine that reasonable grounds exist. The president should ordinarily discuss the matter informally in personal conference with the faculty member in question. If the president discusses the matter with other officers of the university and with other members of the faculty, care should be taken to keep in confidence any accusations that may reflect adversely on the faculty member under investigation.
- B. If a mutually satisfactory adjustment does not result from the informal discussions contemplated in paragraph A, the president may then commence formal proceedings to consider the question of dismissal by service of a written notice on the faculty member. The written notice shall include a statement informing the faculty member of the grounds proposed for dismissal set forth in as much detail as is practicable, and of the right, if he or she so requests, to a hearing to be conducted by the Faculty Hearing Committee at a time and place specified by the committee. The written notice shall also be accompanied by copies of or references to the applicable bylaws and other governing documents of the university establishing the faculty member's rights and by a summary of the evidence on which the charges are based and a preliminary list of witnesses to be called to testify at the hearing. The faculty member should reply in writing to the charges, and specify whether he or she wishes a hearing.

- C. Procedures for the hearing are described in Appendix M of this handbook.
- D. Suspension of the faculty member during the dismissal proceedings is justified only if serious harm to himself or herself or to others is threatened by the continuance in the performance of his or her duties. Such suspension shall not interrupt the payment of the faculty member's salary and other compensation.
- E. Except for announcements to inform interested persons of the time and place of the hearing and similar matters, public statements about the case shall be avoided in so far as is possible until the proceedings have been completed. If a public announcement of the final decision is made by the president, it will include a statement of the Faculty Hearing Committee's recommendations.

VI. Hearing Procedures for Cases Not Involving Dismissal. The ombudsman and the Faculty Hearing Committee may act on disputed claims within their jurisdiction as defined in Appendix M under the procedures described there.

Faculty Participation in the Appointment and Retention of Administrators

The University Bylaws require that the Board of Trustees appoint university administrators upon the recommendation of the president of the university. The faculty of Duke University has a legitimate interest in participating in the search process or retention decision which leads to the presidential recommendation to the board. Moreover, the process of review of administrators is a reasonable and useful method of ensuring institutional health. The faculty is to be involved in searches for and reviews of the most senior officers of the University with authority over issues with major programmatic or budgetary impact on the faculty, and deans who report directly to the provost or chancellor for health affairs. The offices listed below fit this definition, and if positions of equivalent rank are created in the future, they are to be covered by this appendix as well.

In order that the search or evaluation process provide the president with useful and appropriate information, the faculty's role in the process will be defined by the following procedures:

I. Selection of Administration Personnel

A. Search Committee

1. **President.** The search is initiated and carried out by the Board of Trustees. The Academic Council shall provide the board with a list of twelve faculty members from which the board may select the faculty representatives. It is recommended that at least five faculty representatives serve on the search committee and that the vice chair of such a search committee be a member of the faculty.
2. **Provost.** The search is initiated by the president. The search committee shall consist of a maximum of twelve individuals, of whom at least six individuals shall be members of the faculty. The Academic Council, after consultation with the president, shall provide the president with a list of twelve faculty members from which the president selects the faculty representatives on the search committee. On the advice of the Academic Council, the president shall appoint one of the faculty representatives as chair of the search committee.
3. **Chancellor for Health Affairs and Executive Vice President.** The search is initiated by the president. The Academic Council, after consultation with the president, shall provide the president with a list of twelve faculty members from which the president selects the faculty representatives on the search committee. At least four members of the committee shall be faculty representatives. For the chancellor, at least two faculty members shall be selected from within the Medical Center (at least one from the clinical faculty and at least one from basic sciences) and at least two from outside the Medical Center. The chair or vice-chair of the committee shall be a faculty member. In naming the faculty member to serve as chair or vice-chair, the president shall consult with the Academic Council.
4. **Dean of the Graduate School and Dean of the Faculty of Arts and Sciences.** The president and the provost shall initiate a search to fill these positions. The search committee shall consist of eight individuals, of whom at least four shall be faculty representatives. The faculty representatives and the committee chair shall be selected by the initiators from a list of ten faculty members provided by the Academic Council.
5. **Deans of the Schools of Business, Divinity, Engineering, Environment, Law, Medicine, and Nursing.** For deans of the schools of business, divinity, engineering, environment, and law, the president and provost shall initiate the search. For deans of the School of Medicine and Nursing, the search shall be initiated by the president and chancellor for health affairs, in consultation with the provost. The search shall be initiated in a manner consistent with both professional school practices and the procedures at Duke University. At least one faculty representative from outside the professional school shall be appointed to the search committee from a list of four faculty members provided by the Academic Council.
6. The president may call on the Academic Council for assistance in identifying candidates for other positions.

B. Role of Search Committees

1. The primary concern of a search committee is to provide a search initiator with the best possible advice on the filling of the position in question.
2. The search committees shall seek qualified individuals from both inside and outside the university. The committee shall advertise in appropriate places (e.g., the *Chronicle of Higher Education*). The president, the provost, other administrators, and faculty shall be asked to provide names of potential candidates.
3. The search committees shall normally interview the candidates on the short list for any position. The interview may be conducted informally by a subcommittee of the search committees.
4. Following the search, interview, and evaluation process, the search committees shall provide the search initiator with a list of qualified candidates together with a written evaluation of those candidates. Unless instructed to the contrary by the search initiators, the list of qualified candidates shall not be ranked in order of the committee's preferences.
5. The search initiators may legitimately ask the search committees to provide written evaluations of the strengths and limitations of specific candidates, including those not on the search committees' list of qualified candidates.

II. Review of Administration Personnel.

A. Deans of Faculty of Arts and Sciences, Graduate School, and Schools of Business, Divinity, Engineering, Environment, Law, Medicine, and Nursing.

1. Deans should be appointed for a five-year period, normally renewable once.
2. Reviews of deans shall be conducted by a special committee appointed by the Academic Council after consultation with the provost (and the chancellor for health affairs for the deans of Medicine and Nursing) with a copy to the president. During the fourth year of the initial appointment, each dean shall be reviewed unless the dean indicates he or she does not wish to be considered for another term. Reviews should generally commence during the first half of the dean's fourth year, and the report shall be completed no later than three months prior to the end of that fourth year. Because a dean's term is normally to be renewed only once, a review committee should not be formed in the second or any subsequent term unless the provost (or chancellor for health affairs as to the deans of Medicine and Nursing) shall discuss with the committee chair or committee his or her reactions and responses to it.
3. At the end of the fourth year of a dean's term, the president and provost (or chancellor for health affairs, with the concurrence of the provost, for the deans of Medicine and Nursing) should recommend reappointment, or initiate a search for a new dean.

B. Role of the Review Committee

1. The committee conducts interviews with those who have worked with the administrator being reviewed, e.g., department chairs.
2. It develops a description of the position and its responsibilities for use as a basis for evaluation.
3. It invites comments in writing from all faculty members in the relevant unit(s).
4. It interviews the person under evaluation.
5. It prepares a written report, and shall provide additional and specific information requested by the provost (and chancellor of health affairs as to the deans of Medicine and Nursing).
6. The review process should develop and evaluate information, not make specific recommendations regarding reappointment.

C. Review of the Provost, Chancellor for Health Affairs, and Executive Vice President. A review of the provost, chancellor for health affairs, and executive vice president shall be conducted at the beginning of the fourth year of their term by a special committee appointed for this purpose. After consultation with the Academic Council, the president shall determine the overall composition of the committee, appoint faculty representatives from a list of names provided by the Academic Council, and appoint one of the faculty members to serve as chair. The procedures for the review of deans provide a model for the review of these officers. Because of

the substantial non-academic duties of the executive vice president and the chancellor for health affairs, their review committees will include significant representation from administrative offices and from the health system in order to insure that the broad responsibilities of the offices are appropriately reviewed. The committee will present its report to the president. The president may also call on the Academic Council for assistance in reviewing other senior administrators.

D. President.

The president is typically appointed for a five-year term. Assuming appointment for such a five-year term, a review of the president will be initiated at the end of the third year following his or her initial appointment, and if reappointed to a five-year term or terms, subsequent reviews shall be commenced at the mid-point of the additional term or terms. If appointment or reappointment is for other than a five-year term, the timing of the review may be modified by the Executive Committee of the Board of Trustees and the Academic Council such that reviews may be conducted as frequently as every three years but must be conducted at least at five-year intervals. The procedure for such reviews will be established by consultation between the Executive Committees of the Board of Trustees and the Academic Council.

Confidentiality Policy

Pursuant to university custom and policy, all documents contained in the dossier with the exception of the materials directly submitted by the candidate are considered confidential, as is the identity of all external reviewers. The total dossier is made available only to those individuals officially responsible for recommendations and/or decisions on the candidate's status. These individuals include (1) the voting members of the departmental faculty in cases of appointment; (2) tenured departmental faculty of rank higher than the candidate in cases of reappointment, promotion and tenure within the university; (3) the departmental chairs and administrative assistants of the chairs; (4) the appropriate deans; (5) the provost, the provost's Advisory Committee on Appointment, Promotion and Tenure, and related committees; (6) the president; and (7) the Board of Trustees. All individuals participating in the APT process are expected to adhere to this statement regarding confidentiality.

Ad hoc panels and/or individual additional external reviewers may be consulted by any of the above listed university administrators or faculty bodies with the expectation that the privacy and confidentiality of the dossier is protected.

*Academic Council
March 31, 1988*

Report of the Ad Hoc Committee on Procedures for Appointments, Reappointments, and Promotions for Regular, Non-Tenure Track Faculty

Background

In December 1986 the Ad Hoc Committee on Faculty Voting Privileges was appointed and charged with making recommendations concerning attribution of membership in the University Faculty. On January 21, 1988 the Academic Council approved an amended version of the report from this committee in the form of a resolution to amend Academic Council By-Laws. This resolution defined eligibility to vote in Academic Council elections and read as follows:

Eligible to vote in Academic Council elections shall be all tenured and tenure-track members of the faculty and persons meeting all of the following criteria:

- a. The individual has an appointment in at least one Duke University School, Department, program, institute or center that provides credit toward an academic degree.
- b. Said individual's primary responsibilities are directed toward the University's goals and efforts with performance of his or her role principally at the University, and in accord with criteria for full-time status as defined by the unit in which the primary appointment is held.
- c. The activity of her/his work has an obvious instructional component either in relation to the degree-granting mechanisms of the University or in relation to those individuals at the University who are undertaking further training/studies beyond graduate degrees.
- d. There is intent of ongoing contractual relationship to the University (e. g. tenure track; repetitive contract; participation in continuing research grants, etc.); and that such relationship is subject to either the appointment, promotion and tenure process or to an alternative process approved by the Provost for non-tenure track positions.

At this same meeting of the Academic Council, a resolution was passed to create the Ad Hoc Committee on Faculty Nomenclature for the purpose of proposing a University-wide standardization of nomenclature for faculty and research appointments, in which the criteria adopted by the Council for qualification to vote in Academic Council elections would be inherent in specific titles. The final report of this committee, which was accepted by vote of the Academic Council on December 15, 1988 and recommended to the Provost, proposed a system, which included 11 non-tenure track titles fulfilling criteria for voting in Academic Council elections. These titles are;

Professor of the Practice of, Associate Professor of the Practice of.....,

Assistant Professor of the Practice of ...

Research Professor, Associate Research Professor, Assistant Research Professor

Clinical Professor, Associate Clinical Professor, Assistant Clinical Professor

Lecturer

Associate

On January 17, 1991 the University faculty voted to approve a proposed amendment to the By-Laws of the University Faculty, which, among other things, defines eligibility to vote at meetings of the University faculty and in Academic Council meetings. The criteria defining such eligibility are identical to those contained in the resolution to amend the By-Laws of the Academic Council, which was approved on January 21, 1988 (see above). The last of these four criteria is that the "... ongoing contractual relationship (of the individual) to the University ... is subject to either the appointment, promotion and tenure process or to an alternative process approved by the Provost for non-tenure track positions". Since there exists no alternative process for non-tenure track positions, the Provost, in November 1990, appointed and charged our committee to recommend formal review procedures for non-tenure track faculty holding the ranks of Professors of the Practice of, Research Professors, Clinical Professors, Lecturer and Associate. These titles are to comprise a new subset of regular faculty termed "regular, non-tenure track faculty". The following are the recommendations of our Committee.

RECOMMENDATIONS

- A. Authorization
The Dean of the School authorizes departments (units)² to recommend new appointments. Departments (units) themselves originate recommendations for reappointments and for promotions of full-time faculty in regular, non-tenure track ranks.
- B. New appointments
The Dean establishes policy regarding whether a search is required for new appointments. The Dean also defines the procedures for such a search, while criteria for evaluating new appointments are established by individual departments (units) as described below.
- C. Criteria for appointment, reappointment and promotion
Each department (unit) establishes its own criteria for evaluating candidates for appointment, reappointment and promotion in regular, non-tenure track ranks, which are appropriate to its discipline, and submits these in writing to the Dean for approval. The Dean will then submit the proposed guidelines to the Provost for review and modification so as to insure comparable standards throughout the University. Candidates for reappointment or promotion will have access to these criteria prior to their review. Criteria should be more rigorous for each higher level of faculty rank and in general should parallel, but not necessarily be equivalent to those used for tenure track faculty. In the case where criteria differ among departments (units), the Dean is responsible for assuring that they are equally rigorous for equivalent ranks in different departments (units). The Provost is responsible for assuring equally rigorous criteria in different Schools. Appointment or promotion to the rank of either Clinical Professor, Research Professor or Professor of the Practice of ... requires outside review according to procedures that are determined by the Dean. Individual departments (units) determine whether outside review is required for appointments or promotions at lower levels.
- D. Selection of the review (search) committee
The department (unit) chair nominates a review committee consisting of at least three faculty members- In the case where a new appointment requires a search, the review committee acts as the search committee. Members of the committee must hold a position higher than that of Lecturer or Associate and, for appointments and promotions, must also be of equivalent or higher rank than that to which the nominee is to be appointed or promoted. For reappointments, members of the committee must be of higher rank than the candidate except in the case of reappointments at the levels of Clinical Professor, Research Professor and Professor of the Practice of where members of the committee will be of equivalent rank. Department (unit) chairs do not serve as members of the review (search) committee unless approved to do so by the Dean, as in cases where no other member of the department (unit) has equivalent expertise or when other departmental (unit) members of appropriate rank are unavailable.
The following definitions are only for the purpose of determining eligibility to serve on review (search) committees for regular non-tenure track faculty and to vote on the recommendations of such committees at the departmental (unit) level:
Assistant Professor, Assistant Professor of the Practice of... , Assistant Research Professor, and Assistant Clinical Professor are equivalent.
Associate Professor, Associate Professor of the Practice of... , Associate Research Professor, and Associate Clinical Professor are equivalent.
Professor, Professor of the Practice of ... , Research Professor, and Clinical Professor are equivalent.
- E. Review (search) committee action
For all appointments, reappointments and promotions, the review (search) committee assembles a dossier containing the candidate's CV and any other relevant materials, and evaluates the candidate using the criteria established by the department (unit) and approved by the Dean. In the case of a new appointment requiring a search, the committee also follows the procedures

² "units" refers to programs, institutes and centers, which do not have departmental status, and to Schools that lack departmental structure.

established by the Dean. The committee then prepares a written report to the department (unit) or departmental (unit) promotions committee.

F. Departmental (unit) action

The department (unit) or departmental (unit) promotions committee discusses in confidence the report of the review committee and votes on it by secret ballot at a meeting attended by more than half of the eligible voters. Eligibility for voting is determined by the same criteria used to determine eligibility on the review committee (see above). The chair does not vote except in a tie.

G. Response to department (unit) action

The chair transmits the candidate's dossier, other relevant materials and a cover letter reporting the recommendation of the department (unit) review committee, the names of all who voted, the outcome of the vote, and the chair's personal recommendation. In the case of a favorable departmental recommendation for a new appointment, the letter must also specify how the candidate will fulfill the requirements for regular faculty rank, contained in the proposed amendment to the bylaws of the University that was approved by vote of the University Faculty on January 17, 1991. These are:

- (1) Statement of faculty title and the University School, department, program, institute or center in which the appointment is to be made.
- (2) Statement of the individual's primary responsibilities in relation to the University's goals, performance of the individual's role principally at the University, and full-time status.
- (3) Instructional component of the individual's work in relation to the degree-granting mechanisms of the University or in relation to those individuals at the University who are undertaking farther training/studies beyond graduate degrees.
- (4) The nature of the individual's ongoing contractual relationship to the University.

In the case of a favorable departmental (unit) recommendation, the Dean decides whether to proceed with the initial appointment, reappointment or promotion and forwards a recommendation to the Provost, who, upon favorable evaluation, takes it to the Board of Trustees for approval. If the Dean's decision differs from the departmental recommendation, she/he explains her/his reasons to the department (unit) and sends a letter to the candidate informing her/him of the decision.

In the case of an unfavorable departmental (unit) decision, the chair also sends a letter to the candidate informing her/him of the decision. Within two weeks of receiving this letter, the candidate may appeal the unfavorable departmental decision to the Dean.

H. Promotions

All reviews for promotion should include an evaluation for reappointment as well. An unfavorable decision for promotion should not influence the decision for reappointment, which is based on less rigorous criteria.

I. Periodicity of review

Initial appointments are reviewed for either reappointment or promotion within four years or less. Subsequent reviews are done at least every five years. More frequent review is at the discretion of the individual department. In special cases the Dean may approve a departmental (unit) request for an interval as long as 10 years for a faculty member who has undergone at least one review for reappointment at the level of Professor of the Practice of ..., Research Professor, or Clinical Professor. Reviews for appointment, the first review after appointment, and promotion should be detailed; reviews for subsequent reappointment may be less detailed.

J. Relationship between the review and the contractual processes

Individual Schools and other units differ in contract policy, some using only one-year contracts, others offering contracts as long as ten years. In addition, where contract renewal is dependent on the availability of soft funds such as research grants, which have their own renewal cycles, it may not be feasible to synchronize the review and contractual processes. Therefore, it is necessary to distinguish between the two. The purpose of review for appointment, reappointment or promotion should be to evaluate an individual's qualifications for a specific faculty title and in most cases for a specific task. Successful review is not necessarily synonymous with contract renewal, although it might be considered to be so by an individual department (unit) or School. For instance, if a research grant is due for renewal in less than a year, it might be impossible to offer more than a one-year contract to an Assistant Research Professor who has just completed successful review,

even though the previous contract had been for a longer period. The use of short-term contracts demands, however, that the department (unit) consider carefully the nature of the "intent of ongoing contractual relationship [of the faculty member] to the University", since such intent is a requirement for regular non-tenure track faculty. In summary, for regular non-tenure track faculty a successful review is necessary but not sufficient to permit renewal of a contract that is dependent on the availability of funding support.

In some cases it might be possible to solve the problem of asynchrony through the use of rolling contracts. For example, if a review during the third year of a five year contract were favorable, a new five year contract could be made, which started at the end of the review year and extended to the end of year eight. Unfavorable review would allow the individual to continue to the end of the current five year contract. The Department (unit) might even choose to extend the possibility of another review at year four or five.

When review for reappointment is unfavorable while a contract is still in force, an individual might continue at the same or similar task with a different title, one that does not convey regular faculty status. It is conceivable that the individual might even be offered a new contract, as in the case where failure to reappoint is due to the loss of an instructional component in the position, but the individual still performs a valuable service.

Appendix D: ARTS AND SCIENCES

BYLAWS OF THE FACULTY OF ARTS AND SCIENCES

BYLAWS OF THE ARTS AND SCIENCES COUNCIL

ARTICLES OF ORGANIZATION OF THE ARTS AND SCIENCES COUNCIL

PROCEDURES FOR APPOINTMENTS, REAPPOINTMENTS, AND PROMOTIONS

Bylaws of the Faculty of Arts and Sciences

As amended by the Faculty of Arts and Sciences, December 12, 1991

I. Membership

The Faculty of Arts and Sciences shall be composed of the president, the provost, the secretary, the dean of the faculty of Arts and Sciences (hereinafter, dean of faculty), the dean of Trinity College, and the members of the university faculty who are qualified to vote for the Academic Council and whose primary appointment is in a department or program of the faculty of Arts and Sciences.

II. Meetings

The faculty of Arts and Sciences shall meet at the call of the dean of faculty or of the Executive Committee of the Arts and Sciences Council or of thirty members of the faculty of Arts and Sciences. The agenda shall be circulated at least five days in advance of the meeting. The chair of the Arts and Sciences Council shall preside.

III. Membership of Committees

Appointment to membership on committees authorized by the faculty of Arts and Sciences or by the Arts and Sciences Council shall be made by the dean of faculty or the dean of Trinity College upon nomination by the Executive Committee of the Arts and Sciences Council.

IV. Amendment of Bylaws

The bylaws of the faculty of Arts and Sciences may be amended by a majority vote of those present at a meeting, provided the text of the proposed amendment has been circulated to the members at least ten days in advance of the meeting.

Bylaws of the Arts and Sciences Council

Approved by the Faculty of Arts and Sciences February 28, 1991; amended January 12, 1995

I. The Purposes of the Arts and Sciences Council Shall Be:

- A. To represent the faculty and advise the dean(s) of Arts and Sciences with respect to:
 - 1. Arts and Sciences budget and priorities;
 - 2. Faculty development and compensation;
 - 3. Support and policy for faculty research;
 - 4. Teaching, research, and administrative facilities;
 - 5. Organization of departments and units within the faculty;
 - 6. Areas of interaction between graduate and undergraduate programs such as teaching assistantships, instructional budgets, and teacher training;
 - 7. Initiation of research and development of statistics relative to faculty matters;
 - 8. Any other matters of particular concern to the Arts and Sciences faculty.
- B. With particular respect to Trinity College, to:
 - 1. Determine and implement the broad objectives of undergraduate education;
 - 2. Encourage the achievement and maintenance of high standards of teaching and scholarship;
 - 3. Adopt academic regulations and legislate on curricular programs that use resources of, or grant undergraduate credit in, Arts and Sciences;
 - 4. Consider all other matters affecting the academic and residential life and the learning environment of students and to make recommendations and adopt regulations where appropriate;
 - 5. Adopt policies on admissions and financial aid to students;
 - 6. Develop appropriate means of encouraging and recognizing academic achievement of superior quality among students.

II. Composition of the Council and Procedures for Election to the Council

- A. Voting for and service on the council are restricted to members of the faculty of Arts and Sciences as defined in the bylaws of that faculty.
- B. The units to be represented on the Arts and Sciences Council are as follows:
 - 1. Non-military departments;
 - 2. Faculty members who are not voting members of departments in four groups of programs having the power of faculty appointment, defined as follows:
 - a. Education (the Program in Education);
 - b. Arts (Drama, Dance and the Institute of the Arts);
 - c. Literature (the Asian and African Languages and Literatures Section and the Program in Literature);
 - d. Military (the three ROTC departments);
 - e. The Institute of Statistics and Decision Sciences;
 - f. Health, Physical Education and Recreation.
- C. Members of the council shall be elected by the faculty in the departments, programs, and sections in Arts and Sciences according to the following procedures:
 - 1. Each unit as defined in section B will by democratic means nominate two candidates from its membership for its first ten members from the faculty of Arts and Sciences, and one additional nominee for each additional five members or fraction thereof.
 - 2. Voting is at large; each faculty member may cast ten votes.
 - 3. The nominee from each unit with the most votes is elected to the council.
 - 4. An additional number equal to those elected under item 3 shall be elected from among all remaining nominees by plurality.
 - 5. Unelected nominees will be considered alternates for their unit and alternates at large, in the order of number of votes received. Units having no alternate under this provision shall elect an alternate.
- D. The term of office shall be two years, beginning on July 1.

- E. The dean of faculty, the dean of Trinity College, and the dean of the Graduate School are ex officio members of the council.
- F. Vacancies.
 - 1. Vacancies on the council between elections will be filled by an alternate as follows: if the member is his or her unit's only representative, by the unit's first alternate; otherwise, by the first alternate at large. Ties on the alternate list will be resolved by lot. If no further alternate is available under this provision, then the Executive Committee will designate one.
 - 2. Temporary vacancies on the council will be declared when a member gives prior notice of anticipated absence from three or more successive meetings of the council due to leave or disability. An alternate will then be appointed according to paragraph 1 for the period of the absence. At the end of the absence the elected member will reassume council membership and the alternate will reassume his or her position on the alternate list.
 - 3. Except as provided in paragraph 2, a vacancy will be declared when an elected member has resigned or been absent for three consecutive meetings of the council without accepted prior notice. The vacancy will be filled according to paragraph 1 after notification of the council member.

III. Meetings of the Council

- A. The council will usually meet each month, September through April, and at other times at the call of its chair or Executive Committee or upon written request of ten of its members.
- B. The presiding officer shall be the chair of the council, who may cast a vote in the case of a tie. In the absence of the chair, the Executive Committee shall designate another of its members to preside.
- C. A majority of the members of the council shall constitute a quorum.
- D. Unless executive session is declared by the presiding officer, council meetings are open to all interested members of the university community, who may be recognized by the presiding officer as time permits. At the discretion of the Executive Committee, interested persons from other constituencies of the university may be invited to participate.
- E. Members of the council shall serve in person, and only members may vote, with the following exception: in the event that no council member from a given unit is able to attend a given meeting of the council, the unit's alternate may serve as a voting member. No voting shall be allowed by deputy or proxy.
- F. The agenda shall be mailed, at least five days in advance of the meetings, to all members of the faculty of Arts and Sciences. Council action of a legislative nature shall be limited to the agenda except by recommendation of the Executive Committee.

IV. The Executive Committee of the Council

- A. Election of the Council Chair:
 - 1. At a meeting preceding the biennial election, a nominating committee named by the Executive Committee shall propose the names of two candidates to stand for election by the faculty of Arts and Sciences. Additional nominations may be made by any fifteen members of the faculty.
 - 2. The election of the chair shall take place at the same time as the general election, and the chair's term of office shall coincide with that of council members.
- B. The Executive Committee shall consist of six council members, three elected each year, and the council chair.
- C. Each year the outgoing Executive Committee shall prepare two slates of three council members each as nominees for the Executive Committee, taking care to assure a reasonable balance among the three curricular divisions of Humanities, Social Sciences, and Natural Sciences. These slates shall be submitted to the membership of the council in advance of its first meeting of each academic year. Additional nominations may be received from the floor at that meeting, provided they have indicated their willingness to serve. At its first meeting the council shall elect one from each pair or set of names by secret ballot.
- D. Members of the Executive Committee shall remain members of the council for the two years of their terms on the committee.
- E. No person shall be eligible for two successive full terms on the Executive Committee.

- F. In the event of a vacancy, the council at its next meeting shall elect a person to fill out the term.
- G. The Executive Committee shall serve as committee on committees and as the agenda committee for both the council and the faculty of Arts and Sciences.

V. Amendments

These Bylaws and the Articles of Organization (see following pages) may be amended by a majority vote of those present at a meeting of the Arts and Sciences Council provided the text of the proposed amendment has been circulated to the members at least ten days in advance of the meeting.

Articles of Organization of the Arts and Sciences Council

Revised 12 December 1991; amended April 1992 and October 1994

I. Committees of the Council:

- A. The standing committees of the council shall be:
 - 1. Trinity College Academic Affairs
 - 2. Student Life
 - 3. Arts and Sciences Graduate Programs
 - 4. Faculty Affairs
 - 5. Facilities
 - 6. Planning and Priorities
 - 7. Officer Education
- B. The Executive Committee shall allot to ad hoc committees, perhaps as subcommittees of standing committees, the responsibility of carrying out special tasks.
- C. The committees of the council and their chairs shall be nominated by the Executive Committee and appointed by either the dean of faculty or the dean of Trinity College of Arts and Sciences (hereinafter called "the College") according to the division of responsibilities agreed upon by these deans and announced to the council.
- D. The committees of the council shall perform the functions set forth in these Articles of Organization and such other functions as the council may delegate to them subject to the following:
 - 1. In actions or decisions affecting individuals or departments the committees are expected to honor usual customs of due process, equal access, and judicial restraint;
 - 2. An appeal from any committee action or failure to act in reasonable time shall be made to the Executive Committee and then to the council itself.
- E. The term of office for faculty members of these committees shall be three-year, staggered terms, and faculty members shall not serve more than two consecutive terms on the same committee.
- F. Each standing committee shall meet at such times and places and upon such notice as it may determine. The chair of a standing committee shall file an annual report with the Executive Committee of the standing committee's meetings, deliberations, and actions.
- G. A majority of the members of a standing committee shall be a quorum for the transaction of business.

II. Trinity College Academic Affairs Committee:

- A. Membership: Three faculty representatives each from the Humanities, the Social Sciences, and the Natural Sciences, including the chair of the council or another member of the Executive Committee of the council; the dean of Trinity College or the dean's representative; and two students (one-year terms).
- B. Functions: The Trinity College Academic Affairs Committee shall be responsible for the oversight of the curriculum, advising, admissions and financial aid, Program II, the learning environment, courses, academic standards, honors, study abroad, and other activities concerned with the academic life of Trinity College. In order to carry out its responsibilities, the committee will nominate faculty members to standing and ad hoc committees.

III. Student Life Committee:

- A. Membership: The chair, who will be a member of the faculty of Arts and Sciences, and in addition, one faculty representative each from the Humanities, the Social Sciences, and the Natural Sciences, and the School of Engineering; two administrators, one each from Trinity College and Student Affairs; and six students representing diverse housing options, to be nominated by Duke Student Government (DSG) and approved by the Executive Committee of the Arts and Sciences Council. All members shall be appointed for two-year terms.
- B. Functions: The committee shall review and evaluate aspects of student life outside the classroom, including residential arrangements, cultural events, and social practices, as these affect the

learning environment of students in the College, and, on the basis of such study, recommend and support ways of modifying the life of students so as to improve their environment for learning.

IV. Arts and Sciences Graduate Programs Committee:

- A. Membership: One graduate faculty representative each from the Humanities, the Social Sciences, and the Natural Sciences; the dean of the Graduate School or the dean's representative; and one graduate student. Each faculty member shall be a member of the graduate faculty and be a member of an Arts and Sciences department or program that has a graduate degree program.
- B. Functions: The Committee on Arts and Sciences Graduate Programs shall present issues to the Executive Committee of the Arts and Sciences Council that it may pass on to the Council concerning graduate education in Arts and Sciences. Such issues will include graduate funding, the size of graduate programs, assessing the quality of programs, creating programs, eliminating programs, graduate student teaching, and relations between faculty teaching of graduate students and faculty teaching of undergraduates. Whenever possible, the Committee on Arts and Sciences Graduate Programs will communicate with the Executive Committee of the graduate faculty to avoid unnecessary duplication of effort, to learn where that Executive Committee directs its attention, and to convey to it issues of special concern to graduate departments and programs in the Arts and Sciences.

V. Faculty Affairs Committee:

- A. Membership: Six faculty members, two each from the Humanities, the Social Sciences, and the Natural Sciences; the dean of faculty or the dean's representative. One of the faculty members shall be a sitting member of the Executive Committee of the Arts and Sciences Council.
- B. Functions: The committee shall consider the following matters, as these pertain specifically to Arts and Sciences faculty and are brought before it by the dean of the Arts and Sciences, or the Arts and Sciences Council Executive Committee, or raised within the committee itself:
 - 1. Faculty compensation and benefits
 - 2. Faculty appointment, renewal, tenure and promotion
 - 3. Faculty research support and related resources and regulations
 - 4. Faculty rights and responsibilities
 - 5. Faculty equity issues

With regard to these matters the committee shall, as appropriate, request studies to be prepared by the Office of Institutional Research or other sources; coordinate its activities with overlapping activities of the Academic Council; provide reports to the council; and make recommendations to the Executive Committee and the dean. The committee shall oversee administration of research funds through the Arts and Sciences Research Council, and faculty teaching awards made through Trinity College.

VI. Facilities Committee:

- A. Membership: Three faculty representatives, one each from the Humanities, the Social Sciences, and the Natural Sciences to include a minimum of one faculty member housed on East Campus and one housed on West Campus; the dean of faculty or the dean's representative; one graduate student; and one undergraduate student.
- B. Functions: The Facilities Committee shall:
 - 1. Study and make recommendations to the council and deans concerning the needs, policies and priorities for all Arts and Sciences facilities. Such facilities include, but are not limited to:
 - a. computing equipment and services
 - b. classrooms and classroom equipment
 - c. libraries
 - d. office and research space
 - e. communications services (telephone, mail, networks)
 - f. dining services (e.g., faculty commons)
 - 2. Act as conduit or forum for comments and suggestions about facilities from the whole Arts and Sciences faculty.

VII. Planning and Priorities Committee:

- A. Membership: Two faculty representatives each from the Humanities, the Social Sciences, and the Natural Sciences; the chair of the council or another member of the Executive Committee of the council; and the dean of faculty and the dean of Trinity College or the deans' representatives.
- B. Functions: The Planning and Priorities Committee shall:
 - 1. Advise the dean of faculty and the dean of Trinity College regarding budgetary priorities and development strategies for Arts and Sciences;
 - 2. Inform and consult with the Executive Committee of the council on a timely basis regarding emerging issues in the area of planning and priorities;
 - 3. Report annually to the council and make recommendations where council action or judgment is appropriate in the area of planning and priorities.

VIII. Officer Education Committee:

- A. Membership: One representative each from the Humanities, the Social Sciences, and the Natural Sciences; one representative from the School of Engineering; the dean of Trinity College or the dean's representative; and one representative from each of the three ROTC programs.
- B. Functions: The Committee on Officer Education shall:
 - 1. Review the credentials of candidates for appointment in the three military departments and make recommendations to the dean of the faculty of Arts and Sciences;
 - 2. Periodically review the curriculum of the ROTC programs and, where necessary, make recommendations to the appropriate Arts and Sciences Council committee.

IX. Rules of Order

- 1. The Rules of Order compiled by Henry M. Robert shall be the standard of this council.
- 2. Chairs of council committees, even if not members of the council, may themselves place motions before the council when they are presenting reports for their committees.
- 3. It shall be the ordinary practice not to take action on a matter of far-reaching importance (a matter involving a significant change of policy) until the meeting after the one at which it is presented for discussion. Exceptions to this practice may be recommended by the Executive Committee when it considers that the item under consideration requires immediate action.

March, 1995

Procedures for Appointments, Reappointments, and Promotions in the Arts and Sciences

Copies of the procedures for appointments, reappointments, and promotions are available on the Arts and Sciences homepage <<http://www.aas.duke.edu/booklets/apt.html>> and at the Office of the Dean of the Faculty of Arts and Sciences.

Appendix E: PRATT SCHOOL OF ENGINEERING

BYLAWS OF THE FACULTY

PROCEDURES FOR FACULTY RECRUITMENT, PROMOTION, AND TENURE

Bylaws of the Faculty

Revised 1983

Article I. Faculty Membership

The faculty of the Pratt School of Engineering shall be composed of the president, the provost, the secretary, and all university faculty (as defined in the University Bylaws) who have appointments in the school. The voting membership of the faculty of the Pratt School of Engineering shall be composed of the president, the provost, the secretary, and those faculty whose appointments are in tenured or tenure-track positions in the Pratt School of Engineering.

With the concurrence of the Engineering Faculty Council, the dean of engineering can extend voting privileges to faculty members with nontenure-track term appointments, such as research faculty, visiting faculty, and secondary faculty appointments. Such voting privileges will extend only for the duration of the term appointment.

Article II. Faculty Responsibility

The faculty of the Pratt School of Engineering shall be responsible for the conduct of instruction and research in the Pratt School of Engineering; it also shall be responsible for the undergraduate curriculum and, through the Engineering Faculty Council, for approving courses offered to undergraduates by the school.¹

Article III. Faculty Meetings

The faculty of the Pratt School of Engineering shall meet at least once each semester: near the opening of the academic year (the fall meeting) and near the close of the academic year (the spring meeting). Additional meetings may be called by the dean. If the Engineering Faculty Council or at least five members of the voting membership of the engineering faculty request a special meeting for the conduct of business, the dean or the dean's designated representative shall call such a meeting within two weeks of a written request.

The presiding officer at meetings of the faculty of the Pratt School of Engineering shall be the chair of the Engineering Faculty Council or, in the chair's absence, the secretary of the Engineering Faculty Council. The secretary of the engineering faculty shall be the secretary of the Engineering Faculty Council.

The dean will send an announcement of a meeting to each member of the engineering faculty. Faculty members may submit agenda items in writing at that time. The chair, in consultation with the dean, will submit a written agenda to the faculty during the week preceding the next faculty meeting.

A simple majority of the voting membership of the engineering faculty shall constitute a quorum. Members must be present in order to vote. The current edition of Robert's Rules of Order Revised shall govern the engineering faculty in all parliamentary decisions to which they are applicable, except when they are inconsistent with standing rules or bylaws adopted by the voting membership of the engineering faculty. A parliamentarian appointed by the Engineering Faculty Council may assist the chair in making parliamentary decisions.

Article IV. Engineering Faculty Council

The Engineering Faculty Council of the Pratt School of Engineering (EFC) functions as a steering

¹ Under university procedures graduate courses must also be approved by the Graduate School.

committee for the faculty; its responsibilities include the establishment of ad hoc committees to consider and report on matters of concern to the faculty.

The EFC shall be composed of two voting faculty members from each department and the dean of engineering (ex officio). Members shall be elected to two-year terms and may serve a maximum of two consecutive terms. The first of each department's representatives shall be elected in even-numbered years by the voting membership of the faculty of the Pratt School of Engineering. Voting will be prior to the spring meeting by secret ballot. The dean of engineering and the chair of the EFC will be in charge of the election process. Tie votes will be resolved by re-balloting. The faculty in each department shall elect the second representative from its own membership in odd-numbered years, prior to the spring meeting. Each department chair, or the chair's designated representative, shall prescribe the procedures for counting the votes for the second of these representatives. If a representative is unable to complete a term of office, a replacement shall be selected by the same voting process by which the original representative was elected.

The EFC normally shall meet monthly during the academic year. A quorum for the conduct of business shall be a simple majority of the membership of the EFC. Immediately following the spring meeting of the engineering faculty, the Engineering Faculty Council shall meet to elect by secret ballot its own chair and secretary (who serves in the chair's absence). Election shall be to one-year terms.

Article V. State of the School

A state of the school address by the dean shall be included as an agenda item at the spring meeting.

Article VI. Amendment of Bylaws

These bylaws can be amended by a two-thirds majority of those voting members present at any called business meeting of the engineering faculty, provided a quorum is present, and provided that the amendment has been circulated to the faculty in written form at least two weeks before the meeting.

Procedures for Faculty Recruitment, Promotion, and Tenure

Faculty Recruitment

1. When a vacancy is created by resignation, retirement or other causes the department chair will ask for authorization from the dean to initiate a faculty search. The request should contain, as appropriate, details about the expected field of specialty of the new faculty member, desired experience level and salary range.
2. The departments will send to the dean a written description of the position that constitutes the announcement for the position. A list of journals and/or individuals to whom the announcement of the position is sent will be enclosed.
3. After the department has identified one or more highly desirable candidates for the position it will request dean's authorization to invite them to the campus for an interview.
4. For prospective tenured appointments, the candidates' interview itineraries should include the provost or his or her deputy and the dean of the Graduate School. The curriculum vitae should be sent to these individuals before the visit.
5. Before an offer is extended, the EEO self-audit form and a request to make an offer should be sent to the dean who may consult the equal opportunity officer before approving the request. Upon dean's approval of offer terms, an offer letter will be written by the department chair, with copies to the dean's and provost's offices. Copies of acceptance or rejection letters should also be provided immediately upon receipt.
6. The departments are responsible for maintaining complete files of all correspondence relative to an appointment, which should be detailed enough to provide proof that equal opportunity procedures have been respected.

Promotion and Tenure

1. The promotion and/or tenure action begins with an annual review of all faculty members in ranks eligible for promotion and/or tenure by the chair and/or the assembly of full professors of the department. Possible nominees (if any) are then considered for detailed departmental review.
2. The possible nominees are informed by the chair of their eligibility for detailed departmental review. If they desire to be reviewed for promotion and/or tenure, they are asked to provide the chair with complete copies of all major publications and suggestions of at least four referees outside of the university from whom assessments of the nominee's scholarly and professional accomplishments might be obtained.
3. The chair requests letters from at least four outside referees, some of whom may have been suggested by the nominee, and also gathers data (with the help of a committee if necessary) about the nominee's teaching skills.
4. A dossier containing resume, complete publications, and all outside reference letters is circulated to the faculty of the department holding appointments above the candidate's present rank. Faculty members respond by a confidential vote either for or against the promotion recommendation, and have whatever explanations they consider necessary to support their vote.
5. The chair summarizes the responses and announces the intention to either recommend or not recommend the nominee. The nominee is informed orally of this intention.
6. If the nominee is recommended for promotion, a dossier consisting of all the nominee's publications, an investigative report on his or her teaching, and all inside and outside reference letters, will be forwarded to the dean of the school. The forwarding letter shall contain a summary of the views of the faculty on the candidate as well as the chair's personal views concerning the recommendation. In addition, individual faculty members may write to the Office of the Provost in support of or dissent from the department and school recommendation. Copies of such correspondence shall be sent to the department chair and the dean of the school.
7. All recommendations received from departments are subjected to an administrative review by the executive group of the Engineering Administrative Council, which consists of the dean and engineering department chairs. This group in recent years has delegated this responsibility to a faculty committee appointed by and advisory to the dean. The purpose of this review is primarily to ensure that all recommendations relative to the faculty in the Pratt School of Engineering are made following a uniform set of standards. The dean of the school summarizes the views of the executive group in his

or her forwarding letter to the provost which is attached to the complete dossier(s) of the nominee(s). The nominee is informed orally through his or her department chair, of the result of action at the school level.

For a full and authoritative discussion of current university policy on tenure and promotion applicable to the Pratt School of Engineering, see Chapter 3 of the *Faculty Handbook*.

Appendix F: DIVINITY SCHOOL BYLAWS

I. The Divinity School Community.

A. Membership.

The Divinity School Community consists of the faculty, all other instructors, the student body (all full-time and part-time students who are regularly enrolled in the School), and the administrative and support staff.

B. Mission.

The Divinity School is the center of theological inquiry and learning within Duke University. By history and indenture, it stands within the Christian tradition. Its distinctive lineage and continuing obligation is to the United Methodist Church. From its inception, and consistent with the Wesleyan tradition, Duke Divinity School has been ecumenical in aspiration, teaching, and practice, as well as in its faculty and student body. The principal purpose of the Divinity School is graduate professional education for the various ministries of the Church. A significant component of this purpose is research and publication in the theological disciplines for the worldwide Church and for the academy. Consistent with this purpose is the Doctor of Philosophy program in religion, founded by the Divinity School, now a joint program with the Department of Religion and offered through the Graduate School (see *The Strategic Plan for The Divinity School, 1992-1997*, pp. 1-2).

II. The Divinity School Council.

A. Membership of the Divinity School Council.

The Divinity School Council is composed of the faculty and the administrative staff.

B. Responsibilities of the Divinity School Council.

1. The Council determines matters of significance to the community life of the Divinity School.
2. The responsibilities of the Divinity School Council include advising on:
 - a. the yearly calendar;
 - b. community programs and events;
 - c. student affairs, library, and academic matters.

C. Meetings of the Divinity School Council.

1. Meetings of the Council are held regularly according to a schedule announced in advance for each semester.
2. Called and chaired by the Dean; notice of time, place, and agenda normally given at least one week in advance; Roberts Rules of Order provides the procedural framework.
3. The agenda is proposed by the Dean in consultation with the Executive Committee.

D. Committees of the Divinity School Council.

1. The committees of the Council may include the following:
 - a. Arts
 - b. Worship
 - c. Christian Social Concerns
 - d. Spirituality
 - e. Inclusiveness
 - f. Lectures
 - g. Computing
2. Membership of standing committees is recommended by the Executive Committee.
3. Ad hoc committees may be appointed from time to time by the Dean in conjunction with the Council.

E. Amendments.

All sections of this document except for Section III and any other policies and procedures relating directly to faculty may be amended by an affirmative vote of a majority of the Divinity School Council, so long as the changes do not contradict the University Bylaws.

III. The Divinity School Faculty.

A. Membership of the Divinity School Faculty.

1. The Faculty of the Divinity School shall be composed of the President of the University, the Provost, the Secretary, and all regular-rank members of the University Faculty whose primary faculty appointment is in the Divinity School and who have been hired through the normal process outlined in V.A.below (see the University Bylaws, Art. XXI.5).
 2. "Regular-rank" is defined by the University Bylaws and the Academic Council as tenured and tenure-track faculty, and nontenure-track faculty who are appointed through the regular process of approval by the the Dean (with the advice of the Faculty), the Provost, and the Trustees.
 3. The titles used for primary faculty appointments in the Divinity School are:
 - a. Regular Rank Tenured and Tenure-track—Professor (including Assistant and Associate, here and elsewhere in this list); and tenured, named chairs.
 - b. Regular Rank Nontenure-track—Lecturer; Professor with qualifying terms "of the Practice of...", "Clinical," "Research."
 4. Other instructional staff, with Non-regular Rank, are given the title Instructor or Professor (or other titles such as Scholar, Artist) with qualifying terms "Visiting," "Adjunct," "in Residence," and do not have a vote in the Divinity School Faculty.
- B. Divisional Structure.
1. Membership of Divisions.
 - a. The Faculty is organized into academic divisions for purposes of governance, oversight of the curriculum, and assessment of instructional requirements.
 - b. Four divisions are currently recognized: Biblical, Historical, Theological, and Ministerial Studies.
 - c. Regular rank faculty hold membership in one division.
 2. Chairs of Divisions.
 - a. Divisions elect their own chairs for two-year terms. Elections are held in the late Spring and the terms for chairs begin July 1. Chairs are ordinarily selected from the tenured members of the division.
 - b. The terms of the chairs of the several divisions are staggered to guarantee continuity within the Executive Committee.
 - c. Chairs have responsibility for convening meetings of the division, overseeing the election of successors, and determining advanced standing of students (on behalf of the division and under guidelines established by the division).
 3. Responsibilities of Divisions.
 - a. Divisions exercise responsibility in assessing their own curricular and instructional needs and making recommendations to the appropriate committees (Curriculum, Academic Policies, Faculty, or Executive); for initial recommending of courses and course descriptions; for identifying the persons who teach foundational courses each semester; for recommending persons to serve in adjunctive roles when leaves, sabbaticals, or delayed appointments make staffing from within the Faculty impossible; for submitting the slate of courses for upcoming semesters; and for monitoring leaves and sabbaticals so as to minimize disruption to the academic program.
 - b. Divisions play initiating and leadership roles in searches for faculty in their area(s) and particularly in identifying and screening candidates; they meet with candidates who are brought for interviews; and they, in conjunction with the search committee, make recommendations to the Committee on Faculty concerning those interviewed.
 4. Voting in Divisions.

All regular rank faculty are entitled to voice and vote in the division meetings; adjunct and other related instructional appointees are invited to attend meetings with voice but not vote.
- C. Responsibilities of the Divinity School Faculty.
1. The Faculty of the Divinity School shall be responsible for the conduct of instruction and research in the School, functioning under the President and other officers of educational administration and subject to the regulations of the University Faculty (see University Bylaws, Art. XXI.2 and 5).
 2. The responsibilities of the Faculty include, but are not limited to, the determination of the following:
 - a. requirements for admission;

- b. policies for financial aid;
 - c. curricular courses of study;
 - d. nature of degrees to be offered;
 - e. degree requirements and credit;
 - f. conduct of the instruction, including grading and academic procedures;
 - g. certification and graduation requirements;
 - h. candidates for degrees to be conferred;
 - i. continuing education program;
 - j. persons to receive academic honors and special awards;
 - k. teaching loads.
- D. Meetings of the Divinity School Faculty.
1. Plenary meetings of all regular-rank faculty.
 - a. Called and chaired by the Dean; usually meet in conjunction with or at the end of Council meetings.
 - b. Notice of time, place, and agenda normally given at least one week in advance.
 - c. Roberts Rules of Order provides the procedural framework.
 - d. The agenda is proposed by the Dean in consultation with the Executive Committee.
 - e. All regular-rank faculty have voice and vote in the plenary meetings.
 - f. The Faculty meets in plenary session to discuss and vote on
 - (1) all matters listed in III.C.2.(a)-(k) above;
 - (2) instructional assignments of all adjunct and courtesy title faculty, teaching assistants, and staff with instructional responsibilities.
 - g. The Faculty does not submit or receive proxy votes on matters of business, except as specified for the review process; see V.A.2.(b) and V.B.2.(c).i.h.
 2. The regular rank members of the Faculty meet occasionally as advisory to the Dean on
 - a. original appointment of all faculty and instructional positions, full-time and part-time (with faculty of the proposed rank and higher voting on the appointment);
 - b. review and reappointment of nontenure-track appointments;
 - c. recommendations for promotion of nontenure-track faculty (with faculty of the proposed rank and higher voting in each instance).
 3. The tenured members of the faculty, Associate and Full Professors (no qualifying term), meet occasionally as advisory to the Dean on appointment and promotion of faculty to the unmodified ranks of Assistant and Associate Professor and on granting of tenure.
 4. The tenured Full Professors (no qualifying term) meet occasionally as advisory to the Dean on appointment and promotion of faculty to Full Professor.
 5. Faculty Forums.
The Faculty meets in forum for informal discussion of scholarship, research, pedagogy, and other timely and pertinent issues.
- E. Committees of the Divinity School Faculty.
1. The standing committees (and sub-committees) of the Faculty include the following:
 - a. Admissions
 - b. Financial Aid - Financial Aid Appeals
 - c. Curriculum - Field Education, Library, and Scholarship and Awards
 - d. Academic Policies - Academic Standing
 - e. International Studies
 - f. Continuing Education
 - g. Course of Study School
 - h. Faculty - Judicial Board, and Academic Council Members
 2. The list of faculty members on standing committees is proposed annually before the final faculty meeting of the academic year by the Dean, in consultation with the Executive Committee, and elected by the Faculty; terms begin on July 1.
 3. Committee membership is normally for two years with no more than two consecutive terms on the same committee.
 4. Administrative staff shall be *ex officio* members, but normally not chairs, of the committees that relate to their area(s).

5. Each standing committee of the Faculty shall make regular reports, including an annual summary report, to plenary meetings of the Faculty.
- F. Academic Freedom and Tenure
1. The Faculty of the Divinity School works within the understanding of academic freedom, academic tenure, and certain matters of due process appertaining thereto, as found in the historic agreements between the President and Faculty of the University, summarized in Appendix C of the *Faculty Handbook* and further delineated in III.F.2 below.
 2. Academic freedom includes the freedom and responsibility
 - a. "To teach and to discuss in his or her classes any aspect of a topic pertinent to the understanding of the subject matter of the course which he or she is teaching.
 - b. "To carry on research and publish the results subject to the adequate performance of his or her other academic duties.
 - c. "To act and to speak in his capacity as a citizen without institutional censorship or discipline." (*Faculty Handbook*, App. C.I)
- G. Amendments
1. This section ("III. The Divinity School Faculty") in its entirety shall be construed as the "Bylaws of the Divinity School Faculty."
 2. These Bylaws of the Faculty and other policies and procedures relating to the Faculty (other than those taken directly from the University Bylaws or *Faculty Handbook*) may be amended as follows:
 - a. Any proposed amendment to these Bylaws shall be circulated to each member of the Faculty at least three weeks in advance of the vote.
 - b. An affirmative vote of two-thirds of the Faculty (as defined in III.A.1) is required to pass any Bylaw amendment.

IV. The Divinity School Executive Committee.

- A. Membership.
The Executive Committee is composed of the Dean, the Associate Deans, the chairs of the four academic Divisions, the President of the Student Representative Assembly, and other staff and faculty as determined by the Dean.
- B. Responsibilities.
1. The Executive Committee is responsible for advising the Dean on internal operational oversight and institutional planning.
 2. The responsibilities of the Executive Committee include:
 - a. advising the Dean on the agenda for the meetings of the Council and Faculty.
 - b. recommending membership for committees of the Council and Faculty.
 - c. developing and reviewing long range institutional planning.
 - d. advising the Dean on operational matters.
- C. Meetings.
1. Meetings of the Executive Committee are held as needed.
 2. Called and chaired by the Dean.

V. Procedures.

- A. Procedures for Appointment of New Faculty.
1. Faculty appointments. (see *Faculty Handbook*, 3-1,2)
 - a. All regular rank faculty appointments in the Divinity School are made by the Board of Trustees of the University or the Executive Committee of the Board of Trustees upon the recommendation of the Provost, with the approval of the President, from the initial recommendation of the Dean (with the advice of the Faculty).
 - b. Faculty appointments may be made either with or without tenure. Appointments without tenure may be made either in a tenure-track or a nontenure-track. The terms of that appointment shall be made clear to the faculty member at the time of appointment.
 - c. Tenure-track positions.
 - (1) These positions, when at the unmodified ranks of Assistant, Associate, or Full Professor, are normally filled by faculty with the Ph.D.

- (2) The initial appointment to a tenure-track position without tenure in a regular rank is normally for a term of four years.
- d. Nontenure-track positions.
 - (1) A regular rank (nontenure-track) position may be filled by a candidate without the Ph.D. at the rank of lecturer. When such an appointment is made as lecturer, the faculty member will not begin to accrue time toward tenure until the degree is awarded and he or she has been given a title in a professorial rank.
 - (2) Faculty who do not hold tenure-track positions will be given modified titles; see list in III.A.3.(b) & 4 above.
 - (3) Nontenure-track term appointments at the regular ranks of lecturer and modified-title Assistant, Associate, and Full Professor, and promotions of regular rank faculty not involving tenure shall be made by the Board of Trustees upon recommendation of the Provost with approval of the President, based on appropriate recommendations by the Dean in accordance with internal School procedures; see V.B.1.(b) below. Additional review by an advisory committee to the Provost is not required.
- 2. Search process for initial faculty appointments (see *Faculty Handbook*, 3-1,2).
 - a. Initial appointments are overseen by the Committee on Faculty which makes recommendations to the Faculty about academic priorities, approves searches and descriptions for positions, typically appoints a subcommittee to undertake initial screening of applicants and nominees, interviews all candidates (as does the Faculty), and makes a recommendation to the Faculty concerning the appointment(s).
 - b. The regular faculty, having also interviewed the candidate(s) and received the committee's recommendation, then deliberates, and those who hold regular faculty appointments vote. Initial tenured appointments require the internal review process outlined below (V.B.2.[c]), written secret balloting by the tenured members of the Faculty, action by the Dean in the case, and, if a positive vote, the Dean's transmission of the decisions (of the Dean and the Faculty) to the Provost. (Absentee ballots, when accompanied by a substantive statement that is read at the meeting, are accepted and recorded separately.)
- B. Procedures for Review and Evaluation of Continuing Faculty.

Regular and systematic evaluations shall be made of the scholarship, teaching, and service (to the Divinity School and the University) of all faculty members. The schedule for evaluations varies according to the type of appointment and status of the faculty member under review. The schedule of reviews and the membership of the review committees will be recommended to the Faculty by the Committee on Faculty.

 - 1. Review of faculty on term contract.
 - a. Non-regular rank faculty.
 - (1) Persons on one year appointments will be reviewed annually by the Dean. Where there have been ongoing appointments, there will be a review once every three years by a three person faculty panel who will report to the Dean, who will convey the findings and decisions about the person to the Faculty.
 - (2) Persons with adjunct appointments will be evaluated once every three years by the Curriculum Committee, which reports to the Dean; the findings and the Dean's decisions are reported to the Faculty.
 - b. Regular rank nontenure-track faculty.

Persons on nontenure-track term appointments of more than one year shall be evaluated in the year prior to the final year of their term. The review process includes the following steps (outlined in the "Kredich report," 1991):

 - (1) The Committee on Faculty originates recommendations for reappointments and for promotions of full time faculty in regular, nontenure-track ranks.
 - (2) The Committee on Faculty establishes criteria for evaluating candidates for reappointment and promotion in regular, nontenure-track ranks, and submits these in writing to the Dean for approval. The Dean will then submit the proposed guidelines to the Provost for review and modification so as to insure comparable standards throughout the University. Candidates for reappointment or promotion will have access to these criteria prior to their review. Criteria should be more rigorous for

each higher level of faculty rank and in general should parallel, but not necessarily be equivalent to those used for tenure-track faculty. The Provost is responsible for assuring equally rigorous criteria in different Schools. Promotion to the rank of either Clinical Professor, Research Professor, or Professor of the Practice of... requires outside review according to procedures that are determined by the Dean. The Committee on Faculty determines whether outside review is appropriate for promotions at lower levels.

- (3) The Dean, on consultation with the Committee on Faculty, nominates a review committee consisting of at least three faculty members. In the case where a new appointment requires a search, the review committee acts as the search committee. Members of the committee must hold a position higher than Lecturer and, for appointments and promotions, must also be of equivalent or higher rank than that to which the nominee is to be appointed or promoted. For reappointments, members of the committee must be of higher rank than the candidate except in the case of reappointments at the levels of Clinical Professor, Research Professor, and Professor of the Practice of..., where members of the committee will be of equivalent rank.
 - (4) For all reappointments and promotions, the review committee assembles a dossier containing the candidate's CV and any other relevant materials, and evaluates the candidate using the criteria established by the Committee on Faculty and approved by the Dean. The committee also considers how the candidate will fulfill the requirements for regular faculty rank, contained in the Academic Council Bylaws. The committee then prepares a written report to the Dean and through the Dean to the Faculty.
 - (5) The Faculty discusses in confidence the report of the review committee and votes on it by secret ballot at a meeting attended by more than half of the eligible voters. Eligibility for voting is determined by the same criteria used to determine eligibility on the review committee.
 - (6) The Dean decides whether to proceed with the reappointment or promotion and forwards a recommendation to the Provost, who, upon favorable evaluation, takes it to the Board of Trustees for approval. If the Dean's decision differs from the Faculty's recommendation, she/he explains her/his reasons to the Faculty and sends a letter to the candidate informing her/him of the decision. In the case of unfavorable Faculty decision, the Dean also sends a letter to the candidate informing her/him of the decision. Within two weeks of receiving this letter, the candidate may appeal the unfavorable Faculty decision to the Dean.
 - (7) Initial appointments are reviewed for either reappointment or promotion within four years or less. Subsequent reviews are done at least every five years. In special cases, the Dean may approve a request from the Committee on Faculty for an interval as long as ten years for a faculty member who has undergone at least one review for reappointment at the level of Professor of the Practice of.... Reviews for appointment, the first review after appointment, and promotion should be detailed; reviews for subsequent reappointment may be less detailed.
- c. Regular rank tenure-track faculty (see *Faculty Handbook*, 3-1).
- (1) Annual review: Annual reviews of nontenured regular-rank faculty will be conducted by the Dean (and/or Associate Dean) for the purpose of providing direction and advice to the faculty member regarding progress at Duke. In general, the advice of senior faculty in the Divinity School will be solicited for this review.
 - (2) Contract renewal: Renewal of the initial appointment for a second term which may extend through the end of the probationary period will be made only on the basis of a careful School review and of approval by the Dean and Provost. The purpose of this comprehensive review is to develop a judgment as to the faculty member's probable suitability for tenure at Duke. Once approval has been granted for the second term appointment, the faculty member becomes eligible to apply for a junior faculty leave.

2. Review for continuation, termination, promotion, and tenure of tenure-track faculty.
 - a. Participation.

The tenured members of the Faculty render decisions concerning all matters of continuation, termination, promotion, and tenure.

 - (1) All tenured faculty consider cases having to do with continuation, termination, tenure, and appointment to Assistant Professor and to Associate Professor with tenure.
 - (2) Tenured Full Professors consider cases having to do with promotion to that rank.
 - b. Review for academic tenure.
 - (1) “Tenure at Duke University...should be reserved for those who have clearly demonstrated through their performance as scholars and teachers that their work has been widely perceived among their peers as outstanding. Persons holding the rank of Associate Professor with tenure are expected to stand in competition with the foremost persons of similar rank in similar fields. Good teaching and university service should be expected but cannot in and of themselves be sufficient grounds for tenure. The expectation of continuous intellectual development and leadership as demonstrated by published scholarship that is recognized by leading scholars at Duke and elsewhere must be an indispensable qualification for tenure at Duke University” (*Faculty Handbook*, 3-2).
 - (2) Persons on tenure-track term appointments will be reviewed in the year prior to the final year of their term, using the process outlined below (2.c.)
 - c. Review process.
 - (1) All decisions on continuation, termination, promotion, and tenure involve the following steps:
 - (a) a meeting of faculty eligible to consider the case;
 - (b) discussion of the review process;
 - (c) nomination by the Dean and election by the Faculty of a review committee, typically composed of three persons all of whom are eligible to vote on the matter, with membership drawn from both within and without the candidate's field or division;
 - (d) determination of a calendar for the review;
 - (e) review by the committee of the candidate's materials—including but not limited to published work and reviews thereof, teaching evaluations, letters of reference (required for promotion and tenure), statement concerning service to church, school, and community, description of work in progress, and projection of future research;
 - (f) interview by the review committee of the candidate;
 - (g) submission of a written report by the committee and consideration of that and all relevant materials by the Faculty;
 - (h) a meeting of faculty eligible to consider, a discussion of the candidate in detail, and a vote by secret, written ballot (absentee ballots, when accompanied by a substantive statement that is read at the meeting, are accepted and recorded separately);
 - (i) a decision by the Dean, who reviews all relevant materials, makes his/her own determination in the case, registers his/her concurrence or non-concurrence with the Faculty, transmits that decision and the vote of the Faculty to the Provost (and in cases of tenure and promotion to the Provost's Advisory Committee on Appointment, Promotion, and Tenure);
 - (j) consultation by the Dean with the Provost.
 - (2) Tenure and promotion decisions follow further protocols approved by Academic Council and established by the Provost and the Provost's Advisory Committee on Appointments, Promotion, and Tenure. In such instances,
 - (a) the calendar includes a meeting of the faculty eligible to vote to consider possible outside referees;
 - (b) both the candidate and the review committee submit names of persons who might serve in that capacity;

- (c) the faculty eligible to vote consider both lists and determine the individuals to be written;
 - (d) and after the subsequent steps outlined above, the Dean transmits the candidacy of persons receiving a positive vote by the eligible faculty to the Provost with a substantive analytical and evaluative statement which reviews, in some detail, all the factors and the quality thereof in the case and indicates his/her concurrence or non-concurrence with the Faculty's recommendation.
 - (3) Peer review of tenured faculty.
 - (a) The purpose of peer review of tenured faculty is to provide a means of continuing mutual support and accountability through collegial review of productive scholarship and effective teaching.
 - (b) Persons holding tenure will be reviewed approximately every seven years by a panel of three peers. A report will be made to the Dean, who will discuss the assessment with the faculty member. A copy of the report will be forwarded by the Dean to the Provost.
 - (4) Annual report and evaluation of faculty.

The Dean will make an annual review of every faculty member as a part of a yearly report made to the Provost. The Dean may solicit an annual summary of activities from each faculty member. Any issues that merit attention will be discussed by the Dean with the particular faculty member.
- C. Review and Evaluation of Administrative and Support Staff.
 - 1. Review of the Dean.

A review of the Dean is made by the central administration in the year prior to the completion of his or her term of appointment.
 - 2. Review of the associate deans and administrative staff.

A review of the associate deans and administrative staff is made by the Dean at least every five years of the person's tenure, taking appropriate counsel from the regular faculty.
- D. Termination Procedures
 - 1. By faculty member
 - a. Resignation.
 - (1) Faculty members are expected to follow the general code of ethics of American universities and should resign from the University prior to May 1 if the resignation is to become effective the following academic year; if possible, notification as early as March 1 is appreciated.
 - (2) A person wishing to resign should write a letter of resignation to the Dean with a copy to the Provost; the letter should include the date on which the appointment is to terminate.
 - b. Retirement.
 - (1) Faculty members may retire with full benefits after they reach the age of sixty-five.
 - (2) Faculty members who decide to retain their position beyond the age of sixty-five should consult with the Dean concerning their expected retirement date (see *Faculty Handbook*, 4-8,9 for more information).
 - 2. By the university (see *Faculty Handbook*, Appendix M, "Ombudsman and Faculty Hearing Committee").

VI. Policies

- A. Academic freedom.

The Faculty of the Divinity School works within the understanding of academic freedom, academic tenure, and certain matters of due process appertaining thereto, as found in the historic agreements between the President and Faculty of the University, summarized in Appendix C of the *Faculty Handbook* (see also above, 3.F). Academic freedom of students is protected by a process outlined in the *Faculty Handbook*, 6-2.
- B. Work load of faculty.
 - 1. Teaching load: Divinity School faculty normally teach four courses per year.
 - 2. Advising: All faculty share the responsibility of advising students in academic and curricular matters.

C. Recruitment in the Divinity School by the military.

An announcement should be sent to the faculty, staff, and students one week in advance to indicate when and where recruiting for chaplaincy in the United States military is to take place in the seminary.

Enabling legislation:

1. These articles, bylaws, and policies replace and supersede any previous statements on these topics.
2. These articles, bylaws, and policies go into effect July 1, 1997.

Document and enabling legislation passed by the Divinity School, April 7, 1997

Appendix G: NICHOLAS SCHOOL OF THE ENVIRONMENT

FACULTY BYLAWS

Faculty Bylaws

Approved by Faculty Vote, March 16, 1998

Article 1. Mission

- 1.1. The mission of the Nicholas School of the Environment is education, research, and service to understand basic earth and environmental processes, to understand human behavior related to the environment, and to inform society about the conservation and enhancement of the environment and its natural resources for future generations.

Article 2. Organization and Administration

- 2.1. Primary appointments of faculty are in the Nicholas School with membership in divisions whose membership and mission are defined so as to reflect intellectual leadership and collaboration and to meet the mission of the School. Joint, secondary, and adjunct appointments may be made as deemed appropriate within these bylaws and the *Faculty Handbook*.
- 2.2. The Dean. The Dean is responsible for the leadership, management, and administrative structure of the School. The Dean shall appoint administrative officers with advice of the Faculty Council as deemed necessary to assist in conduct of the responsibilities to:
 - A. Attract, develop, and maintain a faculty of world-wide preeminence.
 - B. Develop and maintain educational, research, and service programs to meet the School's objectives.
 - C. Represent the school to the university, the business community, government, environmental groups, other educational institutions, and the public at large.
 - D. Direct the School's financial affairs and budget.
 - E. Direct, with the cooperation of the faculty and the university, a fund-raising program to meet the needs of the School.
 - 2.2.1. The Dean will present a report on the School's budget to a plenary meeting of the faculty each year, before the budget is presented to the Board of Trustees.
 - 2.2.2. The Dean will make an annual State of the School address open to the entire university community.
- 2.3. Divisions. The divisions represent the primary intellectual foci of the School. Proposals to create¹ or change divisions will be reviewed by the voting faculty and the outcome of the vote communicated to the dean and provost. The dean and provost will consult with the Academic Council and appropriate University committees. Finally, proposals must have the approval of the President and the University Board of Trustees.
- 2.4. Division chairs. The division chair is the official link between the division and the administration of the Nicholas School. He or she represents divisional needs, objectives and evaluations of achievement to the Dean and transmits administration policy to his or her colleagues. In consultation with the Dean, the chair is responsible for appointment of administrative positions within the division, convening and chairing regular faculty meetings, budget preparation and oversight, assignment of academic and nonacademic staff, helping faculty members obtain grants, assignment of teaching loads, student advising, and appointment of divisional committees concerned with academic affairs.

¹As of July, 1998, the Nicholas School of the Environment was in the process of developing a proposal for the creation of several divisions.

- 2.4.1. Working with the Dean and the Faculty Council, the chair will take responsibility for coordinating interdisciplinary collaborations in teaching and research across divisional boundaries.
- 2.4.2. Division chairs are on term appointments of three years to five years. The chair does not automatically rotate, but is reviewed in the last academic year of the term. The review procedure begins with a letter from the Dean to each member of the division regarding the next chair term. Each individual is invited to write the Dean directly. These letters are reviewed by the Dean and are discussed with the administration. The Dean then recommends an appointment to the Provost who, after reviewing the divisional letters, will confer with the President. On approval, the Dean will send the letter of appointment. In the case of outside appointments, the Dean will appoint a search committee which will recommend one or more qualified persons for consideration. Search committees will have representatives from the division faculty and at least one faculty member from another division or school in the university. The search committee will seek input from all faculty in the division. After the search committee has made its recommendations, the Dean will seek the approval of the Provost who, in turn, will confer with the President. Final responsibility for such appointments rests with the Board of Trustees.
- 2.5. Divisional Activities and Functions. The chair and faculty shall be responsible for development of priorities for faculty development, appointment, promotion and tenure, assignment of teaching responsibilities, and oversight of educational programs managed within each division (see sections 5.1, 5.2 and 6.1). The specifics of administrative staffing and budget oversight may vary among divisions and will be negotiated in each case between the division chair and the Dean. Secondary appointments will be proposed by the division and approved by the Dean.
- 2.6. Communication and Collaboration Among Divisions and With Other University Units. Given the centrality of interdisciplinary collaboration and the importance of transdivisional educational and research programs, communication and collaboration among divisions with regard to each of the activities and functions are critical. Appropriate mechanisms for interactions will be prescribed by the Dean in consultation with the faculty of the division and the Faculty Council.

Article 3. The Voting Faculty

- 3.1. The voting faculty on matters relating to School issues, but not including tenure-track faculty appointment, promotion and tenure decisions, is comprised of those individuals who hold primary or joint regular-rank faculty appointments in the School as defined in the *Faculty Handbook*. This defines the qualified faculty.
- 3.2. The voting faculty within a division of the School on matters related to faculty appointment, promotion, and tenure decisions shall be the tenure-track and tenured faculty of the division, except that all regular rank faculty may vote on appointments of non-tenure track faculty. On issues related to individual appointments and promotions, only those faculty whose rank is at or above that for which the individual in question is being considered may vote. Voting faculty for faculty appointment, promotion and tenure decisions shall include primary and joint appointments. For issues other than faculty appointment, promotion, and tenure, divisions may extend voting rights to those faculty with secondary appointments on a case-by-case basis.

Article 4. Faculty Meetings

- 4.1. School-wide Plenary Meetings. The members of the Nicholas School faculty shall meet at least once each semester in plenary sessions called by the Dean of the School. The agenda for such meetings will be developed by the Dean in consultation with the Faculty Council and circulated to the faculty at least one week prior to such meetings. All meetings will be conducted in accordance with Robert's Rules of Order.
- 4.2. The faculty of each division shall meet regularly during the regular school session with meetings being convened by the division chair. The faculty shall be notified in writing of the date and time of any meeting at least one week prior to the meeting date. All meetings will be conducted in accordance with Robert's Rules of Order.

Article 5. Hiring, Reappointment, Rank, Promotion, or Tenure

- 5.1. Priorities for faculty development (i.e., the creation of new positions or the filling of vacant positions) within each division will be developed by the faculty of that division in consultation with the Dean of the School and the Faculty Council. Criteria for prioritizing such positions will include the needs of educational programs (undergraduate, professional and/or graduate), opportunities to strengthen or expand research programs within the division, and opportunities for strategic linkages and collaborations with other divisions, departments, or schools. The Dean will work with each division to ensure consultation with other faculty groups or divisions as appropriate.
- 5.2. Taking into consideration the overall needs of the divisions and the School, the Dean will make recommendations to the Provost regarding new hires. In developing School-wide priorities, the Dean will consult with the Faculty Council.
- 5.3. Matters concerning the hiring, reappointment, rank, promotion, or tenure of faculty will be handled in accordance with the policy and criteria for hiring and promotion stated in the *Faculty Handbook*. In all cases where teaching and/or research activities of a vacant position or individual promotion directly relate to similar activities in another division or school, input should be sought from that unit. In the case of appointment, promotion or tenure decisions involving faculty resident or to be resident on the Beaufort Campus, the dean will ensure that eligible (as prescribed in section 3.1) Beaufort faculty are engaged in the faculty development, planning and review process, and that specific decisions in these cases will be considered in a separate vote by the eligible Beaufort faculty taken by secret, written ballot and communicated to the dean. In such cases, the dean will communicate the voting results of both the division and the Beaufort faculty to the Provost with his or her recommendation.
- 5.4. Decisions involving hiring, reappointment, promotion, and granting of tenure will be discussed and voted on in meetings of voting faculty (see section 3.2) of a division convened for that purpose. All votes taken in these matters will be by secret, written ballots.
- 5.5. In cases where the candidate holds or would hold a primary membership (i.e. joint) in more than one division, the voting faculty on issues of appointment, promotion and tenure would be the appropriate voting faculty of all concerned divisions at a called plenary meeting of those faculty as prescribed in section 5.4 and in the University *Faculty Handbook*.
- 5.6. When a division(s) has fewer than five tenured faculty available to vote, the provost shall add, after consulting with the chair and dean, tenured faculty members from other departments (or schools) who are considered knowledgeable in the candidate's area. In this way, the voting membership on the candidate's credentials will number at least five.

Article 6. Faculty Council

- 6.1. The Faculty Council shall be constituted for the purpose of serving as faculty representatives to consult with the Dean on general policies of administration, governance, and faculty. Specifically, the Faculty Council will advise the Dean on criteria for faculty evaluations and compensation, policies for appointment, promotion and tenure, and School-wide policies and priorities for faculty development, administrative issues, research, and school-wide educational and service needs. The Faculty Council shall advise the Dean regarding faculty membership on all Nicholas School committees.
- 6.2. The Faculty Council will be composed of the Dean and two faculty members elected by each division. Associate Deans, Center Directors, as well as Directors of Educational Programs will be invited to meet with the Council as deemed necessary.. Meetings may be declared by the Council chair: 1. "open" -- anyone may attend; 2. "closed" -- attendance by "voting faculty" only; 3. "closed executive" -- voting members of the Council only. Criteria for declaring such meetings should be developed. This Council shall elect one of its members to serve as the chair.
- 6.3. The Faculty Council will meet regularly during the academic year. In addition, called meetings may be convened to consider issues requiring immediate action.
- 6.4. The term of office shall be for two years beginning on October 1 following the September election. Terms will be staggered. Election will be by secret ballot. Vacancies where there is at least one full semester to serve will be filled by election by majority vote of the faculty of that division at a regular meeting.
- 6.5. The chair of the Faculty Council will inform the faculty of all matters discussed at meeting of the Faculty Council by submitting written minutes to the faculty within two weeks of the meeting.

Article 7. Research Centers

- 7.1. The role and establishment of centers in Nicholas School follows the Spicer report (Spicer 1988). Centers are generally administrative umbrellas, either inter- or intra-disciplinary, of non-degree fields of research specialization. Centers generally develop from faculty collaborative initiatives in research and teaching. Centers may be distinguished from programs by the absence of a degree and in their being largely faculty research driven rather than curriculum driven. Development of new centers needs approval of the Dean and the Provost, following consultation with the Faculty Council. The Center Directors report to the Dean on Center matters.
- 7.2. Faculty: The faculty of the centers are usually comprised of regular rank faculty from several units on campus as well as non-tenured research appointments in the unit.
- 7.3. Review. Centers should be reviewed every five years by the Faculty Council to determine their status and activity level in terms of faculty involvement, student participation, funding levels and relevancy to Nicholas School goals. Considering the advice of the Faculty Council, the Dean will dissolve a Center or extend its charter for a further 5 year period.

Article 8. Education Programs

- 8.1. The undergraduate programs of the Nicholas School are initiated and implemented in coordination with Trinity College. The professional programs (M.F./M.E.M.) are overseen by the faculty of the Nicholas School. The curricula of the graduate (M.S./Ph.D.) programs, as per the by-laws of the Graduate School, are regulated by the faculty of those programs.
- 8.2. The Education Committee shall consist of one representative elected from each Division plus Directors of Undergraduate, Professional and Graduate Studies. The committee shall be constituted for the purpose of monitoring curricula of existing educational programs, suggesting and evaluating new curricula of existing programs, academic requirements and other issues of student standing, and overseeing other activities directly related to the substantive content and quality of the School's course offerings, and coordination across all three education levels. Three members shall be from the student body, one each representing undergraduate, professional, and graduate students elected by members of those groups.
- 8.3. Faculty members of the Education Committee shall be eligible to vote. Minutes of meetings including recommended curriculum and course changes will be provided to the faculty by the chair of the committee.
- 8.4. The Admissions and Awards Committee for professional students shall be comprised of one member from each professional program, plus the Director of Professional Studies and Associate Dean for Academic Services. The chair is selected by the committee members. The committee considers candidates for admission and recommends to the Dean the distribution of awards.
- 8.5. The Associate Dean for Academic Services and the Director of Career Services shall serve *ex officio*, but nonvoting, on the Education Committee.

Article 9. Faculty Grievance Committee

- 9.1. A Faculty Grievance Committee shall be convened as needed to investigate a faculty member's grievance. The purpose of the committee shall be to review the faculty member's grievance and make a recommendation to the Dean concerning the merits of the grievance. The committee shall be composed of three members, one selected by the Dean, one by the aggrieved faculty member, and a chairman selected by these two members.

Article 10. Amendments

- 10.1. These bylaws may be amended by two-thirds of the qualified faculty (see 3.1) who choose to vote. In determining the total votes cast, abstentions or blank votes do not count. Any proposed amendments must be circulated in writing to each member of the qualified faculty at least two scheduled academic weeks prior to the meeting at which the change will be considered. After the proposed amendments have been discussed at a meeting, the minutes will be circulated to all qualified faculty. Voting will be by written ballot (or email). A good faith effort will be made to reach those faculty who are away from campus for an extended period of time.

Appendix H: FUQUA SCHOOL OF BUSINESS

FACULTY EVALUATION, APPOINTMENT, PROMOTION, AND TENURE: CRITERIA AND PROCEDURES

FACULTY BYLAWS

Faculty Evaluation, Appointment, Promotion, and Tenure: Criteria and Procedures

I. Faculty Titles and Standards

Faculty ranks and titles are described briefly in Duke University *Faculty Handbook*, Chapter 2. The elaboration that follows pertains specifically to standards and practices in the Fuqua School of Business. A faculty member in the school holds one of the tenure-track or nontenure-track titles described below.

- A. Tenure-Track Appointments. Tenure-track appointments carry the title of professor, associate professor, or assistant professor. Some characteristics of these appointments and their incumbents are as follows:
 1. Professor. Appointments to this rank may be with or without tenure. Persons holding this rank with tenure are expected to stand in competition with the foremost professors of similar rank in similar fields, and to meet or exceed the standards expected of associate professors.
 2. Associate Professor. Appointments to this rank may be with or without tenure. Persons holding this rank with tenure are expected to stand in competition with the foremost professors of similar rank in similar fields and to have substantial records of research accomplishment. Persons holding the rank without tenure are expected to have demonstrated a capacity for research accomplishment. Persons holding this rank, whether tenured or not, should contribute effectively to the school's objective of excellence in the education of others, be it in classroom performance, textbook writing, directing student research, program management, executive education, or other areas of importance to the Fuqua School.
 3. Assistant Professor. Appointments to this rank are not tenured except in rare circumstances. Persons holding this rank are expected to show promise of qualifying for the rank of associate professor within five to eight years from their appointments as assistant professors.

It is a policy of the school that a full-time faculty member not hold tenure-track appointments at Duke for more than eight consecutive years, unless the member is awarded tenure. In applying this policy, the school considers a faculty member on an approved leave of absence to have not interrupted his or her continuity of appointment.

- B. Nontenure-Track Appointments. Various types of term appointments may be used to attract to the Fuqua School faculty members to whom the tenure-track ranks are not well suited. These appointments do not involve the expectation of tenure at a later date, and do not exceed five-year terms, though reappointments are possible. The titles and terms of such appointments can be tailored to the circumstances, but in no case should they be inconsistent in level with the system of tenure-track titles. The tenure-track titles may be modified with such words as "visiting," "research," or "adjunct," as appropriate. Titles of the form professor of the practice of--lecturer, senior lecturer, distinguished faculty fellow, distinguished visitor, and executive-in-residence are also available for this use.

II. Annual Faculty Evaluation Procedure

Continuing faculty are evaluated each year in an effort by the school to foster individual development, further the interests of the school, and adjust faculty salaries.

One objective of the Fuqua School is to achieve excellence in its faculty. For purposes of the annual faculty evaluation, excellence can be achieved either in research related to the management of complex

organizations or in educational activities directed toward improving the competency of managers.¹ The faculty as a group must cover both dimensions. While some individual faculty members will achieve excellence in both dimensions, every tenure-track faculty member is expected to contribute at least at an acceptable level in the dimension in which he or she is considered less outstanding. A nontenure-track faculty member is expected to excel in either research or education.

The steps in the annual faculty evaluation process are as follows:

- A. Early in the fall term, each faculty member submits, to the associate dean for faculty affairs, information about his or her activities in research, education, and service during the previous year, plans for activities in the future, and a current resume.
- B. There follows an initial evaluation of each faculty member by the associate dean for academic programs, and the appropriate area coordinator and program director(s). This evaluation involves:
 1. From the area coordinator:
 - a. Opinion regarding the member's contribution to educational programs, quality and quantity of research, and standing in the profession. For instructors and untenured faculty on tenure-track appointments, progress toward tenure is an important consideration.
 2. For tenured faculty, important considerations include:
 - a. Standing in the profession as a scholar;
 - b. Contribution to the development of junior faculty, the academic program, the school, and the university, and;
 - c. Opportunities elsewhere.
 3. From the program director(s) and associate dean for academic programs opinion and information regarding the member's:
 - a. Contributions in terms of course development and delivery;
 - b. Value as a part of the educational program; and
 - c. Contribution to program development.
- C. The associate dean for faculty affairs prepares a written summary of this information and, if appropriate, a recommendation to consider the member for promotion or tenure. These summaries and recommendations are conveyed to the dean.
- D. The dean reviews and edits each of the summaries and prepares faculty salary recommendations for the next fiscal year. The dean may base these recommendations in part on consideration of the overall mix of faculty skills. The recommendations are discussed in detail with the associate dean for faculty affairs, and then the tenor of each summary and salary recommendation is conveyed by the associate dean to the appropriate area coordinators. The dean or the associate dean for faculty affairs next discusses each faculty member's evaluation with him or her. The dean then prepares and conveys to the provost recommendations for annual salary increases.
- E. The dean reviews the associate dean's list of recommendations for promotion or tenure, and after consultation with the tenured full professors, adds to or deletes from that list as seems appropriate to the dean. The dean then informs the appropriate area coordinators of the actions to be pursued.

III. Extension of Tenure-track Faculty Appointments

The dean may, in his or her discretion, with such faculty advice as he or she solicits, extend for one year the term of appointment of a tenure-track faculty member holding a term appointment, provided that such extensions do not exceed three years in the aggregate for that faculty member, provided such an extension would not cause the member automatically to receive tenure, and provided that the second such extension be preceded by a review of the candidate's recent scholarly and educational accomplishments by a faculty committee appointed for that purpose by the dean. An extension of term by this mechanism does not involve a change of the faculty member's rank.

IV. Reappointment and Advancement of Tenure-track Faculty

It is a policy of the Fuqua School to recommend reappointment, promotion, and tenure for its tenure-track faculty in circumstances where that faculty member's accomplishments justify this action. Such action

¹ However, no faculty member should believe that teaching and service, either alone or in combination, are sufficient to justify promotion or tenure; they must be accompanied by evidence of continuing scholarship of high quality, and, in the absence of such scholarship, promotion and tenure are inappropriate and should be replaced by other forms of recognition, such as salary increases or administrative rank.

is recommended whenever it is consistent with the guidelines set forth under "Faculty Titles and Standards" in this handbook, and also consistent with university standards and the following considerations:

- A. All faculty members are expected to make reasonable contributions to the normal operations of the school and the Duke community. A demonstrated incapacity or unwillingness to do so disqualifies one for advancement.
- B. While the Fuqua School does not have fixed quotas of faculty by rank or tenure, there may be occasions when the healthy development of the school mitigates against the advancement of a faculty member with a particular specialty, however outstanding his or her performance. If the dean believes it may be appropriate to deny a faculty member reappointment, promotion, or tenure on these grounds, he or she will discuss the matter with the tenured full professors prior to appointing an evaluation committee. If after this discussion the dean decides not to recommend reappointment, promotion, or tenure on these grounds, no evaluation committee need be appointed.

The following procedures are employed for promotion to associate or full professor and for the granting of tenure:

1. The dean reviews all faculty members who might be considered for advancement with the tenured full professors. This review is generally initiated by the dean but can be at the request of the faculty member involved.
2. Based on this review, followed by a discussion between the faculty member and the dean, the dean determines whether the faculty member should be considered formally for promotion or tenure.
3. If the faculty member is to be considered formally, the dean appoints an evaluation committee of faculty members, a majority of whom are from the school. All members of the evaluation committee are of the rank being considered for the faculty candidate, or a higher rank. If the candidate is being considered for a rank with tenure, all members of the evaluation committee are tenured.
4. It is the responsibility of the evaluation committee to:
 - a. Request from the candidate a current resume, a statement of research interests and plans, copies of publications and manuscripts, the names of people considered by the candidate to be qualified to appraise his or her scholarly work, and any other material the candidate considers relevant;
 - b. Examine and comment on the scholarly work of the candidate;
 - c. Solicit evaluations of the candidate's scholarship; and
 - d. Examine the teaching effectiveness of the candidate by reviewing student evaluations, consulting the program director(s), reading or obtaining reviews of textbooks and case materials, and when possible, by other means; the committee should also examine course syllabi and any theses or dissertations supervised by the candidate;
 - e. Consider the quantity and quality of service to the department, to the university, and to the profession;
 - f. Consider the candidate's success in obtaining research grants;
 - g. Prepare and deliver to the dean a written report of its opinion as to whether the candidate qualifies for the proposed action;
 - h. Provide the dean, and others who may be unfamiliar with the discipline, a statement about the quality of the journals and publishers which have accepted work by the candidate and about the nature of scholarly productivity in the subject; this statement addresses such questions as whether excellent scholars in the discipline write numerous articles rather than books, whether collaboration with other researchers is the norm, and, when feasible, how the responsibility for research is distributed among joint authors;
 - i. Convey to the dean copies of the resume, publications, manuscripts, references, and evaluations, and all other documentation on the basis of which the written report is made.
5. The report of the committee and its supporting documents are made available through the dean's office only to faculty eligible to vote on the reappointment. About one week after these documents are made available, the faculty eligible to vote meet to discuss the committee's recommendation. The recommendation, if moved and seconded, is then voted on by secret ballot. The results of the voting are reported at that meeting.

6. The dean, having knowledge of the committee report and the faculty discussion and vote, decides either to recommend to the provost that the candidate receive the proposed advancement, or else not to make any recommendation to the provost.
 - a. In the former event, the dean notifies the candidate in writing of this decision, and provides the candidate with such details of the evaluation as seem helpful to the candidate. The dean also notifies all school faculty members of the decision and invites each to write a letter to the provost, whether in support of or in opposition to the dean's recommendation.
 - b. In the latter event, the dean notifies the candidate in writing of the decision, and provides the candidate with such details of the evaluation as seem helpful to the candidate. The dean also notifies the tenured full professors of this decision.
7. If the dean decides to recommend advancement to the provost, or if the candidate so requests, the dean forwards to the provost:
 - a. A letter indicating his or her recommendation and the reasons for it;
 - b. A cover letter from the committee chairperson to the dean summarizing the recommendation of the departmental review/search committee, reporting the procedures followed, the names of those voting, and the outcome of the vote, and including the chair's personal recommendation;
 - c. The report and documents collected by the departmental review/search committee submitted to the dean (including resume, publications, letters from colleagues, and statement of research interests and plans);
 - d. The tally of the faculty vote on the evaluation committee's recommendation.

V. Reappointment and Advancement of Nontenure-track Faculty Appointments

The dean may, in his or her discretion, with such faculty advice as he or she solicits, extend for one year the term of appointment of a nontenure-track faculty member. Any further extension must be preceded by a review of the candidate's contributions to the Fuqua School by a faculty committee appointed for that purpose by the dean. To the extent appropriate, this committee will follow the process outlined in the section on "Advancement of Tenure-track Faculty".

VI. Appointment Procedures for New Faculty

The dean may, in his or her discretion, on whatever faculty advice he or she solicits, recommend to the provost the appointment of a person to a nontenure-track position, provided such an appointment is generally consistent with the titles and standards maintained for tenure-track appointments. Additionally, and subject to the same considerations, the dean may recommend to the provost the appointment of a person to the tenure-track position of assistant professor (without tenure), provided the appointment does not result in automatic conferral of tenure. For every new faculty appointment, the dean will usually follow the process described below to the extent that time and circumstances permit.

For tenure-track appointments to the faculty at the ranks of associate professor and professor, and for any appointment involving tenure, the following process must be used:

- A. With the approval of the provost, and in consultation with the appropriate area coordinator(s), the dean authorizes the initiation of a search for a new member of the faculty by appointing a search committee comprised of faculty members.
- B. The search committee's responsibilities are to:
 1. Inquire about the specific affirmative action goals for the school from the university's equal opportunity officer;
 2. Identify publications in which to advertise the search, draft an advertisement to be placed in these publications, obtain approval of the advertisement from the dean and from the university's Equal Opportunity Office, and place the advertisement;
 3. Write letters and place telephone calls to colleagues in other universities to identify possible candidates, stating clearly the nature of the appointment and soliciting evaluations of specific strengths and weaknesses of candidates with respect to research, teaching, rank in the profession, and potential;
 4. Contact promising candidates for expressions of interest;
 5. Interview potential candidates at professional meetings and elsewhere;

6. Develop, for each candidate being considered seriously, a dossier which includes a current resume and at least three letters of recommendation from colleagues outside of the university. Whenever possible, recommendations are requested from individuals other than candidates' graduate supervisors;
 7. Supplement the letters with written notes of any telephone conversations;
 8. Narrow the list of candidates and, with the dean's prior approval, invite the top candidates for on-campus interviews;
 9. Schedule interviews of the candidates with the dean, and for candidates being considered for tenure, with the provost and the dean of the Graduate School;
 10. Ensure that the on-campus interviews do not conflict with other such interviews, or materially with other activities of the school;
 11. Ensure that all professors are invited to interview candidates being considered for that rank, and that all tenured faculty are invited to interview candidates being considered for tenured positions;
 12. Make the resumes of invited candidates available to all faculty members of the school and the administrative officers who are to interview them;
 13. Provide an opportunity for candidates to give oral presentations and to meet colleagues in related disciplines.
- C. If the search committee finds one or more candidates it can endorse for appointment, it prepares a report on each, including in each its recommendation and the reasons for it.
- D. The report of the committee and its supporting documents are made available through the dean's office to faculty eligible to vote on the appointment. About one week after these documents are made available, the faculty eligible to vote meet to discuss the committee's recommendation(s). Recommendations moved and seconded are voted on by secret ballot. The results of the voting are reported at that meeting.
- E. The dean, having knowledge of the committee report(s) and the faculty discussion and vote, decides for each candidate either to recommend to the provost that the candidate receive the proposed appointment, or else not to make any recommendation to the provost.
1. In the former event, the dean notifies all school faculty of this decision and invites each to write a letter to the provost whether in support of or in opposition to the dean's recommendation.
 2. In the latter event, the dean notifies all school faculty of this decision.
- F. If the dean decides to recommend appointment of a candidate to the provost, he or she forwards to the provost:
1. A letter indicating his or her recommendation and the reasons for it;
 2. The tally of the faculty vote on the recommendation;
 3. The report of the search committee; and
 4. The documents collected by the search committee (including resume, publications, and letters from colleagues).

VII. Procedure and Time Line for Nontenured Faculty Hired as Associate Professor subsequent to September 26, 1986

- A. Initial appointment is for five years.
- B. Tenure clock starts running with employment.
- C. During the fall of the fifth year the faculty will consider whether or not the faculty member should be granted tenure. This review will follow the standard procedures currently in place. The dean will make his or her recommendation to the provost by December 1. If the decision is favorable, the faculty member is granted tenure effective at the beginning of the sixth year. If unfavorable the faculty member's contract will be extended for one year to provide a one-year period of notice.

NOTES:

- A. Under this policy, the tenure clock does not stop except:
 1. For a disability leave of six months or longer; or
 2. By approval of the provost prior to granting of the leave.
- B. These time lines represent the maximum time possible for granting of tenure. Of course, a faculty member can be granted tenure earlier.

VIII. Procedures and Time Line for Nontenured Faculty Hired as Assistant Professor Subsequent to September 26, 1987

- A. Initial appointment is for five years.
- B. Tenure clock starts running with employment date.
- C. The initial five-year contract will be given conditional upon the faculty member's completion of his or her thesis by the beginning of the second year. A formal review will be conducted in the spring of the fourth year. This review will be by an ad hoc committee appointed by the associate dean for faculty affairs to determine if the person is on the tenure vector. Based upon the findings of the review, possible outside evaluations, and faculty discussion, the faculty will recommend either that the faculty member's contract be renewed for another three years or the contract will be extended. Final decision for the renewal rests with the provost based upon the recommendation of the dean.
- D. During the fall of the seventh year the faculty will decide whether or not to recommend that the faculty member be granted tenure. This review will follow the standard procedures currently in place. The dean will make his or her recommendation to the provost by December 1. If the final decision is favorable, the faculty member is granted tenure effective the beginning of the eighth year. If unfavorable, the faculty member's contract expires at the end of year eight.

NOTES:

- A. Under this policy, the tenure clock does not stop except:
 - 1. For a disability leave of six months or longer; or
 - 2. By approval of the provost prior to the granting of the leave.
- B. No initial appointments of tenure-track faculty will be made at the rank below assistant professor.
- C. These time lines represent the maximum time possible for tenure. Thus, a faculty member can be promoted to a higher rank or be granted tenure at times earlier than the above dates.

Faculty Bylaws

Article 1. Voting Faculty

- 1.1. The voting faculty as defined by the university *Faculty Handbook*, comprises those full-time Duke University faculty members who hold a primary and regular non-visiting appointment in the Fuqua School of Business as dean, professor, associate professor, assistant professor, or instructor, whether on a tenure or non-tenure track.

Article 2. Faculty Meetings

- 2.1. The faculty shall meet at least three times a year during the regular school session; once during September, once during January, and once during April at which time the dean will report on the state of the school. Meetings will be called at other times as needed. Each member of the faculty shall be notified in writing of the date and time of any meeting at least one week prior to the meeting date. All meetings will be conducted in accordance with Robert's Rules of Order.

Article 3. Secretary of the Faculty

- 3.1. The duties of the secretary of the faculty will be to call the faculty meetings upon the request of the dean or any faculty member, prepare and distribute the agenda prior to the meeting, chair the meetings which deal with governance, and distribute minutes to the faculty. Any voting member of the faculty is eligible to be elected for a one year term by a majority vote of the faculty present at the first regular meeting of the academic year. The secretary may serve consecutive terms.

Article 4. Hiring, Reappointment, Rank, Promotion, or Tenure

- 4.1. Matters concerning the hiring, reappointment, rank, promotion, or tenure of faculty will be handled in accordance with the policy and criteria for hiring and promotion stated in the Fuqua School of Business handbook for faculty and staff.
- 4.2. Decisions involving reappointment, promotion, and granting of tenure to current faculty members, or hiring of new faculty members will be discussed and voted on in faculty meetings convened for the purpose. Attendance and voting privileges at those meetings will be limited to voting faculty with rank and tenure status at least equal to that being proposed.
- 4.3. The dean will preside at each of these meetings and will be responsible for the timely distribution of minutes reporting action taken. All votes taken in these matters will be by secret ballots.

Article 5. Faculty Advisory Committee

- 5.1. The Faculty Advisory Committee composed of the dean, associate dean, the secretary of the faculty and five elected members of the faculty shall be constituted for the purpose of serving as faculty representatives to consult with the dean on general policies of administration and governance when such issues arise between scheduled faculty meetings. Further, the committee is charged with advising the dean on the equity of the criteria and the procedure to be followed in determining annual faculty evaluations and compensation. The dean shall serve as the chairman of this committee.
- 5.2. The elected membership of the committee shall be comprised of at least one member from each of the professorial ranks. The term of office shall be for two years in duration beginning on October 1 following the September election. The term of office will be staggered with three members serving with initial two year terms. Thereafter, all terms will be for two years. Election will be by secret ballot. Each position will be filled one at a time by majority vote of the faculty. Vacancies where there is at least one full semester to serve will be filled by election by majority vote of the faculty at a regular meeting.
- 5.3. The secretary of the faculty will inform the faculty of all matters discussed at meetings of the Faculty Advisory Committee by submitting written minutes to the faculty within two weeks of the meeting.

Article 6. Curriculum Committee

- 6.1. A six person Curriculum Committee shall be appointed by the dean each September with the advice of the Advisory Committee and shall be constituted for the purpose of monitoring curricula of existing programs, suggesting and evaluating new curricula of existing programs, enforcing continuation requirements and other issues of class standing, and overseeing other activities directly related to the substantive content and pedagogy of the school's educational programs. Five of the six members shall be from the voting faculty and one member shall be from the student body.
- 6.2. All members of the Curriculum Committee shall be eligible to vote on curricula and program matters. Only faculty members of the Curriculum Committee will meet and vote on questions of student standing. Following the meetings of the Curriculum Committee, minutes of the meetings including recommended curriculum and course changes, will be provided to the faculty by the chairman of the committee. Recommended curriculum and course changes can be challenged by a member of the faculty within two scheduled academic weeks after the minutes are circulated to the faculty by requesting the dean or the secretary to schedule a faculty meeting to discuss or decide these issues. All motions to be voted at such meetings must be submitted in writing to the secretary of the faculty at least one week in advance of the meeting. The secretary will organize the agenda and submit all motions to the faculty. Written proxy votes may be submitted to the secretary prior to the meeting.

Article 7. Faculty Grievance Committee

- 7.1. A faculty Grievance Committee shall be convened as needed to investigate a faculty member's grievance. The purpose of the committee shall be to review the faculty member's grievance and make a recommendation to the dean concerning the merits of the grievance. The committee shall be composed of three members, one selected by the dean, one by the aggrieved faculty member, and a chairman selected by these two members.

Article 8. Admissions Committee

- 8.1. A standing Admissions Committee composed of appropriate administrative officers, two second-year MBA students, one second-year EMBA student, one Ph.D. student, and eight members of the faculty shall be appointed by the dean with the advice of the Advisory Committee for the purpose of recruiting, reviewing, and selecting candidates for the school's degree programs.

Article 9. Administration

- 9.1. The dean is responsible for the leadership, management, and administrative structure of the school. The dean shall appoint administrative officers as deemed necessary to assist in conduct of the responsibilities to:
 - A. Attract and maintain a faculty of world-wide preeminence.
 - B. Stimulate the development of educational and research programs to meet the school's objective.
 - C. Represent the school to the university, the business community, other educational institutions, and the public at large.
 - D. Direct the school's financial affairs and budget.
 - E. Direct with the cooperation of the faculty and the university, a fund-raising program to meet the needs of the school.

Article 10. Student Body

- 10.1. The student body of the Fuqua School of Business shall include students enrolled in the various academic programs of the school. Each program group shall determine its own organization and work with the faculty and administration to determine its own involvement and influence in school affairs.

Article 11. Amendments

- 11.1. The articles of governance may be amended by three-fifths of the voting faculty in a regular called meeting of the faculty. Any proposed amendments must be circulated in writing to each member of the voting faculty at least two scheduled academic weeks prior to the meeting at which

the change will be considered. Written proxy votes may be submitted to the secretary prior to the meeting.

Revised 11/1/95

Appendix I: SCHOOL OF LAW

PROCEDURES FOR APPOINTMENT, PROMOTION, AND TENURE

The Law School Appointments Committee, working in conjunction with the dean, is charged generally with identifying personnel needs, establishing priorities of needs, locating prospective appointees, evaluating candidates, and making recommendations to the faculty on all new appointments. All members of the faculty are encouraged to submit to the committee the names of prospective candidates they believe deserve serious consideration.

The committee shall make a recommendation to the faculty concerning the type of appointment to be offered to a particular candidate it finds acceptable. If the appointment is to be with tenure status, that fact shall be made known to the faculty when the name is placed before it.

With certain exceptions, all members of the faculty entitled to attend, participate in, and vote at faculty meetings shall be eligible to vote on recommended appointments, provided, however, that only such members of the faculty who have tenure shall be eligible to vote on matters affecting indefinite tenure. No affirmative action shall be taken by the faculty on any recommended appointment unless by a two-thirds majority vote of those members present, eligible to vote and actually voting, provided, however, that on a matter affecting indefinite tenure, affirmative action shall be taken by a majority vote of those members present, eligible to vote and actually voting.

Detailed descriptions of procedures and standards for the various types of law school appointments appear in Rule 4.3 of the Rules of the School of Law.¹

A candidate shall be recommended for indefinite tenure only if he or she has demonstrated the qualities necessary for sustained excellence as both a teacher and a creative and productive scholar, looking to the future as well as the past. In making this recommendation, the faculty may assess the quality of a candidate's teaching on the basis of student evaluations, class visitations, and/or such other techniques it deems appropriate; it may assess the quality of a candidate's scholarship only on the basis of his or her written work that is in a state of completion sufficient to satisfy reasonable standards of craftsmanship, and this written work must be sufficiently substantial to permit confident judgment by the faculty in the matter. Other factors that may weigh in the decision are the extent, relevance, and significance of a candidate's contributions to legal education, law reform, public service, and the administration of justice.

August 1995

¹The Rules of the School of Law can be found on the Law School's website at <http://www.law.duke.edu/general/info/rules.html> and printed copies are available in the dean's office.

Appendix J: BASIC SCIENCES SCHOOL OF MEDICINE

BYLAWS OF THE BASIC SCIENCES FACULTY STEERING COMMITTEE

PROCEDURES AND CRITERIA FOR APPOINTMENT, PROMOTION, AND TENURE

MATERIALS TO BE SUBMITTED BY THE DEPARTMENT IN SUPPORT OF NOMINATIONS FOR TENURED APPOINTMENTS AND PROMOTIONS

Bylaws of the Basic Sciences Faculty Steering Committee

I. Preamble

On May 4, 1987, the faculty of the basic sciences departments of the Duke University School of Medicine met as a whole and voted to establish and elect a Faculty Coordinating Committee for the Development of the Basic Sciences. The Coordinating Committee was charged with drafting a plan for the reorganization and development of the basic sciences departments. The Coordinating Committee's report, which was approved by a vote of the basic sciences faculty on October 9, 1987, furnished the blueprint for subsequent development and faculty governance in the basic medical sciences at Duke Medical Center.

In adopting the Coordinating Committee's report, the basic sciences faculty replaced the Coordinating Committee with a permanent body of elected faculty representatives, the Basic Sciences Faculty Steering Committee, which serves as a faculty senate for the basic sciences. The job of the Steering Committee is to ensure that faculty opinions are ascertained, articulated, and voiced in all debates and decisions involving the interests of the basic sciences faculty.

II. Membership of the Faculty Steering Committee

The Faculty Steering Committee for the Basic Sciences shall consist of one member from each basic sciences department and one member from each section that has at least four tenure-track faculty members in addition to its chairperson. Any tenure-track faculty member with a primary appointment in a basic sciences department or section, other than the chairperson of that department or section, is eligible to be nominated and elected as its representative to the Faculty Steering Committee.

In the event that a department or section ceases to exist, its representative to the Faculty Steering Committee shall continue to serve as a member of the committee at large until the next election of representatives to the Faculty Steering Committee. A member of the Steering Committee who becomes a temporary or interim chairperson of a department or section may serve out the remainder of his or her term if a majority of the other members of the Steering Committee vote to allow this. A member of the Steering Committee who is appointed to serve as the permanent chairperson of a department or section shall resign from the Steering Committee and be replaced by the alternate representative from that department or section, following the procedures in these by-laws governing the resignation of representatives to the Steering Committee.

III. Election Procedures

Members of the Steering Committee are elected to two-year terms. One cohort of its members shall be elected in odd-numbered years and the remainder in even-numbered years, to ensure continuity. The two

cohorts shall contain the same number of representatives, or as close to the same number as possible.

Members of the Steering Committee shall be elected by vote of the entire basic sciences faculty on the first Monday in May of every year. During the first three months of a year in which the term of a Steering Committee member is due to expire, the faculty of the department or section represented by that member shall meet to nominate three candidate successors, who shall be chosen by a secret ballot. The current Steering Committee member shall help to count the ballots, verify the eligibility and willingness of the three nominees, and forward their names to the presiding officer of the Steering Committee on or before the first Monday in April. That officer shall devise a ballot listing all the nominees for each department and see to it that one copy is distributed to each member of the basic sciences faculty at least one week prior to the date of the election. Faculty may vote for one nominee from each of the departments listed. For each department or section, the nominee receiving the highest number of votes from the entire basic sciences faculty shall become the representative to the Steering Committee. The second- and third-place candidates shall become first and second alternates respectively, and shall succeed in that order to the Steering Committee in the event of the resignation or indisposition of the elected representative. If and when it becomes necessary to choose additional alternates, they shall be elected by the faculty of the department or section they are to represent.

A presiding officer of the Steering Committee shall be elected by a majority vote at the committee's first meeting following each annual election, and at any other time following the resignation or indisposition of the presiding officer. Members who are acting chairpersons of departments or sections are not eligible to preside over the Faculty Steering Committee.

IV. Duties Of The Faculty Steering Committee

It shall be the responsibility of the Faculty Steering Committee for the Basic Sciences to consider and make proposals to the Medical Center administration regarding all aspects of education, faculty development, faculty research and teaching activities, and other functions of the Medical Center involving the basic sciences faculty. The Steering Committee will also serve as a conduit for the transmission and dissemination of ideas and issues between the Medical Center administration and the basic sciences faculty. The Steering Committee will undertake to survey faculty opinion and form faculty committees when necessary to meet these responsibilities. Individual members of the committee are expected to keep the faculty of the departments and sections they represent informed on all matters of consequence that come before the committee.

The Faculty Steering Committee shall serve as a committee on committees for the basic sciences faculty. In that capacity, it shall nominate faculty to serve on standing and ad hoc committees in the Medical Center and present these nominations to the administrative officer empowered to form the committees in question. Administrators are of course free to consult any faculty they wish on an individual basis, but should seek nominations and approval from the Faculty Steering Committee in all situations where the opinions of a faculty member are to be construed as representative of basic sciences faculty opinion. It is expected that an administrative officer will not appoint basic sciences faculty representatives to standing advisory committees without seeking nominations from the Faculty Steering Committee. The administrative officer may suggest nominees to the Steering Committee if he or she so wishes. If the faculty nominated by the Steering Committee are unacceptable to the administrative officer, he or she should return to the Steering Committee to seek additional nominations.

Except in emergencies, it is expected that all major plans and decisions of the Medical Center administration that significantly affect academic affairs will be submitted to the Faculty Steering Committee so that it can solicit and articulate faculty views before those plans and decisions are implemented or submitted to the university's president or Board of Trustees. The presiding officer of the Steering Committee will see to it that the faculty's views are represented to the administrators or trustees of the university when proposals involving the Medical Center are presented to them for their consideration.

The Faculty Steering Committee shall be responsible for scheduling, announcing, and presiding over a general meeting of the basic sciences faculty of the School of Medicine at least once annually during the spring or fall semesters of the academic year. At that meeting, the presiding officer of the Steering Committee will report to the faculty on the committee's deliberations and actions during the preceding year. The chief administrative officers of the Medical Center and the School of Medicine shall also be invited to attend this meeting and present reports on matters of faculty concern for open discussion.

Revised version approved by Faculty, 1993

Procedures and Criteria for Appointment, Promotion, and Tenure

I. Non-Tenured Tenure-Track Positions (Assistant and Associate Professors):

A. Criteria:

1. The candidate must have an outstanding research record in his or her field, and the potential for developing an outstanding independent research program, obtaining the appropriate extramural funding, and becoming an excellent teacher.

B. Procedures:

1. National searches must be carried out unless an exception is approved by the dean, School of Medicine/vice chancellor for medical center academic affairs.
2. A minimum of three letters of recommendation should be obtained. These letters should indicate the candidate is truly outstanding and provide documentation for this assertion.
3. A department vote must be reported and a record kept of those voting. If possible, comments from the faculty or a letter from a faculty recruitment committee should be obtained.
4. The letter from the chair should summarize the search and selection procedures, including information about the numbers of applications received and interviews carried out. Efforts made to ensure that minorities and women were represented in the final pool should be addressed and how the person fits into the overall departmental plan indicated.

C. Review:

1. Appointment recommendations for assistant professors will be reviewed by the dean, School of Medicine/vice chancellor for medical center academic affairs. The final decision shall rest with the chancellor.
2. Appointment recommendations for associate professors will be reviewed by the standing Basic Sciences Appointments, Promotions, and Tenure Committee, the dean, School of Medicine/vice chancellor for medical center academic affairs. The final decision shall rest with the chancellor.
3. Under special circumstances, promotion from assistant to associate professor without tenure will be considered. The review process will be the same as for appointment at the nontenured associate professor level, but the criteria and documentation will be established by the reviewing agencies on a case-by-case basis.

II. Promotion to Tenure and Professor and Tenure Appointments:

A. Criteria:

1. The candidate must have made outstanding contributions to his or her field. The specific contributions made must be clearly indicated in both the internal and external documentation. In addition, the publication record must be outstanding, and the candidate should have demonstrated the ability to obtain a level of funding from peer-reviewed sources that supports the research effort expected from a tenured faculty member in his or her specific research area. The candidate also should have made significant contributions to teaching which should be documented. Service to the department and university also should be taken into consideration.
2. The rank of professor is reserved for those who have clearly met the criteria for tenure and have demonstrated continuous intellectual development and leadership.

B. Departmental Level Review:

1. If an appointment is made from outside the department, a national search must be carried out unless an exception is approved by the dean, School of Medicine/vice chancellor for medical center academic affairs. The documentation should provide information about the search, including the number of applications and interviews and efforts made to ensure that minorities and women were represented in the final pool.
2. Each candidate for appointment and/or promotion with tenure shall be notified by the department chair a minimum of one month in advance of a scheduled departmental review

and shall be invited to submit all relevant documents including (1) curriculum vitae, (2) statement of research and teaching contributions, (3) copies of scholarly publications, (4) description of research funding, and (5) list of suggested outside reviewers. A complete list of required documents is available from the dean, School of Medicine/vice chancellor for medical center academic affairs.

3. The chair will solicit six to ten (a minimum of six) letters from individuals external to Duke University who are qualified to evaluate the candidate's scholarly contributions. At least half of these letters should be obtained from a list of qualified individuals suggested by the evaluating faculty of the department (or section), but not by the individual being reviewed. Letters from persons who have served as mentors or who have published jointly with the candidate may be included, but these letters shall be in addition to the six required letters.
 4. The complete dossier will be presented to all tenured faculty within the department or section of rank equal to or higher than the rank sought by the candidate. A secret vote will be taken at a subsequent meeting of these tenured faculty members and the results recorded by the chair together with the names of those faculty members voting.
 5. In the case of positive action within the department or section, the dossier will be forwarded to the dean, School of medicine/vice chancellor for medical center academic affairs accompanied by a letter from the chair detailing the qualifications of the candidate, the vote by the faculty on the candidate's promotion, the names of the faculty voting, and the personal recommendation of the chair. If the department or section reaches an unfavorable decision, the dean, School of Medicine/vice chancellor for medical center academic affairs is so informed and the dossier forwarded to this individual for review. A negative decision of the department can be appealed by the faculty member to the dean, School of Medicine/vice chancellor for medical center academic affairs. If his or her decision is positive, the case shall be directed to the Basic Sciences Appointment, Promotion, and Tenure Committee to be processed according to the procedures for a positive department recommendation. If his or her decision is negative, further appeal by the faculty member can be made to the provost.
 6. Nontenured faculty must be reviewed by the tenured faculty of the department at least every three years and advised of their standing in the department or section. In the case of section members, the review should be conducted jointly by the section chair, tenured faculty members of the section, and the appropriate department. Any faculty member may formally request that he or she be considered for promotion or tenure by submitting a letter to the department or section chair.
- C. Review by the Dean, School of Medicine/Vice Chancellor for Medical Center Academic Affairs:
1. The standing Appointments, Promotions, and Tenure Committee consisting of seven tenured professors shall be appointed by the dean, School of Medicine/vice chancellor for medical center academic affairs. A list of twelve nominees for membership on this committee shall be provided by the elected Faculty Steering Committee for Basic Sciences. No member shall be appointed without the approval of this elected body. No department or section chair may serve. Nominations will include appropriate individuals with (1) primary appointments in the basic sciences departments, (2) primary appointments in the College of Arts and Sciences, and (3) primary appointments in the clinical sciences departments and secondary appointments in a basic sciences department. It is anticipated that no more than two of the Appointments, Promotions, and Tenure Committee will be from the latter group.
 2. All dossiers approved and forwarded by the department or section shall be submitted to the Appointments, Promotions, and Tenure Committee for consideration and subsequent recommendation to the dean, School of Medicine/vice chancellor for medical center academic affairs. The operating rules of this committee shall be in concert with those of the provost's Committee on Appointment, Promotion, and Tenure.
 3. After review by the committee, the chair of the Basic Sciences Appointments, Promotions, and Tenure Committee shall forward a detailed summary statement of the deliberations on each candidate together with a recorded formal vote to the dean, School of Medicine/vice chancellor for medical center academic affairs. This summary statement becomes a permanent part of the dossier, as do all additional documents generated by the committee during its review process.

4. Following the review by the Appointments, Promotions, and Tenure Committee, the dean, School of Medicine/vice chancellor for medical center academic affairs shall forward the dossier together with his or her recommendation to the chancellor for health affairs.
- D. Review by the Chancellor for Health Affairs:
1. The complete dossier including administrative recommendations, the summary statement, and all additional review documents from the Appointments, Promotions, and Tenure Committee for the Basic Sciences shall be forwarded to the chancellor for health affairs who is responsible for addressing institutional concerns relevant to the candidate's application. Following his or her review, the dossier is forwarded to the provost indicating by cover letter his or her recommendation.
- E. Review by the Provost:
1. The complete dossier is reviewed by the provost's Advisory Committee on Appointment, Promotion, and Tenure as detailed in the *Duke University Faculty Handbook*, Chapter 3, and their recommendation forwarded to the provost.
 2. The provost, in turn, forwards his or her positive recommendations, after consultation with the president, to the Board of Trustees for their action. The provost will communicate to the chancellor for health affairs his or her decision and the major factors underlying it.
 3. The chancellor for health affairs will, in turn, notify the dean, School of Medicine/vice chancellor for medical Center academic affairs and the appropriate department chair.
 4. The chair, in turn, communicates the decision to the candidate.
 5. If the provost reaches a negative decision, he or she will so notify the chancellor for health affairs. The department or school will have two weeks within which it can communicate to the provost any grounds on which it feels the decision is inappropriate. An appeal should be forwarded by the department to the chancellor for health affairs who will send the appeal to the provost, along with the chancellor's recommendation for disposition. On any one case the department or school is limited to one appeal of the decision by the provost.
- F. Expectation of Privacy:
1. Pursuant to university custom and policy, all documents contained in the dossier with the exception of the materials submitted by the candidate are considered confidential as is the identity of all external reviewers. The total dossier is made available to those individuals officially responsible for recommendations and/or decisions on the candidate's status. These individuals include (1) the tenured department faculty of rank equal to or higher than the rank sought by the candidate, (2) the department chair, (3) the dean, School of Medicine/vice chancellor for medical center academic affairs, (4) the Basic Sciences Committee on Appointments, Promotions, and Tenure, (5) the chancellor for health affairs, (6) the provost, (7) the provost's Advisory Committee on Appointment, Promotion, and Tenure, (8) the president, and (9) the Board of Trustees. All individuals participating in the appointment, promotion, and tenure process are expected to adhere to this statement regarding confidentiality.
 2. Ad-hoc panels and/or individual additional external reviewers may be consulted by any of the above listed university administrators or faculty bodies with the expectation that the privacy and confidentiality of the dossier is protected.

**Materials to be Submitted by the Department
in Support of Nominations for Tenured Appointments and Promotions**

Twelve copies of the complete dossier (the original and eleven copies) in three-ringed binders tabbed to indicate the individual sections should be submitted. The department should retain a copy of the complete dossier in its files. Copies of the complete list of materials to be submitted by the department in support of nominations for tenured appointments and promotions in the Basic Sciences are available on the Duke University Medical Center web pages at:

<http://www2.mc.duke.edu/admin/aa/handbook/faculty/appendb.htm>.

Appendix K: SCHOOL OF NURSING

BYLAWS OF THE FACULTY

FACULTY APPOINTMENTS, REAPPOINTMENTS, PROMOTION, AND THE GRANTING OF TENURE

Bylaws of the Faculty

Revision approved April 14, 1995

PREAMBLE

The bylaws of the university provide that:

Each college and school in the University may have a faculty of its own, which shall be composed of the President, the Provost, the Secretary, and all members of the university faculty in the particular college or school. Each such faculty shall function under the President and other officers of educational administration and subject to the regulations as identified for the School of Nursing in the Handbook of the University Faculty.¹

The School Of Nursing. The faculty members of the School of Nursing meet regularly to consider issues relating to the academic affairs of the school. Recommendations on policies concerning admissions standards, the curriculum, academic progression, graduation, and other matters affecting the academic environment are presented by committees on which faculty members, students, and administrative staff serve. The dean serves as ex officio member of all committees. She or he presides at the meetings of the School of Nursing Faculty of Duke University.

Article 1. Name

The name of this organization shall be the School of Nursing Faculty of Duke University, hereinafter known as the School of Nursing Faculty.

Article 2. Purpose

The purpose of this organization shall be to facilitate the faculty in: (1) participating in decision-making concerning the affairs of the school; (2) developing, implementing, evaluating, and revising the curriculum; (3) promoting faculty research and other scholarly activities; and (4) enhancing professional development.

Article 3. Membership

Section 1

The membership of this organization shall be composed of the president, the provost, the secretary, the chancellor for health affairs, the dean of the School of Nursing, those faculty members holding regular academic appointments in the School of Nursing, and those other persons participating in the educational program of the school and not holding a regular academic appointment.

Section 2

The voting members of this organization shall be limited to those who hold regular-rank appointments in the School of Nursing, that is, tenured, tenure-track and non-tenure track appointments whose major responsibilities include academic instruction, advisement, administration, and research as well as committee membership. A minimum of one-half of their time is to be devoted to activities in the School of Nursing.

¹The Bylaws of Duke University, Article XXI, Section 5.

Section 3

The non-voting members of this organization shall include persons who hold appointments as nonregular rank faculty, have a special nonacademic appointment to the school, or are visiting faculty and whose contributions to the educational program of the School of Nursing shall be a minimum of ten percent of a full time position held outside the school.

Article 4. Meetings

Section 1

The regular meetings of the School of Nursing Faculty shall be held a minimum of three times a year.

Section 2

The annual meeting shall be held in September for the purpose of receiving annual reports from the committees.

Section 3

The meetings of the School of Nursing Faculty shall be chaired by the dean or her or his designee.

Section 4

A special meeting may be called by the dean or shall be called on written request of one-third of voting faculty members. The purpose of the meeting shall be stated in the call. Except in cases of emergency, seven days notice shall be given.

Section 5

A simple majority of the total number of voting faculty members shall constitute a quorum.

Section 6

A parliamentarian shall be elected by the Graduate Studies Committee at their July meeting and serve for one year. This person shall be consulted when questions of parliamentary procedure arise.

Section 7

Records of meetings shall be kept by a non-academic administrative appointee as designated by the dean.

Section 8

Functions of School of Nursing Faculty Meeting:

- A. Officially record and transmit information regarding curriculum changes, faculty appointments, and School of Nursing academic and alumni activities.
- B. Provide mechanism for all members of the School of Nursing Faculty to discuss matters pertaining to the academic program in the school.
- C. Provide a format for regular contributions of the non-voting members of the School of Nursing Faculty.

Article 5. Standing Committees

Preamble: The standing committees of the School of Nursing Faculty shall include: Graduate Studies Committee; Curriculum Committee; Admissions Committee; Recruitment Committee; Reappointment, Promotion, and Tenure Committee; and the Nursing Research Committee. Unless otherwise stated all Committee Members are elected by Graduate Studies Committee. An Ad Hoc Nominating Committee appointed by the dean will prepare the ballot.

The dean is an ex-officio member of all standing committees. Unless otherwise stated each standing committee shall elect its own chairperson in June of each academic year. The term of office for each chairperson shall be for a period of one year. The number of meetings shall be determined by the committee members based upon the work to be accomplished. The quorum for business will be a simple majority of voting members. Minutes of standing committee meetings will be filed with the administrative assistant in the dean's office. Annual committee reports will be submitted to the dean's office by June 30 of each year.

Section 1. Graduate Studies Committee

- I. Membership: All faculty members of the School of Nursing Faculty as defined in Article III, Section 2 of these Bylaws have continuous membership. This committee will meet monthly during the school year.
- II. Functions:
 - A. Approve curriculum and policies for recruitment, admission, progression, and graduation of students.
 - B. Approve by a simple majority recommendations from other standing committees.
 - C. Plan, discuss, implement, and evaluate major program and policy changes relevant to the graduate program.
 - D. Facilitate faculty development in relation to individual faculty research, support faculty teaching expertise, and promote the general welfare of the faculty.
 - E. Recruit well-prepared faculty and evaluate faculty needs yearly.
 - F. Provide a mechanism for discussion of the School of Nursing budget as presented by the dean of the School of Nursing.
 - G. Approve by a two-thirds vote amendments to the Bylaws of the Faculty of the School of Nursing.

Section 2. Curriculum Committee

- I. Membership: One faculty member representing each nursing major who has primary responsibility for a least one graduate nursing course and one non-voting graduate student elected by a simple majority of students voting. Faculty in each major select their representative for a two-year term. This committee will meet at least twice a year.
- II. Functions:
 - A. Recommend to Graduate Studies Committee requirements for the degree and/or other recognition for the program.
 - B. Coordinate master curriculum evaluation plan.
 - C. Recommend to Graduate Studies Committee revisions to the graduate curriculum.
 - D. Recommend to Graduate Studies Committee new courses to be offered.
 - E. Recommend to Graduate Studies Committee current courses to be discontinued.

Section 3. Admissions Committee

- I. Membership: Three faculty members who are members of the Graduate Studies Committee, and one of whom is engaged in clinical practice. The representative from the dean's office who handles admissions will serve as an ex officio member. Members will serve for two years with terms staggered to provide continuity of membership. The committee will meet at least four times a year and as needed to ensure timely review of applicants.
- II. Functions:
 - A. Recommend admission policies to the Graduate Studies Committee.
 - B. Implement policies relevant to admission.
 - C. Admit students to the appropriate fields of study based on faculty policy.
 - D. Report admission characteristics of the applicant pool (those offered and refused admission) and suggest future recruitment needs to the Graduate Studies Committee.
 - E. Review and recommend to the dean applicants for Merit Scholarship Awards.

Section 4. Recruitment Committee

- I. Membership: Three faculty members who are members of Graduate Studies Committee. Representatives from the dean's office who handle admissions and business matters will serve as ex-officio members. Members will serve for two years with terms staggered to provide

continuity of membership. The committee will meet at least four times per year and as needed to assure timely scheduling of recruitment activities.

- II. Functions:
 - A. Report planned recruitment activities to Graduate Studies Committee and the dean.
 - B. Coordinate implementation of activities.
 - C. Report results to Graduate Studies Committee.

Section 5. Reappointment, Promotion, and Tenure Committee

- I. Membership: Three tenured faculty members elected by Graduate Studies Committee. In the event there are fewer than three tenured faculty members to serve on this standing committee, the Graduate Studies Committee may elect members of the emeriti faculty. The term of appointment shall be for two years. All members must be present when the committee is considering faculty members for appointment, reappointment, promotion, or tenure. Meetings are convened when necessary.
- II. Functions:
 - A. Review credentials of tenured or tenure-track faculty and make recommendations to the dean and chancellor of health affairs for faculty appointment, reappointment, promotion, and tenure.
 - B. Recommend to Graduate Studies Committee, policies and procedures for faculty evaluation relative to appointment, reappointment, promotion, and tenure.

Section 6. Nursing Research Committee

- I. Membership:
 - A. Nine members, three voting faculty members and six Department of Nursing Service representatives, non-voting faculty members preferred.
 - B. Master's degree required, doctorate preferred, with at least one advanced degree from a school or college of nursing.
 - C. Actively involved in nursing research or research related activity.
 - D. Members from the School of Nursing Faculty: one elected by Graduate Studies Committee; the Institutional Review Board member; and the alternate representative to the Institutional Review Board.
 - E. Six members from the Department of Nursing Service: minimum of four from nursing divisions and two at-large members appointed by the Associate Chief Operating Officer for Nursing.
 - F. The chairperson is elected by the committee for a two-year term. A member is eligible to serve as chairperson after a minimum of one year on the committee.
 - G. Term of office is three years, with appointments staggered. Two consecutive terms are the maximum. A one-year hiatus is required before serving another (third) term.
- II. Functions:
 - A. To facilitate the development, implementation, and coordination of all nursing research at Duke University Medical Center.
 - B. To ensure adherence to Institutional Review Board Guidelines for all nursing research proposals.
 - C. To provide a mechanism for the Institutional Review Board faculty representative to be apprised of all nursing research protocols.
 - D. To encourage and support collaborative nursing research activities.
 - E. To provide information about the nursing research process and the Nursing Research Committee to Duke University Medical Center nurses, area schools of nursing, and other health care institutions.

Article 6. Parliamentary Authority

The rules contained in the current edition of Robert's Rules of Order, Newly Revised shall govern the Faculty of the School of Nursing in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules the faculty may adopt.

Article 7. Amendment of Bylaws

These bylaws can be amended at any regular meeting of the Graduate Studies Committee by a two-thirds vote, provided that the amendment has been submitted in writing at the previous regular Graduate Studies Committee meeting.

These bylaws were amended by the Graduate Studies Committee on April 14, 1995.

Faculty Appointments, Reappointments, Promotion, and the Granting of Tenure

Academic Titles

Faculty may be appointed to the Duke University School of Nursing with the following titles: professor, associate professor, assistant professor, and associate and clinical associate. Academic title is determined by the established guidelines for that particular rank.

Appointment

When a vacancy is created or a tenure-track position otherwise opens, the dean will appoint a search committee to recruit the faculty member. After consultation with faculty, the dean will give the search committee details about the expected field of specialty of the new faculty member, desired experience and potential rank.

The search committee will send to the dean a written description of the position that constitutes the announcement for the position. A list of journals, individuals, and internet groups to whom the announcement of the position is sent will be enclosed.

Each applicant for the position must send a letter of interest in the position, a curriculum vitae, transcripts of collegiate preparation, and professional references.

After the search committee has identified one or more highly desirable candidates for the position, it will request the dean's authorization to invite them to the school for an interview. The interview should include faculty, students, and Medical Center administration relevant to the candidate's field.

After summarizing all data, the search committee will recommend the top three candidates to the dean. Before the dean extends an offer, the EEO self-audit form and a request to make an offer is reviewed and the dean may consult the equal opportunity officer.

A recommendation for the candidate's appointment will be sent to the chancellor for health affairs. In the event of recommendation, it will then be forwarded to the appropriate university officials, and upon action of the Board of Trustees, the candidate will be notified by letter from the chancellor for health affairs.

Applications for clinical track positions or associate positions are made to the dean of the School of Nursing. A letter indicating interest in a faculty position, a curriculum vitae, transcript of collegiate preparation, professional references and selected personal information constitute an application. Faculty applicants are interviewed by the dean, selected faculty teaching in the School of Nursing, and specific Medical Center personnel as indicated.

Interviews are arranged by the Office of the Dean. Interviewers subsequently communicate their impressions and recommendations to the dean in writing. All data is then considered in view of the applicant's contributions to academia. With advice from the faculty, the dean then decides whether to submit to the chancellor for health affairs a recommendation of the candidate for appointment. In the event of recommendation it is then forwarded through the appropriate university officials and upon action of the Board of Trustees, the candidate is notified by letter from the chancellor for health affairs.

Appointments to the ranks of assistant professor and above are usually made for an initial three-year period, subject to yearly renewal upon review at the end of that period. Service toward tenure is cumulative at the three regular ranks, (i.e., assistant professor, associate professor, and professor) if appointed full-time. Tenure may or may not be offered upon initial appointment to associate and full professor.

Clinical track faculty, clinical associates, and lecturers are appointed for one-year terms, subject to renewal.

Promotion and Tenure

Promotion and tenure at Duke University School of Nursing should be reserved for those who have clearly demonstrated through their performance as scholars and teachers that their work has been widely perceived among their peers as outstanding. Persons holding the rank of associate professor with tenure are expected to stand in competition with the foremost persons of similar rank in nursing fields. Good teaching and university service should be expected but cannot in and of themselves be sufficient grounds for promotion and tenure. The expectation of continuous intellectual development and leadership as demonstrated by published scholarship that is recognized by leading scholars at Duke and elsewhere must be an indispensable qualification for promotion and tenure at Duke University School of Nursing.

Full professors play a critical role in determining the intellectual quality of the School of Nursing. Thus the rank of professor should be reserved for those who have clearly met the criteria for tenure and have demonstrated their continuous intellectual development and leadership. It should be clear that appointment to associate professor does not necessarily imply eventual promotion to full professor. Length of service alone should not produce an expectation for promotion.

Procedures for Faculty Reappointment, Promotion, and Tenure

Faculty with term appointments will be reviewed for reappointment consideration in general accordance with the timing recommended by the American Association of University Professors and Duke University Medical Center. The dean notifies the faculty member that he or she is nearing the end of a term appointment or the period of eligibility for tenure. The mandatory review for tenure decisions begins in the ninth year of continuous service. A faculty member requests review for reappointment, promotion, and tenure by making application to the chair of the Reappointment, Promotion, and Tenure Committee.

When the decision to be made is for promotion, or for the award of tenure, three selected leaders in the nursing specialty will be used for external review. The committee reserves the right to select external reviewers. Persons being considered only for reappointment shall have an internal review. Non-tenure faculty shall have an administrative review.

Criteria for appointment, promotion, and tenure are available in the *School of Nursing Faculty Handbook*.

Appendix L: CLINICAL SCIENCES SCHOOL OF MEDICINE

BYLAWS OF THE CLINICAL SCIENCES

FACULTY COUNCIL ON ACADEMIC AFFAIRS

APT PROCESS FOR TENURE TRACK FACULTY WITH PRIMARY APPOINTMENTS IN CLINICAL DEPARTMENTS

Bylaws of the Clinical Sciences Faculty Council on Academic Affairs

I. Faculty Council on Academic Affairs

The Clinical Sciences Faculty Council on Academic Affairs (CSFC) will serve as a deliberative body to provide a forum where faculty opinions are ascertained, articulated, and voiced in all significant debates and decisions involving the strategic academic interests of the clinical sciences faculty. These deliberations should be conveyed in an advisory capacity to the clinical chairs and the chancellor for health affairs.

II. Membership of the Faculty Council

The CSFC shall consist of two representatives elected from each clinical science department (senior departmental member and alternate departmental member), four at-large members (from different departments) who shall be selected by and from the clinical sciences representatives to the University Academic Council, and the clinical sciences representative on the Executive Committee of the Academic Council (ECAC). All members of the CSFC shall serve for two-year terms. Any faculty member eligible to vote in University Academic Council elections, and with a primary appointment in a clinical science department, other than the chair of that department, is eligible to be nominated and elected as its representative to the CSFC. All elected members, including alternates, shall participate in deliberations of the CSFC. When two departmental members are present, then only the senior member shall vote.

In the event that a department ceases to exist, its representative to the CSFC shall continue to serve as a member at large until the next election of representatives. A member of the CSFC who becomes a temporary or interim chair of a department may serve out the remainder of his or her term if a majority of the other members of the CSFC vote to allow this. A member of the CSFC who is appointed to serve as the permanent chair of a department shall resign and be replaced by another representative elected by the faculty of that department in a special election.

III. Election Procedures

The departmental members of the CSFC are elected to two-year terms. One cohort of the departmental members shall be elected in odd-numbered years and the remainder in even-numbered years to ensure continuity.

Eligible faculty of each department shall elect their representative to the CSFC. The CSFC will serve as overseers of the electoral process. For the first year the organizing committee will serve this purpose.

- A. Nominations will be solicited from each department--any eligible faculty member may nominate himself or herself. Willingness of a nominee to serve will be confirmed prior to the voting procedure.
- B. All eligible faculty in each clinical science department will receive ballots with the names of all nominees for that department.

- C. The nominee with the most votes will be elected. In case of a tie, a run-off election will occur.
- D. In the event of a vacancy, the person having received the next highest vote in the prior election (and consenting to serve) will fill the unexpired term.

A presiding officer of the CSFC shall be elected by majority vote at the first meeting of the CSFC following each annual election, and at any other time following the resignation or indisposition of the presiding officer. Four other members elected in the same manner as the presiding officer shall serve with the presiding officer as the executive committee of the CSFC, provided, however, that there shall not be more than one member of the executive committee of the CSFC from any one clinical sciences department. Members who are acting chairs of departments are not eligible to preside over the CSFC.

IV. Duties of the CSFC

It shall be the responsibility of the CSFC to advise the Medical Center administration including the clinical science departmental chairs regarding pertinent aspects of medical education, faculty development, faculty research and teaching activities, and other academic activities of the Medical Center involving the clinical sciences faculty. It shall be the role of the CSFC to advise on strategic academic issues such as, by example and without limitation, nominations to all standing and ad hoc academic committees and the general process of academic appointment, promotion, and tenure. It is recognized that academic matters pertinent to individuals and to the appointment, promotion, and tenure decisions of individual faculty members are governed exclusively by existing Duke University policies and procedures.

Clinical matters or matters pertinent to the delivery of patient care continue to be governed exclusively by the Duke Hospital Medical Staff Bylaws and policies and procedures of the clinical departments.

Individual members of the CSFC will report at regular faculty meetings on all matters of consequence that have been considered. The CSFC will meet as needed with the chancellor for health affairs and clinical chairs.

The CSFC shall serve as a committee on committees for the clinical sciences faculty. In that capacity, it will suggest faculty to serve on all standing academic and ad hoc academic committees in the Medical Center and present these suggested nominations to the administrative officer responsible for forming the committees in question. Administrators are of course free to consult any faculty member they wish on an individual basis, but should seek suggested nominations from the CSFC. Administrative officers will not appoint clinical sciences faculty representatives to standing advisory academic committees without considering recommendations for committee membership from the CSFC.

All major plans and decisions of the Medical Center administration that significantly affect academic affairs shall be made in consultation with the CSFC so that it can solicit, articulate, and voice faculty views before those plans and decisions are implemented or submitted to the university's president or Board of Trustees.

The CSFC shall be responsible for scheduling, announcing, and presiding over a general meeting of the clinical sciences faculty of the School of Medicine at least once annually during the spring or fall semesters of the academic year. At that meeting, the presiding officer of the CSFC will report to the faculty on the council's deliberations and actions during the preceding year. The chief administrative officers of the Medical Center shall also be invited to attend this meeting and may present reports on matters of faculty concern for open discussion.

Revised version approved by faculty October 4, 1994

APT Process For Tenure-Track Faculty With Primary Appointments In Clinical Departments

I. General Considerations

- A. The procedure described below normally should be completed in one (1) year from the time it is initiated. This allows approximately six (6) months for departmental process and another six (6) months for disposition at the Medical Center and university levels.
- B. When a faculty member is initially appointed, the individual and the departmental chair should agree on which track he/she is appointed and when he/she will be eligible for tenure. Track assignments may be changed only with the mutual agreement of the faculty member and the departmental chair. The faculty member and the departmental chair should also agree on any extension of time-to-tenure for reason of family leave, disability, or part-time or flexible-time employment arrangements, in accordance with university policy.
- C. Each clinical department has a limited number of tenured positions for each track. These numbers are established by the chair and administration on the basis of financial and programmatic needs. The number of untenured tenure-track positions is significantly greater than the number of tenured positions so that tenure may not be granted to all qualified faculty. Untenured tenure-track positions are subject to annual renewal. The chair has the responsibility for the financial and programmatic viability of the department. Therefore, the chair may choose not to renew such appointments on the basis of financial and programmatic considerations.
- D. Tenure review should begin no later than the tenth (10) year on the tenure track, and the candidate must be notified of the result of this process prior to the beginning of the eleventh (11) year. In accordance with university bylaws, if the candidate for tenure is not notified of a decision regarding tenure by the start of his/her eleventh (11) year on the tenure track, then tenure is granted by default.

II. Departmental Level Review

- A. Initiation of Review for Promotion/Tenure
 1. Chairs or division chiefs are encouraged to meet with individual faculty members annually to review their clinical, teaching, and research progress.
 2. All non-tenured faculty should be formally reviewed by the departmental APT Committee or a designated subcommittee five (5) years after initial appointment to assistant professor. Outside letters are not required at this level of review. The faculty member must be apprised of his/her standing in the department following that review, and a report of that formal review should be included in the personnel file of the faculty member.
 3. Consideration of any faculty member for promotion/tenure may be formally requested by the faculty member, division chief, or department chair at any time. However, such a review may not proceed if a tenured position is not available due to financial and programmatic considerations as determined by the chair. If a faculty member has accrued six years or more of service in the tenure track, a negative decision of the chair can be appealed to the dean, School of Medicine/vice chancellor for medical center academic affairs.
- B. Departmental APT Committee (DAPT)
 1. All departments must have a standing (not ad hoc) departmental APT Committee, with the membership known to the departmental faculty. The structural organization of each department's committee will vary according to the size and makeup of the department, and will be determined by the department chair. For example, in large departments, it may be desirable to have an APT Committee for each division, or to have the overall APT Committee divided into smaller working groups.
 2. The committee should be composed of at least five (5) members of the tenured faculty selected by the departmental chair to represent the broad interests of the department. In departments with less than five tenured faculty, the DAPT Committee should consist of all tenured faculty in the department.
 3. If the DAPT Committee is composed of less than the full complement of tenured faculty in the department, the members should have defined terms limits of less than five (5) years.

4. Ad hoc (non-voting) members may be brought on to the committee for particular cases, if deemed appropriate and necessary.
 5. The departmental chair cannot be a voting member of the DAPT Committee, but may serve as an ex-officio non-voting member.
 6. A committee chair shall be appointed by the departmental chair, and he/she will be responsible for leading and recording all discussions and votes.
 7. All votes will be taken by secret ballot and will be recorded.
 8. Decisions of the DAPT are determined by a majority vote.
 9. The DAPT Committee should forward its findings and the record of all votes to the departmental chair.
- C. Review of the APT Dossier
1. Each candidate for promotion/tenure shall be notified by the departmental chair three months prior to a scheduled DAPT Committee meeting and invited to submit the following documents:
 - a. a curriculum vitae
 - b. a list of publications, selected from the curriculum vitae, that the candidate feels is most representative of his/her published work
 - c. a roster of at least six (6) names of individuals external to Duke University who are qualified to evaluate the candidate's scholarly contributions
 - d. a list of reviewers the candidate may wish not be used
 - e. a list of internal references (individuals in other departments within Duke University who might write on behalf of his/her academic, clinical, and/or teaching accomplishments)
 - f. a personal statement by the candidate including what he/she views as his/her accomplishments in the various areas pertinent for promotion, and a summary of future plans.

The DAPT Committee should solicit at least six (6) letters from individuals external to Duke University of their choosing who are qualified to write on behalf of the candidate's scholarly contributions, with no more than three of the individuals coming from the list of the candidate. The DAPT Committee shall use its own discretion with regard to the list of reviewers the candidate does not wish used.
 2. The submitted dossier will be reviewed by the DAPT Committee (or appointed subcommittee) and discussed at a formal full committee meeting. A vote will then be taken by secret ballot of committee members of rank equal to or higher than that sought by the candidate. The results of that vote and the names of tenured faculty voting will be recorded by the chair of the DAPT committee.
 3. The DAPT Committee will then forward the complete dossier, along with a written evaluation of the candidate's fitness for promotion/tenure, the results of the secret ballot, and the names of the faculty members who voted, to the departmental chair for his/her consideration. That written evaluation should include a formal assessment of the candidate's clinical and teaching abilities, where applicable.
 4. The departmental chair will forward the complete dossier along with his/her personal recommendation to the Medical Center Clinical Sciences APT Committee (MCAPT) in the following instances:
 - a. in all cases of positive action taken by the DAPT Committee
 - b. in all cases of final tenure evaluation (i.e. in the tenth (10) post-appointment year), regardless of the action taken by the DAPT Committee), and
 - c. in the case of any negative evaluation by the DAPT Committee, if the faculty candidate so chooses. In this instance, the candidate should be apprised of other non-tenure track opportunities, if appropriate.
 5. The departmental chair will notify the candidate and will apprise him/her of the vote of the DAPT Committee and the recommendation of the departmental chair before the dossier goes forward to the MCAPT Committee.
 6. The departmental chair should forward the packet to the MCAPT Committee within one (1) month of the DAPT Committee vote.

III. Medical Center Clinical Sciences APT Committee

- A. The Medical Center Clinical Sciences APT Committee (MCAPT) shall be composed of seven (7) voting faculty members including no more than three (3) departmental chairs. In addition, the dean, School of Medicine/vice chancellor for medical center academic affairs shall serve as ex officio members and does not vote.
- B. The initial seven faculty members will be selected by the chancellor for health affairs from a list of at least fourteen (14) tenured full professors, broadly representing the clinical faculty and including departmental chairs, nominated by the Clinical Sciences Faculty Council. No more than three (3) departmental chairs shall serve at any one time and no department shall have more than two representatives serve at any one time. The list of appointed committee members shall be distributed to all members of the clinical faculty. The chancellor shall request additional nominations if he/she is unable to obtain a sufficient number of faculty to serve on the MCAPT who are acceptable to him/her.
- C. Each faculty member will serve a term of three years, the terms to be staggered to ensure continuity. (Of the first seven members, two will be appointed to serve one year, two will be appointed to serve two years, and three will serve for three years in order to attain the final staggered configuration. A member appointed for only one or two years may be reappointed by the chancellor for a second term of three years, if he/she so chooses.) No member shall serve for more than six consecutive years.
- D. As positions become vacant on the committee, new selectees will be appointed by the chancellor for health affairs from a list of full tenured professors nominated by the Clinical Sciences Faculty Council. The list shall contain twice the number of names as number of positions to be filled. The chancellor shall request additional nominations if he/she is unable to obtain a sufficient number of faculty to serve on the MCAPT who are acceptable to him/her.
- E. A committee chair shall be appointed by the chancellor from amongst the seven faculty members and he/she will be responsible for leading and recording all discussions and votes.
- F. A quorum of five (5) members is needed for all decisions.
- G. All votes will be taken by secret ballot and will be recorded.
- H. Decisions of the MCAPT are determined by a majority vote.
- I. The chair of the MCAPT Committee is responsible for writing the summary report, including all votes and actions taken by the committee, to be forwarded to the chancellor for health affairs.
- J. The office of the vice chancellor for academic affairs will provide administrative support to the MCAPT Committee. It will be responsible for assuring completeness of the files, for detailed procedures, and for working with the MCAPT Committee chair to be certain that all supporting documents are available and are forwarded to the chancellor's office.
- K. The MCAPT Committee shall meet often enough to ensure timely processing of all requests for faculty promotion/tenure.

IV. Final Action

- A. After reviewing the candidate's dossier and the recommendations of the department and MCAPT Committee, the chancellor for health affairs shall notify the department chair of the decision of the Medical Center. A negative decision can be appealed by the department to the chancellor for health affairs.
- B. The chancellor for health affairs will forward positive appointment recommendations to the Board of Trustees according to existing procedures.

Appendix M: OMBUDSMAN AND FACULTY HEARING COMMITTEE

Revised and adopted September 17, 1998

I. Purpose

The university, with the concurrence of the Academic Council, has established the position of ombudsman and the Faculty Hearing Committee (FHC) to facilitate prompt and equitable resolution of allegations by faculty members and instructional staff that there has been a violation of either:

- A. the university's policy concerning academic freedom and academic tenure as set forth in Appendix C of this handbook; or
- B. the university's policy of equal treatment in employment, without regard to race, creed or religion, color, veteran status, sex, sexual preference, age, national or ethnic origin, or handicap.

The ombudsman and the FHC shall function in accordance with the procedures below.

II. Selection

- A. The Ombudsman. The ombudsman shall be appointed for a term of two years by the Academic Council from the number of active or recently retired members of the faculty. The appointment may be renewed. The ombudsman shall report directly to the president of Duke University who shall appropriately compensate the ombudsman and provide reasonable support services.
- B. The Faculty Hearing Committee
 1. The committee shall consist of twelve tenured faculty members, nominated by the Executive Committee of the Academic Council and elected by the council at large. In its nominations the Executive Committee shall seek to present a reasonable representation of the university's academic community. The Executive Committee shall appoint one member of the FHC to act as chair.
 2. Committee members shall serve for three-year terms, with four being elected to full terms each year and others elected to one-year or two-year terms to fill vacancies or to begin the practice of election to three-year terms, and may be reelected. No person shall serve more than six consecutive years. Retiring members shall nonetheless conclude the cases pending before them at the time of the expiration of their terms. Vacancies arising during an academic year may be filled by appointment by the Executive Committee of the Academic Council until the next regular election of FHC members.

III. Jurisdiction

- A. The ombudsman and the FHC shall have jurisdiction to consider complaints from faculty and instructional staff concerning one or more of the following matters:
 1. Dismissal for misconduct or neglect of duty;
 2. Termination of appointment prior to its expiration date;
 3. Disputed claims by a faculty member to the existence of tenure;
 4. Allegations of violation of academic freedom;
 5. Allegations of violation of academic due process with respect to an adverse employment or disciplinary action, including allegations of biased or prejudiced conduct by a decision-maker of a substantial nature that likely had a material impact on the outcome of the proceedings;
 6. Allegations of adverse employment actions involving discrimination on the basis of race, creed or religion, color, veteran status, sex, sexual preference, age, national or ethnic origin, or handicap. Adverse employment actions include actions with respect to the member's rank, salary, fringe benefits, sabbatical and other leaves with or without compensation, workload or work assignment, promotion, tenure, and extension or termination of employment.
 7. Allegations of damaging instances of harassment directed against the complainant by other members of the university community after failure of a university officer or agency to resolve the matter.

8. Appeals from the findings by a harassment grievance hearing panel or the decision by a responsible official based on such findings.

B.

1. The jurisdiction of the ombudsman and the FHC contained in Paragraph III.A.5. above refers to procedural rather than substantive issues.
2. While the ombudsman may, at any stage, consider complaints, advise, and attempt conciliation, the FHC shall consider complaints only when university action is otherwise complete.
3. In any of the above causes for complaint, failure to act may be considered an action.

IV. Procedures

A. The Ombudsman.

The purpose of the ombudsman is to receive complaints from members of the faculty and instructional staff, to investigate those complaints, and to attempt to resolve the complaints through conciliation.

1. The ombudsman shall be available to answer questions about how properly to file a complaint.
2. Complaints and all supporting evidence shall be in writing. The ombudsman may reject any complaint that does not adequately identify the nature of the complaint, the evidence to support the allegations, and the evidence to show a good faith attempt to resolve the complaint. The ombudsman shall reject any complaint that has been the subject of a previous proceeding, unless significant new facts are presented. The ombudsman will ordinarily refer to the director of equal opportunity all complaints concerning discrimination. The ombudsman, upon request, shall have total access to such university records, accounts, files, and other sources of information as may be pertinent to the complaint or respondent's reply.
3. The complaint shall be filed with the ombudsman as soon as possible after the occurrence of the action that is the subject of the complaint. The complaint shall:
 - a. Identify the complainant and the respondent;
 - b. State the action(s) complained of and whether all action is considered complete or still in process;
 - c. Specify the nature of the complaint;
 - d. Identify all efforts by the complainant to resolve the dispute;
 - e. Propose a desired remedy;
 - f. Include such attachments, exhibits, and statements in support of the complaint as can reasonably be included;
 - g. Name any persons thought contributory to decisive action who are also to be considered hostile toward or biased against the complainant.
4. In cases involving dismissal or termination, the respondent is the president or the president's designate. In other cases the respondent designated by the ombudsman will usually be the chair of the department in which the complainant is a member, unless the action complained of was taken despite a departmental recommendation favorable to the complainant, in which case the committee chair or individual responsible for the adverse action is the respondent. Where there has been no department recommendation, the ombudsman will designate the individual or committee who is the respondent. Complaints shall be brought by individuals and not on behalf of a class.
5. The ombudsman has sixty days from the filing of a complaint within which to investigate the complaint and attempt conciliation. If conciliation fails, the ombudsman shall so notify the complainant and also inform the complainant of the right to seek redress from the FHC.
6. In attempting conciliation, the ombudsman shall confer and discuss the complaint with appropriate academic officers and submit to them, orally or in written form, any relevant facts and recommendations.
7. In the event conciliation fails and the complainant seeks redress from the FHC, the ombudsman shall prepare and forward to the FHC a summary of relevant facts, identifying the respondent considered most appropriate, together with any additional subsidiary respondents named in IV.A.3.g. The ombudsman shall append to this factual report a copy of the complaint and any other relevant documents.

8. Except as called for in IV.A.7. above, or required by law, the ombudsman shall not disclose information of a private or confidential nature obtained in the course of these proceedings.
- B. The Faculty Hearing Committee
1. Upon receipt of a report from the ombudsman, the chair of the FHC may require written response to the grievance from any or all respondents named, and additional written submissions from either party, to focus the area of disagreement between the parties. Failure of timely response shall be grounds for finding against the nonresponsive party. When the president is a respondent, and is represented by a nonresponding representative, the president shall have reasonable opportunity to name another representative.
 2.
 - a. If the chair of the FHC considers that a complaint falls within the jurisdiction of the FHC, as specified in section III above, the chair of the FHC shall appoint a panel to conduct a hearing (if the panel decides that a hearing is necessary), to prepare a report, and to make recommendations. If the chair of the FHC considers that jurisdiction is in question, that question shall be decided in a meeting with at least two other members of the FHC. If there is a finding of jurisdiction, the chair shall appoint a panel to conduct a hearing (if the panel decides that a hearing is necessary), to prepare a report, and to make recommendations. If the finding is that the complaint is not within FHC jurisdiction the chair shall report that conclusion of the complaint to the complainant. To the extent possible, panels shall be drawn from the current members of the FHC, and it is advisable that at least one member of each panel be trained in law. The chair of the FHC shall notify both parties of the names of the panel members. Either party may challenge a panel member on grounds of personal interest or bias. If the chair agrees that a challenge is appropriate, the chair shall appoint a replacement panel member. The chair shall designate one of the panel members to act as presiding officer. The chair shall notify the complainant and the respondent of the membership of the panel and of the presiding officer.
 - b. Except in cases of denial of tenure or denial of reappointment, where panels should include five members, the chair of the FHC has discretion, after notifying both parties and considering any objections, to name panels of only three members in cases where time available, work loads, and FHC member availability make it necessary. Former FHC members may also be appointed in cases of such necessity.
 3.
 - a. If a panel deems a hearing necessary, it shall be held as expeditiously as possible at a time and place mutually agreeable to the hearing panel, the complainant, and the respondents. In case of dispute, the presiding officer shall set the time and place.
 - b. The hearing shall be conducted in private unless the complainant and respondents both/all agree otherwise. The president, provost, or health affairs chancellor, if a party, shall have the option of attending the hearing, and may also designate an appropriate representative, who shall not be trained in law, and shall not be anyone designated a respondent under IV.A.3.g., to develop the case before the panel. Neither party may have an attorney present at the hearing to serve as an advisor. Advisors may be present but may not take an active part in the hearing nor be someone with a law degree. The presiding officer shall be responsible for maintaining decorum, assuring that the parties have a reasonable opportunity to present relevant oral and documentary evidence, determining the order of procedure, and making all procedural decisions. The hearing need not be conducted strictly in accordance with rules of evidence, but the presiding officer may exclude irrelevant evidence.
 - c. During the hearing, each party shall have the right, within reasonable limits set by the hearing panel, to:
 - (1) Call, examine, and cross-examine witnesses;
 - (2) Introduce exhibits;
 - (3) Rebut any evidence. If the complainant has difficulty securing the attendance of witnesses to testify on the complainant's behalf, the university administration shall assist by requesting such witnesses to appear.

All evidence, written and oral, shall be recorded by a means furnished by the university.

- d. A panel may hold sessions involving just the panel and the parties, in order to hear arguments and rulings germane to further hearing sessions.
 - e. The complainant shall have the right to confront at the hearing all witnesses or other persons the complainant considers adverse, including those named in IV.A.3.g above, as subsidiary respondents, except as provided herein. Where unusual and urgent reasons move the hearing panel to permit the introduction of particular testimony taken outside of the hearing, the identity of each such outside witness, as well as the statements taken outside, should be disclosed to the complainant. Subject to these safeguards, statements may, when necessary, be taken outside of, and reported at, the hearing.
 - f. In cases involving dismissal for misconduct or neglect of duty or in the case of termination of an appointment prior to its expiration date, the burden shall be upon the president or the president's representative to prove by a preponderance of the evidence the existence of misconduct or neglect of duty justifying dismissal or termination. In all other cases, the burden shall be on the complainant to prove by a preponderance of the evidence that the action complained of involved a violation of university policy.
 - g. The hearing panel, upon request, shall have total access to such university records, accounts, files, and other sources of information as may be pertinent to the complaint or respondent's reply. Where considerations of privacy or confidentiality are asserted, however, the FHC chair or panel, after consultation with university counsel, shall first review the requested materials to assure that substantial equivalent information is not available by other means that do not involve considerations of privacy or of confidentiality.
 - h. The hearing panel and the parties shall not disclose information of a private or confidential nature obtained in the course of these proceedings, except as directed in IV.B.4. below, or where required by law.
4. Findings and Recommendations
- a. Except in demonstrated extraordinary circumstances, the hearing panel shall have ninety days from the time the panel is constituted in which to prepare a report of its findings and recommendations. The report shall be by majority vote and shall be based on the ombudsman's report and any evidence presented at the hearing. The report shall include the panel's findings of fact and its conclusions.
 - b. The presiding officer shall send notice of the findings and recommendations of the hearing panel to the parties, the ombudsman, the chair of the FHC, the chair of the Academic Council, the equal opportunity officer, and the provost or the health affairs chancellor as appropriate. If the provost or the health affairs chancellor is also a respondent, the report shall be sent directly to the president.
 - c. If due process is found to have been violated in a decision not to renew a term appointment, grant tenure, or promote in rank, the hearing panel may request that the decision be reconsidered, along with recommended procedures. The provost or health affairs chancellor, as appropriate, may request that the FHC modify or amend its request for reconsideration or recommendation of procedures in instances where effectuation of the FHC panel decision is seen as imprudent, impractical, or unnecessarily repetitious. The provost or health affairs chancellor, as appropriate, shall implement the FHC recommendation unless he or she determines that it is outside the jurisdiction of the FHC; that it is not supported by substantial evidence, is clearly erroneous, or violates fundamental university policy; or that other extraordinary and unusual circumstances require non-implementation. The provost or health affairs chancellor, as appropriate, must state in writing the reasons for not implementing the FHC recommendation and refer the matter to the president. The faculty member and the FHC shall be informed of the action of the provost or health affairs chancellor and given the opportunity, if they wish, to present reasons why the FHC recommendations should be accepted.
 - d. In all cases within its jurisdiction, except those cases enumerated in subparagraph c immediately above, the FHC may recommend any remedy not inconsistent with university policy.

5. Appeals
 - a. Decisions of FHC panels in the further class of cases involving disputed claims by a faculty member to the existence of tenure, involving academic freedom, involving dismissal for misconduct or neglect of duty, or involving termination of an appointment prior to its expiration date are subject to review only by the Executive Committee of the Board of Trustees pursuant to the request of the complainant or respondent. Any such request for review must be made in writing and within ten business days after receipt of the FHC panel decision. If the Executive Committee wishes to consider taking action in the case, its review shall be based on the record of the hearing and the report of the ombudsman, accompanied by opportunity for argument, oral or written or both, by the principals at the hearing or their representatives. The Executive Committee may also consult with the hearing panel. The Executive Committee may accept, reject, or modify the findings or recommendations of the FHC.
 - b. In cases involving allegations of academic due process:
 - (1) A complainant not satisfied with the findings and recommendations of the FHC may appeal in writing to the president within ten business days of receipt of the FHC report, giving reasons why he or she believes that the FHC erred and specifying what actions he or she believes the FHC should have recommended, except that in cases also covered by paragraph c. below the time for appeal in the aspect of the case coming under this paragraph b. shall be the same as for the aspect governed by paragraph c.
 - (2) If the provost or health affairs chancellor, as appropriate, does not wish to implement any or all of the FHC recommendations (for grounds of possible refusal, see paragraph IV.B.4.c), he or she must state in writing within ten business days of receipt of the FHC report the reasons why he or she believes that one or more of the grounds for refusal is applicable and refer the matter to the president.
 - (3) The appeal statement of a complainant, or the reference of a matter to the president by the provost or health affairs chancellor, with statement of reasons, shall be made available to the adverse party and to the FHC at the same time it is sent to the president. The adverse party and/or the FHC may within ten business days of receipt of the appeal or reference submit to the president reasons why the FHC's refusal to recommend relief should be upheld or the FHC's findings and recommendations accepted. The president shall respond within thirty days thereafter to the appeal or reference.
 - (4) A complainant not satisfied by the action of the president may by letter to the University Secretary request review by the Executive Committee of the Board of Trustees within ten business days of notice of the president's decision. The Executive Committee may consider review under the terms and conditions defined in subparagraph a., immediately above.
 - c. Decisions of the FHC in cases involving discrimination as defined in section III.A.6 above or harassment as defined in section III.A.7 or section III.A.8 above shall be submitted to the provost or health affairs chancellor, as appropriate, who shall decide within ten business days after receipt of the FHC decision whether to accept, reject, or modify the findings or recommendations of the hearing panel. The decision of the provost or health affairs chancellor may be appealed to the president by the respondent or complainant within ten business days after receipt of the decision. The president shall make a decision within thirty days of the request for review. The decision of the president may be reviewed by the Executive Committee of the Board of Trustees pursuant to the request of the complainant. Any such request for review must be made in writing and within ten business days after receipt of the decision by the president. The Executive Committee may consider review under the terms and conditions defined in subparagraph a., immediately above.
6. Records. A file in the office of the ombudsman shall be maintained for retention of all records created pursuant to these procedures. The office of the Academic Council shall also seek and accept records arising from FHC chair and panel activities. Such records shall be kept in both custodies for at least three years.

Appendix N: UNIVERSITY COMMITTEES

The Executive Committee of the Academic Council (ECAC) serves as the committee on committees for both the university faculty and the Academic Council. The president, provost, and other senior officers request from ECAC faculty nominations to existing and newly created committees.

A book listing university, Academic Council, and Board of Trustee committees including charges and membership is published each year by the Academic Council. Copies are available in the Academic Council's office and on the Academic Council web site: <http://www.duke.edu/web/acouncil>.

Below is an index of 1999-00 committees:

UNIVERSITY COMMITTEES

- Academic Priorities Committee (APC)
- Advisory Committee on Appointment, Promotion, and Tenure (APT)
- Advisory Committee on Distinguished Professorships (DP)
- Advisory Committee for University Bookstore
- Bass Chairs Committee
- Commencement Committee
- Committee on Facilities and Environment (CFE)
- Committee on the University Scholar/Teacher-of-the-Year Award
- Coordinating Council on Work and Family Issues
- Duke Forest Committee
- Duke University Athletic Council
- Duke University Union Board
- Founders' Day Planning Committee
- Harassment Grievance Board
- Information Technology Advisory Council
- Intellectual Property Committee
- Intellectual Property Policy Review Committee
- Library Council
- Misconduct in Research
- Parking Task Force
- Presidential Awards
- President's Advisory Committee on Resources (PACOR)
- President's Council on Black Affairs
- Recreational Facilities Task Force
- Research Policy Committee
- Retirement Committee
- Search, Law School Dean
- Search, NSOE Dean
- Staff Fringe Benefits Committee
- TUNL (Triangle Universities Nuclear Laboratory) Advisory Committee
- United Way Steering Committee
- University Committee on Radiological Safety
- University Committee on Undergraduate Admissions and Financial Aid
- University Gift Policy Committee
- University Judicial Board
- University Review Committee on the Use of Human Subjects in Non-Medical Research
- University Schedule Committee

ACADEMIC COUNCIL COMMITTEES

- Academic Council
- Academic Council Executive Committee (ECAC)
- Faculty Committee on Elections
- Faculty Commons Committee
- Faculty Compensation Committee
- Faculty Hearing Committee (FHC)
- Faculty Forum Advisory Board
- Faculty Scholars Committee
- Trustee Nomination Committee

TRUSTEE COMMITTEES

- Trustee Committee on Academic Affairs
- Trustee/Faculty Committee on Honorary Degrees
- Trustee Committee on Building and Grounds
- Trustee Committee on Business and Finance
- Trustee Committee on the Duke University Health System
- Trustee Committee on Institutional Advancement
- Trustee/Faculty Liaison Committee
- Trustee Medical Center Affairs Committee
- Trustee Student Affairs Committee
- Trustee Screening Committee

Information on school and/or departmental committees is obtained through the office of the respective dean or department chair.

Appendix O: CONFLICT OF INTEREST POLICY

STATEMENT OF CONFLICT OF INTEREST FOR DUKE FACULTY

TERMS AND DEFINITIONS

DUKE UNIVERSITY FACULTY CONFLICT OF INTEREST POLICY DISCLOSURE

Statement of Conflict of Interest for Duke Faculty

- I. Duke University is committed to ensuring its faculty an open and productive environment in which to conduct teaching, patient care, and research. The university's concern with conflict of interest reflects the ever-increasing complexity of our society, our various relations with each other and with outside institutions, along with the heightened national and governmental sensitivity to such matters. Conflicts of interest, in the most conventional sense, arise because faculty members may have the opportunity to influence the university's business decisions in ways productive of personal gain. Additionally, faculty members' outside relationships may compromise the integrity of decisions they make as teachers, researchers, and providers of patient care.

In contrast, a faculty member's more general commitment to the university requires that the member perform the duties conventionally or specifically associated with the member's position. The nature of these duties, like their compatibility with outside activities, varies among schools.¹ Subject to this general standard of commitment, faculty members appropriately use their own judgment in deciding whether to engage in a variety of extramural activities.

- II. Questions concerning the definition and resolution of conflicts of interest are frequently matters of degree and judgment. Duke University recognizes that members of its faculty are professionals; it expects them to be alert to the possible effect of outside activities on the integrity of their decisions and on their ability to fulfill their obligations to the university. Likewise, the university recognizes the value of professional interaction between its faculty and outside entities. It supports and promotes university-industry relationships and, subject to this policy, it maintains an environment in which such relationships may flourish.
- III. In response to these concerns, Duke University has adopted three statements of policy:
- A. It is the policy of Duke University that its faculty have an obligation to avoid unacceptable ethical, legal, financial, or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligations to the university or its welfare.
 - B. It is the policy of Duke University that any faculty member engaging in an outside activity or possessing a personal interest that could lead to a serious conflict of interest must immediately disclose that possibility by filing a disclosure form with that member's dean or the dean's designate. Faculty members not engaged in such activities or possessing such interests need only affirm this fact on the school's disclosure form. If the dean, having been provided with all pertinent information, determines that the faculty member's situation presents a serious conflict of

¹ The university, historically, has limited outside consulting time to one day per week during the term of the faculty member's contract. See the section describing consulting activities in Chapter 5.

interest, that conflict must be resolved. Consultation should be sought when a faculty member is in doubt about whether an interest or activity creates a conflict of interest. Subsequent disputes can be ameliorated more readily if a written record is kept of these consultations. If the faculty member and the dean disagree, either about the presence of a conflict or about its appropriate resolution, the faculty member may pursue the matter with an executive officer of the university. The university's executive officers are its president, provost, chancellor for health affairs, and executive vice president[s]. If a dean or executive officer is in a situation that may present a serious conflict of interest, consultation should occur with a person in the next highest level of university authority.

- C. It is the policy of Duke University that relationships between faculty members and outside institutions must not impede the open communication of research results. This includes sharing, in accordance with applicable legal and ethical principles, of data, samples, physical collections, and other supporting materials, unless their dissemination is governed by written proprietary agreements between the university and a second party. If intellectual property is subject to the university's guidelines (such as those governing technology transfer), a faculty member may not transfer or commit to transfer that property outside the university without going through approved procedures.

IV. The requirement of consultation is generally applicable to situations that could lead to serious conflicts of interest. The requirement's relevance to certain specific situations is detailed below.

- A. Some activities and interests are unlikely to lead to serious conflicts of interest and thus require no consultation. An example is a faculty member's entitlement to royalties or honoraria for published scholarly works and other writings, for commissioned papers and occasional lectures. Likewise, no serious conflicts arise when a faculty member serves as a consultant to a government agency, receives royalties under institutional royalty-sharing policies, or owns equity in a business solely for the member's consulting activities.
- B. Consultation is mandatory if the faculty member has a relationship that might bias a decision the member makes or influence Duke's dealings with an outside organization, leading to personal gain to the member. An example is a faculty member's direct or indirect ownership or control of a financial interest in a business with which Duke has dealings, when the faculty member is in a position to influence the relevant decisions by Duke. The first step to resolve such a conflict is full disclosure by the faculty member to the member's dean and to persons making the relevant decision for Duke; the second is arrangements that clearly exclude the member from participating in the relevant decision.
- C. Consultation is mandatory if the faculty member directs students into a research area and, as a result, the member intends to realize financial gain. An example is a research area within the ambit of a business in which the faculty member has a significant ownership interest or which employs the faculty member as a consultant. Any involvement of graduate students or post-graduate trainees in the outside professional activities of the faculty member directing the student's or trainee's research must be specifically approved in writing by the member's dean. The student or trainee must also sign this document, to signify understanding of the issues involved.
- D. Consultation is mandatory if the faculty member has a financial interest in a business, or has a right to receive, control, or benefit from a business, under circumstances that significantly link the fortunes of the business to the member's research. In such situations, it is advisable to couple the formal presentation of research results with disclosure of the nature of the member's interest.

- V. Some situations of conflict, identified below, present risks to the faculty member and the university that mandate separate treatment, beyond the general requirement of consultation. In each situation, the faculty member must initially consult with and receive the affirmative support of the member's dean. Then, and in addition, the member must comply with the following requirements:
- A. A faculty member may not receive university-supervised sponsored activities² support for research from a business for which the member is a consultant, unless the receipt of such is approved by an executive officer of the university. This requirement applies to consulting relationships from which the faculty member benefits but in which the member is not formally or directly retained as a consultant.
 - B. A faculty member may not receive university-supervised sponsored activities support for research from a business in which the member has a significant financial interest, unless the receipt of such support is approved by an executive officer and by the president. The mechanism of the approval process shall be established by the appropriate executive officer in consultation with representatives of the faculty. The mechanism shall include a right to appeal a "disapproval" to a peer review panel nominated by the faculty and appointed by the appropriate executive officer.
 - C. A faculty member may not participate in research involving technology that is owned by or contractually obligated to a business in which the faculty member has a financial interest, or with which the faculty member has a consulting relationship, unless the participation is approved by an executive officer and the president. Faculty members are participants in research if they are in a position to influence the study's results or have privileged information as to its outcome. Faculty members are not participants in research if they provide primarily technical support or they serve in a purely advisory capacity, such that they have no control over the collection or analysis of data, or if they lack direct access to trial participants. The mechanism of the approval process shall be established by the appropriate executive officer in consultation with representatives of the faculty. The mechanism shall include a right to appeal a "disapproval" to a peer review panel nominated by the faculty and appointed by the appropriate executive officer.
 - D. A faculty member may not receive compensation, without the approval of the president, for serving on a board of directors (or comparable governing body) of an entity when the member is appointed to that position by Duke University or is representing the university.

Approved by the Board of Trustees, February 1992

²The designation "sponsored activities" means research (including clinical research), training, and instructional projection involving funds, materials, or other compensation from outside sources under agreements that contain any of the following:

1. The agreement binds that university to a line of scholarly or scientific inquiry specified to a substantial level of detail. Such specificity may be indicated by a plan, by the stipulation of requirements for orderly testing or validation of particular scientific approaches, or by the designation of performance targets.
2. A line-item budget is involved. A line-item budget details expenses by activity, function, or project period. The designation of overhead (or indirect costs) qualifies a budget as "line item."
3. Financial and/or programmatic reports are required.
4. The award is subject to external audit.
5. Unexpended funds must be returned to the sponsor at the conclusion of the project.
6. The agreement provides for the disposition of either tangible or intangible properties that may result from the activity. Tangible properties include equipment, records, technical reports, theses, or dissertation. Intangible properties include rights in data, or inventions.

Terms and Definitions

An *associated entity* of a faculty member means any trust, organization, or enterprise other than the university or any affiliated hospital over which the faculty member, alone or together with his or her family, exercise a controlling interest.

Business means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other legal entity organized for profit or charitable purposes, but excluding *university-related entities*, the meaning of which is inclusive of the university, the Private Diagnostic Clinics (PDCs), any health maintenance organization that has contracted with the Medical Center for the provision of care for its members, and the Veteran's Administration Hospital.

Executive position refers to any position that includes responsibilities for a material segment of the operation of management of a business, to include serving on its board of directors.

The *family* of a faculty member includes his or her spouse, minor children, and other persons living in the same household.

A *financial interest* is an interest in a business consisting of: (1) any stock, stock option, or similar ownership interest in such business by a mutual, pension, or other institutional investment fund over which the faculty or staff member does not exercise control; or (2) receipt of, or the right or expectation to receive, any income from such business, whether in the form of a fee (e.g., consulting), salary, allowance, forbearance, forgiveness, interest in real or personal property, dividend, royalty derived from the licensing of technology, rent capital gain, real or personal property, or any other form of compensation, or any combination thereof.

Receipt of university-supervised sponsored activities support or royalties under institutional royalty-sharing policies does not constitute, for the purpose of this policy, a financial interest.

Technology means any diagnostic, therapeutic, medical, or surgical procedure and any process, method, compound, drug, or device.

Duke University Faculty Conflict of Interest Policy Disclosure³

Name: _____ Department/Unit: _____

Title and Rank: _____ Campus Address: _____

Campus Telephone: _____

CONFLICT OF INTEREST POLICY:

The University is committed to ensuring its faculty an open and productive environment in which to conduct teaching, patient care, and research. Conflicts of interest, in the most conventional sense, arise because faculty members may have the opportunity to influence the university's business decisions in ways productive of personal gain. Additionally, a faculty member's more general commitment to the University requires that the member perform the duties conventionally associated with the member's position.

It is the policy of Duke University that:

1. its faculty have an obligation to avoid unacceptable ethical, legal, financial, or other conflicts of interest and to ensure that their activities and interests do not materially conflict with their obligations to the University or its welfare;
2. any faculty member engaging in an outside activity or possessing a personal interest that could lead to a serious conflict of interest must inform the University of that possibility by consulting with that member's Dean or the Dean's designate; and
3. relationships between faculty members and outside institutions must not impede the open communication of research results.

³No specific dollar amount of financial arrangements are expected to be provided as part of this disclosure.

IMPLEMENTATION OF THE POLICY

Duke University is committed to the implementation of the Conflict of Interest Policy by providing for:

- 1. Disclosure of all relationships that may result in conflicts by persons subject to the policy;
- 2. Readily available counsel and advice regarding all conflicts; and
- 3. Fair and equitable application of the Policy to all members of the faculty to whom the Policy applies.

The requested disclosure attempts to balance the university's needs for information with the individual's reasonable expectation of privacy in his or her personal affairs. There are materiality guidelines to assist faculty members with disclosure (see footnotes). No information about financial arrangements need be provided.

(1) I have a consulting relationship,⁴ executive position or a significant⁵ financial interest in (check all applicable):

- (a) _____ A Business which markets, produces, or has in pre-market testing a commercial product or product line that my work would either evaluate or further develop.
- (b) _____ A Business that does business with the University and which business I am in a position to influence.
- (c) _____ A sponsor of my research.
- (d) _____ None of the above.

(if you check any of (a)-(c), describe below.)

⁴Includes situations in which income is transferred to members of your Family. No information is required for honoraria from an occasional lecture or from isolated, non-recurring consulting activities that result in payments which do not exceed \$5,000 from a single source during any calendar year.

⁵The university defines an ownership interest as one in which you and/or any member of your Family or an Associated Entity owns shares whose total market value is greater than \$50,000 or which represents an ownership interest of 1% or more. The Public Health Service and National Science Foundation Conflict of Interest regulations define a "Significant Financial Interest" as anything of monetary value, including, but not limited to: salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g., stocks, stock options or other ownership interests); and intellectual property rights (e.g., patents, copyrights and royalties from such rights), where such payments exceed \$10,000 annually, the equity interest exceeds five percent (5%) ownership or a value of \$10,000 (whichever is greater) at fair market value, or royalty payments exceeding \$10,000 annually. If you are currently funded by either PHS or NSF, you are required to make a disclosure of financial interests meeting these criteria that would reasonably appear to be affected by the research in such awards; if you submit a proposal to either agency, you will be required to certify at the time of proposal submission that you have made any necessary disclosures.

(2) I do ___/___ do not have any financial or fiduciary interests, relationships, commitments, or activities, including uncompensated activities, that present a potential conflict of interest or commitment that should be evaluated within the context of the university's Conflict of Interest Policy. (If you check "do", please describe below.)

(3) I do ___/___ do not have non-university professional or income-producing activities (such as consulting) that involve Duke University students, particularly graduate students, or staff. (if you check "do", please describe below.)

(4) Are there any other related matters of which you wish to make the University aware?

No _____ Yes _____ (Please explain.)

I hereby acknowledge that I have read and understand the Conflict of Interest Policy and that the aforementioned facts and situations indicate a potential for conflict of interest with regard to my position at Duke University. If none, this is indicated in the spaces provided.

Signed this _____ day of _____, 19____

Signature

Chair's Review

I have reviewed this disclosure form and believe that:

____ no potential for conflict of interest exists

____ potential for conflict exists, and steps have been taken to resolve the potential conflict, as outlined in the attached letter

____ a potential conflict of interest exists which requires the Dean's attention and may require the approval of an Executive Officer of the University.

Signed this _____ day of _____, 19____

Signature

Dean's Review (parenthetical qualifier)

I have reviewed this disclosure form and believe that:

_____ no potential for conflict of interest exists

_____ potential for conflict exists, and steps have been taken to resolve the potential conflict, as outlined in the attached letter

_____ a potential conflict of interest exists which requires the Dean's attention and may require the approval of an Executive Officer of the University.

Signed this _____ day of _____, 19____

Signature

Appendix P: PRINCIPLES AND PROCEDURES GOVERNING RESEARCH WITH HUMAN SUBJECTS

UNIVERSITY PRINCIPLES AND PROCEDURES REGARDING RESEARCH ON HUMAN SUBJECTS (CAMPUS)

ASSURANCE OF COMPLIANCE WITH DHHS REGULATIONS FOR PROTECTION OF HUMAN RESEARCH SUBJECTS

(This section is in process of revision as of August 2000)

The following statements of principles and procedures govern human subject research for all departments and programs outside the Medical Center. Two documents are included. The first, "Duke University Principles and Procedures Regarding Research on Human Subjects (Campus)," governs all human subjects research conducted at Duke outside the Medical Center. The second document, "Assurance of Compliance with DHHS Regulations for Protection of Human Research Subjects," complies fully with regulations of the Department of Health and Human Services and governs research funded by DHHS and other federal agencies that comply with the DHHS regulations.

Duke University Principles and Procedures Regarding Research on Human Subjects (Campus)

I. Non-DHHS Supported Activities

These principles and procedures are adopted by the Academic Council (the academic senate of Duke University) to define the conditions under which research on human subjects is to be reviewed by a Human Subjects Research Committee (HSRC) in order to prevent unreasonable risk of harm to such subjects. They apply as a minimum set of standards to govern all human subjects research conducted by Duke University researchers outside the Medical Center. Additional restrictions and/or procedures may be agreed to by researchers who must do so to meet the requirements of particular funding sources, both government and private, provided that the restrictions do not violate existing Duke University policy. Additional restrictions and/or procedures may also be adopted by certain faculty groups with special concern regarding the protection of subjects in research. These principles and procedures were submitted to HHS with our assurance of compliance with the provisions of 45 CFR 46 and were approved by DHHS in August, 1995.

II. Principles

- A. Duke University is committed to academic freedom. Research will neither be forbidden nor discouraged because it explores topics that are innovative, unorthodox, sensitive, unusual, or otherwise extraordinary. The university takes responsibility for protecting the right of the faculty to conduct research in the pursuit of knowledge, wherever that search may lead.
- B. In the conduct of research, care must be taken not to cause or contribute harm to persons being studied. Research procedures should minimize the risk of harm and respect the privacy of subjects whenever possible. The researcher shall not withhold from the subjects information they request about any aspect of the research likely to be significant to the subject, or induce subjects to participate by means that might affect the subject's ability to decide freely about his or her participation. Researchers who promise confidentiality are responsible for maintaining it and for

informing subjects of limits on their capacity to meet that responsibility. Researchers shall explain to subjects, prior to their participation, the purposes of the research. Special care is called for when the subjects of the research are especially vulnerable to harm because they cannot understand the risks or because they are not in a position to freely refuse their participation in the research.

- C. When the above principles conflict, their resolution will be achieved through the following procedures.

III. Procedures

- A. The Duke University Human Subjects Research Committee (HSRC) will consist of eleven members, eight of whom are members of the faculty appointed by the Executive Committee of the Academic Council. Three other members will be appointed by the provost including two nonfaculty members and an executive secretary.
- B. Research plans proposing to use one or more of the following procedures will be submitted to the full committee for review:
 - 1. Procedures that expose the subject to more than minimal risk.
 - 2. Procedures that would take from the subject money or other resources.
 - 3. Procedures that expose the subject to more than minimal risk of any mental stress.
 - 4. Procedures using subjects who are not able adequately to judge the risk of harm inherent in the research, such as children and mental incompetents.
 - 5. Procedures using subjects who, because they are in a relationship of dependence on the researcher, are at risk of coercion for participation or to stop participating. Such subjects include all prisoners and medical patients, for example, and students and employees of Duke University.
- C. For any research subject to review under B1-5 above, the researcher shall not use an individual as the subject unless satisfied that the subject, or others legally responsible for a subject's well being, consent to participation freely and with an understanding of the consequences. The committee may waive these requirements when persuaded that the research cannot otherwise be done, that its potential value outweighs the indignity to the subject, and that the subject risks no other harm from participating.
- D. The following categories of research are exempted from these regulations, as they are judged not to pose more than minimal risk to subjects studied as in 45 CFR 46.101(b).
 - 1. Research using surveys or interviews, where the subjects are competent adults and not in a relationship of dependence to the researcher, and where the researcher identifies himself or herself and states that he or she is conducting a research survey or interview.
 - 2. Research using observation (including observation by participants) and recording of public behavior in places where there is no recognized expectation of privacy.
 - 3. Research employing the collection or study of existing data generally available to Duke University researchers including library and archival resources.
 - 4. Research using existing survey data on adults or minors in which respondents cannot be identified.
- E. For non-DHHS-funded research, it is the responsibility of the researcher to determine if his or her research is exempt from review. Researchers who claim exemption in these circumstances are not required to file any notice of such. Investigators should be aware of a potential conflict of interest when they make judgments about the risk and intrusiveness of research projects that they themselves intend to carry out. Consultation about the desirability of committee review with a member of the committee or its executive secretary may be appropriate in some cases.
- F. The committee will review submitted research plans and approve, disapprove, or state conditions for the conduct of the research, applying the principles and procedures specified in this resolution. Other criteria, such as the scientific or social value of the research or the adequacy of research methods to research goals, are applied elsewhere in the university and are not appropriate to the charge of this committee.
- G. It is the responsibility of faculty members to supervise student research in their courses and departments. The appropriate faculty member will review student research in the area of his or her responsibility and refer proposals to the committee in accordance with the above criteria.

- H. The appropriate department chair or dean will be responsible for referring to the committee cases in which there is disagreement or uncertainty concerning whether or not a research project requires committee review. If agreement cannot otherwise be attained, the provost will decide.
- I. Rulings by the committee may be appealed to the Executive Committee of the Academic Council, which will determine whether or not to return a case to the committee for a determinative vote.
- J. These principles and procedures may be amended by vote of the Academic Council.

IV. Procedures for Proposals Requiring Review

- A. Regularly scheduled monthly meetings for the HSRC are held from September through June. Ad hoc meetings are held at the discretion of the chair.
- B. A quorum consists of a simple majority of the committee's membership, including at least one member whose primary concerns are in nonscientific areas. Actions requiring a vote are taken at convened meetings. Decisions are made by a majority of those present.
- C. Projects to be reviewed are submitted to the secretary, on the application form prescribed by the committee, at least ten days before the meeting at which they are to be reviewed. An agenda is assembled and distributed, well in advance, to all members. The committee's actions are communicated in writing to the principal investigator. Copies are retained in the committee's files, together with the record of the meeting and the application submitted. Ordinarily, the task of maintaining necessary liaison with the project staff is assigned to the secretary (an administrative officer who works part time for the committee).

At the time of initial review, the committee considers and determines whether further review is required at intervals more frequent than yearly. It determines also whether the nature of the project requires that someone other than the investigator verify that any changes in the procedures recommended by the committee have indeed been made. These decisions are reported to the investigator, requiring him or her promptly to report, and await committee approval of, proposed procedural changes. Similarly, investigators are instructed to report promptly to the committee's chair and/or secretary the occurrence of unanticipated problems involving risks to subjects or others. It is the chair's responsibility to ensure that such reports are promptly communicated to the Secretary of the Department of Health and Human Services, when the work falls under the jurisdiction of DHHS, and to the full committee in all cases.

- D. The membership and functioning of the committee are reviewed annually by the Executive Committee of the Academic Council. Members are appointed, or reappointed, each year by the provost acting upon the recommendation of the Academic Council; the ordinary term of service is three years; logistical support is provided by the secretary's administrative office, the Office of Research Support.
- E. In developing its Statement of Policies and Procedures Governing the Use of Human Subjects in Non-Medical Research, the university has considered the ethical codes of all the principal scholarly associations and a variety of other relevant sources of information. The principles that govern the university in discharging its responsibilities for protecting the rights and welfare of human subjects of research are contained in this statement.

Assurance of Compliance with DHHS Regulations for Protection of Human Research Subjects¹

Duke University, hereinafter known as the "institution" (see Appendix A), hereby assures, as specified below, that it will comply with the Department of Health and Human Services (DHHS) regulations for the protection of human research subjects, 45 CFR Part 46, as amended as of March 8, 1983, and including Subparts A-D and as amended to include provisions of the Federal Policy for the Protection of Human Subjects (56FR28003) as Subpart A, to the extent of their applicability, as stated below:

Part 1 - Principles, Policies, and Applicability

I. Statement of Principles

- A. All research conducted at or sponsored by Duke University, regardless of source of funding, shall be guided by the following principles, adopted by the representative body of its faculty:
 - 1. Duke University is committed to academic freedom. Research will neither be forbidden nor discouraged because it explores topics that are innovative, unorthodox, sensitive, unusual, or otherwise extraordinary. The university protects the right of the faculty to conduct research in the pursuit of knowledge, whenever that research has been reviewed and approved by the Institutional Review Board (IRB).
 - 2. In the conduct of research, care must be taken not to cause or contribute harm to persons being studied. Research procedures should minimize the risk of harm and respect the privacy of subjects whenever possible. The researcher shall not withhold from the subjects information they request about any aspect of the research likely to be significant to the subject, or induce subjects to participate by means that might affect the subject's ability to decide freely about his or her participation. Researchers who promise confidentiality are responsible for maintaining it and for informing subjects of limits of their capacity to meet that responsibility. Researchers shall explain to subjects, prior to their participation, the purposes of the research. Special care is called for when the subjects of the research are specially vulnerable to harm because they cannot understand the risks or because they are not in a position to freely refuse their participation in the research. Thus, Duke is guided by the ethical principles regarding all research involving humans as subjects, as set forth in the report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (entitled: Ethical Principles and Guidelines for the Protection of Human Subjects of Research [the "Belmont Report"]), regardless of sponsorship.
- B. All institutional and non-institutional performance sites for this institution, domestic or foreign, will be obligated by this institution to conform to ethical principles that are at least equivalent to those of this institution's, as cited in I.I.A.

II. Institutional Policy

- A. All requirements of Title 45, Part 46 of the Code of Federal Regulations (45 CFR 46) will be met for applicable federally-supported research, and all other human subject research for sponsors that recognize federal guidelines. Federal funds to which this Assurance applies may not be expended for research involving human subjects unless the requirements of this Assurance have been satisfied.
- B. Duke University has established and will maintain a Committee on the Use of Human Subjects in Non-Medical Research, which has been established under a Multiple Project Assurance (MPA) with the Office for Protection from Research Risks (OPRR). This committee functions as an institutional review board (IRB) to review all applicable federally-funded research and research supported by sponsors that recognize the federal regulations and as an appropriate mechanism for ensuring that protections are provided for human subjects in research not funded by DHHS or other federal agencies. Except for those categories specifically exempted or waived by both

¹This Assurance covers activities in all schools and departments, exclusive of the Duke University Medical Center, for which a separate Assurance has been submitted.

- federal policy [Section 101(b)(1-6) or 101(i)] and Duke policy, all research covered by this Assurance will be reviewed and approved by this IRB.
- C. Certification of IRB review and approval for all federally-sponsored research and research supported by sponsors that recognize the federal regulations involving human subjects will be submitted to the appropriate pre-award office (Office of Research Support or Medical Center Grants and Contracts) for forwarding to the appropriate federal department or other agency. Compliance will occur within the time and in the manner prescribed for forwarding certifications of IRB review to DHHS or other federal departments and agencies for which this Assurance applies. As required under Section 119, the IRB will review and recommend approval for involvement of human subjects in federal research activities for which there was no prior intent for such involvement, but will not permit such involvement until certification of the IRB's review and approval is received by the appropriate federal department or agency or other sponsoring agency, if required.
 - D. Institutions that are not direct signatories of this Assurance are not authorized to cite this Assurance. This institution will ensure that such other institutions and investigators not bound by the provisions of this Assurance for research activities will satisfactorily assure compliance with 45 CFR 46, as required, as a prior condition for involvement in human subject research that is under the auspices of this institution. Institutions that have entered into an inter-institutional amendment to this Assurance must submit a Single Project Assurance (SPA) to OPRR of DHHS for DHHS-sponsored research, on request, when that research is not conducted under the auspices of a signatory institution of this agreement.
 - E. This institution will comply with the requirements set forth in Section 114 of the regulation regarding cooperative research projects. When research covered by this Assurance is conducted at or in cooperation with another entity, all provisions of this Assurance remain in effect for that research. This institution may accept, for the purpose of meeting the IRB review requirements, the review of an IRB established under another DHHS Multiple Projects Assurance (MPA). Such acceptance must be in writing, approved and signed by an official of this institution's appropriate pre-award office and approved and signed by correlative officials of each of the other cooperating institutions. A copy of the signed understanding will serve as an addendum to this Assurance and will be forwarded to the OPRR by the pre-award office(s) for approval.
 - F. This institution will exercise appropriate administrative overview to ensure that the institution's policies and procedures designed for protecting the rights and welfare of human subjects are being effectively applied in compliance with this Assurance.

III. Applicability

- A. All research funded by a federal department or agency or by a sponsor that recognizes the federal regulations and not specifically exempted or waived under Section 101(b)(1-6) or 101(i) of 45 CFR 46 shall be reviewed and approved by the committee in advance of any involvement of human subjects in the research if one or more of the following apply:
 - 1. the research is sponsored by this institution, or
 - 2. the research is conducted by or under the direction of any employee or agent of this institution in connection with his or her institutional responsibilities, or
 - 3. the research is conducted by or under the direction of any employee or agent of this institution using any property or facilities of this institution, or
 - 4. the research involves the use of this institution's non-public information to identify and contact human research subjects or prospective subjects.
- B. All human subject research that is exempt from committee review under Section 101(b)(1-6) or 101(i) or that comes under Duke University Principles and Procedures Regarding Research on Human Subjects (Non-Medical Center) for Non-Federally Supported Activities will be conducted in accordance with the principles stated in I.A.2, the principles of the Belmont Report, an orderly accounting for such activities, and for projects with federal funding or for sponsors that recognize federal regulations, administrative procedures to ensure valid claims of exemption.
- C. Components of this institution are bound by the provisions of the Assurance, except for the Duke University Medical Center, which has its own MPA. In the event that there are components of the institution that could be expected to participate in human subject research and might apply for

federal human subject support in their own names, those entities will be identified and their names forwarded to OPRR.

- D. This Assurance must be accepted by other federal departments and agencies that are bound by the Federal Policy for the Protection of Human Subjects when appropriate for the research in question and therefore applies to all human subject research so sponsored. Research that is neither conducted nor supported by a federal department or agency, but is subject to regulation as defined in Section 102(e), must be reviewed and approved, in compliance with Sections 101, 102, and 107-117.

Part 2 - Responsibilities

I. Institution

- A. This institution acknowledges that it bears full responsibility for the performance of all research involving human subjects, covered by this Assurance, including complying with federal, state, or local laws as they may relate to such research.
- B. This institution will require appropriate additional safeguards in research that involves: (1) fetuses, pregnant women, or human ova in vitro fertilization (45 CFR 46 Subpart B), (2) prisoners (45 CFR 46 Subpart C), (3) children (45 CFR 46 Subpart D), (4) the cognitively impaired, (5) medical patients, (6) Duke students or employees, or (7) other potentially vulnerable groups.
- C. This institution, including all its named components (see Appendix A), acknowledges and accepts its responsibilities for protecting the rights and welfare of human subjects of research covered by this Assurance.
- D. This institution is responsible for acquiring appropriate Assurances or Amendments, when requested, and certifications of IRB review and approval for federally sponsored research from all its standing affiliates (see Appendix B) and Assurances or Agreements for all others, domestic or foreign, that may otherwise become affiliated on a limited basis in such research.
- E. This institution is responsible for ensuring that no affiliates cooperating in the conduct of federally sponsored research for which this Assurance applies do so without an appropriate assurance of compliance and satisfaction of IRB certification requirements.
- F. The IRB's membership is and will be such to satisfy the compositional requirements of Section 107 and Duke policy. IRB membership requirements are as follows:
 - 1. The IRB is comprised of members from diverse backgrounds to promote complete and adequate review of research activities covered by this Assurance, and it has the professional competence necessary to review the specific research activities that will be assigned to it.
 - 2. The IRB is sufficiently qualified through the experience and expertise of its members--diversity of the members' backgrounds including consideration of the racial and cultural backgrounds of members and sensitivity to such issues as community attitudes--to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects.
 - 3. When research is reviewed involving a category of vulnerable subjects (e.g., prisoners, children, individuals institutionalized as mentally disabled), each IRB shall include in its reviewing body one or more individuals who have as a primary concern the welfare of these subjects.
 - 4. The IRB includes both male and female members.
 - 5. The IRB includes members representing a variety of professions.
 - 6. The IRB includes at least one member whose primary expertise is in a non-scientific area.
 - 7. The IRB includes at least one member who is not otherwise affiliated with the institution and who is not a part of the immediate family of a person affiliated with the institution.
 - 8. In accordance with Department of Education regulations (34 CFR 350 and 356), special arrangements will be made as necessary to include an individual who is primarily concerned with the welfare of handicapped children or mentally disturbed persons.
 - 9. The names and qualifications of the members of the IRB are attached as Appendix C and will be updated as changes in the committee membership occur.
- G. This institution will provide both meeting space and sufficient staff to support the IRB's review and record-keeping duties.

- H. This institution recognizes that involvement in research activities of any OPRR-recognized Cooperative Protocol Research Programs will involve additional reporting and record-keeping requirements related to human subject protections.
- I. This institution is responsible for ensuring that it and all its affiliates comply fully with all applicable federal policies and guidelines, including those concerning notification of seropositivity, counseling, and safeguarding confidentiality where research activities directly or indirectly involve the study of human immunodeficiency virus (HIV).

II. The Office of Research Support (or other appropriate pre-award office)

- A. The ORS will receive from investigators, through their supervisors, all research protocols that involve human subjects, keep investigators informed of decisions and administrative processing, and return all disapproved protocols to them.
- B. The ORS is responsible for reviewing the preliminary determinations of exemption by investigators and supervisors and for making the final determination based on Section 101 of the regulations. Notice of concurrence for all exempt research will be promptly conveyed in writing to the investigator. All nonexempt research will be forwarded to the appropriate IRB.
- C. The ORS will make the preliminary determination of eligibility for expedited review procedures (see Section 110). Expedited review of research activities will not be permitted where full board review is required.
- D. Neither ORS nor any other office of the institution may approve a research activity that has been disapproved by the appropriate IRB. Considerations of academic freedom and a belief in the peer review system to identify meritorious research preclude the ORS from making any determination, other than those based upon human subject considerations, regarding whether a particular line of research should be permitted by the institution.
- E. The ORS will forward certification of IRB approval of proposed research to the appropriate federal department or agency only after all IRB-required modifications have been incorporated to the satisfaction of the IRB.
- F. The ORS will designate procedures for the retention of signed consent documents for at least three years past completion of the research activity.
- G. The ORS will maintain and arrange access for inspection of IRB records as provided for in Section 115.
- H. The ORS is responsible for ensuring constructive communication among the research administrators, department heads, research investigators, clinical care staff, human subjects, and institutional officials as a means of maintaining a high level of awareness regarding the safeguarding of the rights and welfare of the subjects.
- I. The ORS will make sure, and document in its records, that copies of this Assurance, as well as the Duke University Principles and Procedures Regarding Research on Human Subjects (Non-Medical Center) - Non-Federally Supported Activities are made available upon request to all faculty and to each individual who conducts or approves human subject research. In addition to providing a summary of this institution's policy and procedures through an annual mailing to all researchers who conduct or approve human subject research, copies of 45 CFR 46, other pertinent regulations, and the Belmont Report will be readily accessible to researchers.
- J. The ORS will report promptly to the IRB(s), appropriate institutional officials, the Office for Protection from Research Risks (OPRR), and any other sponsoring federal department or agency head:
 1. any injuries to human subjects or other unanticipated problems involving risks to subjects or others,
 2. any serious or continuing noncompliance with the regulations or requirements of the IRB, and
 3. any suspension or termination of IRB approval for research.
- K. The ORS will ensure (a) solicitation, receipt, and management of all assurances of compliance (whatever the appropriate format), and certifications of IRB review (where appropriate) for all affiliates to this institution (including those listed in Appendix B), and (b) subsequent submission of these documents to the proper authorities as a condition for involvement in human subject research activities sponsored by DHHS or any other federal department or agency for which this Assurance applies.

- L. The ORS will ensure that all affiliated performance sites that are not otherwise required to submit assurances of compliance with federal regulations for the protection of research subjects at least document mechanisms to implement the equivalent of ethical principles to which this institution is committed (see Part I, D).
- M. When an IRB of this institution accepts responsibility for review of research that is subject to this Assurance and conducted by any independent investigator who is not otherwise subject to the provisions of this Assurance, the ORS will obtain and retain a Noninstitutional Investigator Agreement (NIA) to document the investigator's commitment to abide by: (1) the same requirements for the protection of human research subjects as does the institution(s) and (2) the determinations of the IRB(s).
- N. The ORS assumes responsibility for ensuring conformance with special reporting requirements for any OPRR-recognized Cooperative Protocol Research Programs participated in by the signatory institution(s).
- O. The ORS will be responsible for procedural and record-keeping reviews not less than once every year for the purpose of detecting, correcting, and reporting (as required) administrative and/or material breaches in uniformly protecting the rights and welfare of human subjects as required at least by the regulations and as may otherwise be additionally required by the institution(s).
- P. The ORS will ensure compliance with the requirements set forth in this Assurance and Section 114 regarding cooperative research projects. In particular, where the IRB of another institution with a DHHS MPA is relied upon, the ORS will ensure that documentation of this reliance will be (a) in writing, (b) approved and signed by the ORS, (c) approved and signed by the correlative officials of each of the other cooperating institutions, and (d) retained by the ORS for at least three years past completion of the related research project. Where an agreement between MPA IRBs is planned, the ORS will forward a copy of the required signed understanding to OPRR for approval and inclusion in this Assurance as an addendum.

III. Institutional Review Board (IRB)

- A. The IRB will have the responsibility to review, approve, require modification in, state conditions for the conduct of the research or disapprove all activities or proposed changes. The IRB shall approve research based on the IRB's determination that the following requirements are satisfied:
 - 1. Risks to subjects are minimized:
 - a. by using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk, and
 - b. whenever appropriate by using procedures already being performed on the subjects for diagnostic or treatment purposes.
 - 2. Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB shall consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB shall not consider long-range effects of applying knowledge gained in the research as among those research risks that fall within the purview of its responsibility.
 - 3. Selection of subjects is equitable. In making this assessment the IRB shall take into account the purposes of the research, the setting in which the research will be conducted, and the population from which subjects will be recruited.
 - 4. Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by, 45 CFR 46 parts 116 and 117.
 - 5. Informed consent will be appropriately documented, in accordance with, and to the extent required by, 45 CFR 46 Part 117.
 - 6. Where appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.
 - 7. Where appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

Other criteria, such as the scientific or social value of the research or the adequacy of the research methods to the research goals, are applied elsewhere in the university and in the

- review of proposals through peer review and are not appropriate to the charge of this IRB, except as required for the IRB to fulfill its responsibilities under III. A. 2.
- B. IRB decisions and requirements for modifications will be promptly conveyed to investigators and the ORS, in writing. Written notification of decisions to disapprove will be accompanied by reasons for the decision with provision of an opportunity for reply by the investigator, in person or in writing.
 - C. Initial and continuing convened IRB reviews and approvals will occur in compliance with 45 CFR 46 and provisions of this Assurance for each project unless properly found to be exempt (Section 101(b) and (i)) by the ORS. Continuing reviews will be preceded by IRB receipt of appropriate progress reports from the investigator, including available study-wide findings and will occur no less than annually.
 - D. The IRB(s) will observe the quorum requirements of Section 108(b). This institution's IRB(s) has/have effective knowledge of subject populations, institutional constraints, differing legal requirements, and other factors that can foreseeably contribute to a determination of risks and benefits to subjects and subjects' informed consent and can properly judge the adequacy of information to be presented to subjects in accordance with requirements of Sections 103(d), 107(a), 111, and 116.
 - E. The IRB(s) will determine, in accordance with the criteria found at 45 CFR 46.111 and federal policies and guidelines for involvement of human subjects in HIV research, that protections for human research subjects are adequate.
 - F. The IRB(s) will ensure that legally effective informed consent will be obtained and documented in a manner that meets the requirements of Sections 116 and 117. The IRB will have the authority to observe or have a third party observe the consent process.
 - G. Where appropriate, the IRB(s) will determine that adequate additional protections are ensured for fetuses, pregnant women, prisoners, and children, as required by Subparts B, C, and D of 45 CFR 46. The IRB(s) will notify OPRR promptly when IRB membership(s) is/are modified to satisfy requirements of 45 CFR 46.304 and when the IRB fulfills its duties under 45 CFR 46.305(c).
 - H. Scheduled meetings of the IRB(s) for review of each research activity will occur not less than every 12 months and may be more frequent, if required by the IRB on the basis of degree of risk to subjects. The IRB may be called into an interim review session by the chair at the request of any IRB member or institutional official to consider any matter concerned with the rights and welfare of any subject.
 - I. The IRB(s) will prepare and maintain adequate documentation of its/their activities in accordance with Section 46.115 and in conformance with ORS requirements.
 - J. The IRB(s) will forward to the Office of Research Administration any significant or material finding or action, at least to include the following:
 1. injuries or any other unanticipated problems involving risks to subjects or others,
 2. any serious or continuing noncompliance with the regulations or requirements of the IRB, and
 3. any suspension or termination of IRB approval.
 - K. In accordance with Section 113, the IRB(s) will have the authority to suspend or terminate previously approved research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects.
 - L. The IRB(s) for this institution will ensure effective input (consultants or voting or nonvoting members) for all initial and continuing reviews conducted on behalf of performance sites where there will be human research subjects. IRB minutes will document attendance of those other than regular voting members. The IRB list(s) available at ORS include(s) those who are identified as knowledgeable about any affiliate institution having entered into an Inter-Institutional Amendment or other Assurance when relying on one or more of the IRBs of this institution.
 - M. Certifications of IRB review and approval will be forwarded through the ORS to the appropriate sponsor by such departments or agencies.
 - N. The committee will review all research plans that are not deemed to be exempt from review under 45 CFR 46 and will require review by the full committee in all instances when:
 1. Procedures that expose the subject at more than minimal risk.
 2. Procedures that would take from the subject money or other resources.
 3. Procedures that expose the subject to more than minimal risk of any mental stress.

4. Procedures using subjects who are not able adequately to judge the risk of harm inherent in the research, such as children and the mentally impaired.
5. Procedures using subjects who, because they are in a relationship of dependence on the researcher, are at risk of coercion for participating or maintaining participation. Subjects include all prisoners and medical patients, for example, and all students and employees of Duke University.

IV. Research Investigator

- A. Research investigators acknowledge and accept their responsibility for protecting the rights and welfare of human research subjects and for complying with all applicable provisions of the Assurance.
- B. Research investigators who intend to involve human research subjects will not make the final determination of exemption from applicable federal regulations or provision of this Assurance.
- C. Research investigators are responsible for providing a copy of the IRB-approved and signed informed consent document to each subject at the time of consent, unless the IRB has specifically waived this requirement. All signed consent documents are to be retained in a manner approved by the ORS.
- D. Research investigators will promptly report proposed changes in previously approved human subject research activities to the IRB. The proposed changes will not be initiated without IRB review and approval, except where necessary to eliminate apparent immediate hazards.
- E. Research investigators are responsible for reporting progress of approved research to the ORS, as often as and in the manner prescribed by the IRB on the basis of risks to subjects, but no less than once per year.
- F. Research investigators will promptly report to the IRB any injuries or other unanticipated problems involving risks to subjects or others.
- G. It is the responsibility of faculty members to supervise student research in their courses and departments. The appropriate faculty members will review student research in the areas of their responsibility and ensure that research plans are submitted in accordance with this Assurance.
- H. Faculty may appeal rulings by the ORS regarding exempt status or by the IRB to the Executive Committee of the Academic Council, which will determine whether or not to return a case to the IRB for a determinative vote.

V. Affiliated Institutions and Investigators

- A. Each affiliate of this institution that is involved in DHHS-sponsored research activities must provide to the ORS an appropriate written assurance of compliance with the Belmont Report and 45 CFR 46 (or equivalent protections if a foreign site).
- B. Each affiliate institution must respond to a request from ORS for an Inter-Institutional Amendment or for a Single Project Assurance, when and as appropriate.
- C. Each non-institutional affiliate who is involved in human subject research at this institution must respond to a request by ORS for a Noninstitutional Investigator Agreement, when required.
- D. Performance sites that are not legally inseparable components of this institution are not authorized to cite this Assurance.

VI. Specific IRB Procedures

- A. Regularly scheduled monthly meetings of the IRB are held September through June. Ad hoc meetings are held at the discretion of the chair in accordance with requirements of 45 CFR 46.
- B. A quorum consists of a simple majority of the IRB's membership, including at least one member whose primary concerns are in nonscientific areas. Actions requiring a vote are taken at convened meetings. Decisions are made by a majority of those present.
- C. Projects to be reviewed are submitted to the secretary (an administrative officer from the ORS), on the protocol form prescribed by the IRB, at least six days before the meeting at which they are to be reviewed. An agenda is assembled and distributed, well in advance, to all members. The IRB's files, together with the record of the meeting and the application submitted. Ordinarily, the task of maintaining necessary liaison with the project staff is assigned to the secretary.
- D. At the time of initial review, the IRB considers and determines whether further review is required at intervals more frequent than yearly. It determines also whether the nature of the project requires

that someone other than the investigator verify that any changes in the procedures recommended by the committee have indeed been made. These decisions are reported to the investigator in the communication referred to in the preceding paragraph. Each of those communications also contains instructions to the investigator requiring him or her promptly to report, and await committee approval of, proposed procedural changes. Similarly, investigators are instructed to report promptly to the IRB's chair and/or secretary the occurrence of unanticipated problems involving risks to subjects or others. It is the IRB's responsibility to ensure that such reports are promptly communicated to the secretary of DHHS when the work is funded by that agency, and to the full IRB in all cases.

- E. The membership and functioning of the IRB are reviewed annually by the senior vice president for research administration and policy and by the Executive Committee of the Academic Council. Members are appointed, or reappointed, each year by the senior vice president for research administration and policy acting upon the recommendation of the Academic Council; the ordinary term of service is three years; logistical support is provided by the secretary's administrative office, the Office of Research Support.
- F. The IRB shall conduct continuing review of research at intervals appropriate to the degree of risk, but not less than once per year.
- G. The IRB shall determine which projects need verification from sources other than the research investigators that no material changes have occurred since previous IRB review.
- H. The IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's decisions, conditions, and requirements or that has been associated with unexpected serious harm to subjects.
- I. The IRB shall have the authority and be responsible for promptly reporting information to the ORS, on a variety of issues. In conjunction with this requirement the IRB must be prepared to receive and act on information received from a variety of sources, such as human subjects, research investigators, the ORS, or other institutional staff. For reporting purposes, the IRB will follow the procedures described below:
 - 1. Any serious or continuing noncompliance by research investigators with the requirements of the IRB. This information shall be reported promptly to the ORS and the OPRR.
 - 2. Injuries to human subjects. Information received by the IRB concerning injuries to subjects shall be reported promptly to the ORS. The ORS is responsible for reporting to the OPRR.
 - 3. Unanticipated problems. Information received by the IRB concerning unanticipated problems involving risks to subjects or others shall be reported promptly to the ORS. The ORS is responsible for reporting to the OPRR.
 - 4. Suspension or termination of IRB approval. The IRB's suspension or termination of approval of research protocols shall include a statement of the reasons for the IRB's action and shall report the action promptly to the research investigator, the ORS, and the OPRR.
- J. The IRB shall prepare and maintain adequate documentation of IRB activities, including the following:
 - 1. Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by research investigators, and reports of injuries to subjects.
 - 2. Minutes of IRB meetings, which shall be in sufficient detail to show the names of attendees at the meetings; actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; a written summary of the discussion of controverted issues and their resolution; and dissenting reports and opinions. If a member in attendance has a conflicting interest regarding any project, minutes shall show that this member did not participate in the review, except to provide information requested by the IRB.
 - 3. Records of continuing review activities.
 - 4. Copies of all correspondence between the IRB and the research investigators.
 - 5. A list of IRB members as required by 45 CFR 46.103(b)(3).
 - 6. Written procedures for the IRB as required by 45 CFR 46.103(b)(4).
 - 7. Statements of significant new findings provided to subjects, as required by 45 CFR 46.116(b)(5).

The IRB shall provide for the maintenance of records relating to a specific research

activity for at least three years after termination of the last IRB approval period for the activity.

The IRB records shall be accessible for inspection and copying by authorized representatives of DHHS at reasonable times and in a reasonable manner, or shall be copied and forwarded to DHHS when requested by authorized DHHS representatives.

K. Expedited review.

1. The eligibility of some research for review through the expedited procedure is in no way intended to negate or modify the policies of this institution or the other requirements of 45 CFR 46.
2. The IRB may use the expedited review procedure to review minor changes in previously approved research during the period for which approval is authorized.
3. The only other research for which the IRB may use an expedited review procedure is that which involves no more than minimal risk to the subjects and involvement of human subjects will be in one or more of the categories indicated in 45 CFR 46.110 and as designated by the secretary.
4. Expedited review shall be conducted by the IRB chair or by one or more of the experienced IRB members designated by the chair to conduct the review.
5. The IRB member(s) conducting the expedited review may exercise all of the authorities of the IRB except that the reviewer(s) may not disapprove the research. The reviewer(s) shall refer any research protocol which the reviewer(s) would have disapproved to the full committee for review. The reviewer(s) may also refer other research protocols to the full committee whenever the reviewer(s) believes/believe that full committee review is warranted.
6. When the expedited review procedure is used, the IRB chair or member(s) conducting the review shall inform IRB members of research protocols that have been approved under the procedure.
7. At a convened IRB meeting, any member may request that an activity that has been approved under the expedited procedure be reviewed by the IRB in accordance with non-expedited procedures. A vote of the members shall be taken concerning the request and the majority shall decide the issue.

L. Full committee review.

1. Research protocols scheduled for review shall be distributed to all members of the IRB prior to the meeting.
2. When it is determined that consultants or experts will be required to advise the IRB in its review of a protocol, the research protocol shall also be distributed to the consultants or experts prior to the meeting.
3. All IRB initial review and continuing review shall be conducted at convened meetings and at timely intervals.
4. A majority of the membership of the IRB constitutes a quorum and is required in order to convene a meeting for the review of research protocols.
5. An IRB member whose concerns are primarily in non-scientific areas must be present at the convened meeting before the IRB can conduct its review of research.
6. For a research protocol to be approved it must receive the approval of a majority of those members present at the convened meeting.
7. No IRB may have a member participating in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.
8. In cases where research activities were initially approved under expedited procedures and subsequently reviewed by non-expedited procedures, the decisions reached at the convened meeting shall supersede any decisions made through the expedited review.

**Appendix Q: POLICIES RELATED TO RESEARCH
POLICY ON INVENTIONS, PATENTS,
AND TECHNOLOGY TRANSFER**

**POLICY ON COPYRIGHTABLE INTELLECTUAL
PROPERTY**

**INTERPRETATIONS OF THE POLICY ON INVENTIONS,
PATENTS, AND TECHNOLOGY TRANSFER
PATENT AGREEMENT**

UNIVERSITY-INDUSTRY GUIDELINES

POLICY ON DATA RETENTION AND ACCESS

**DUKE UNIVERSITY POLICY AND PROCEDURES
GOVERNING MISCONDUCT IN RESEARCH**

PRINCIPAL INVESTIGATOR STATUS

PROGRESS OF A PROPOSAL—CAMPUS

PROGRESS OF A PROPOSAL—MEDICAL CENTER

Policy on Inventions, Patents, and Technology Transfer

I. Preamble and Objectives

Duke University is dedicated to teaching, research, and the expansion of knowledge. Although the university does not undertake research or developmental work principally for the purpose of developing patents and commercial applications, patentable inventions sometimes result from the research activities carried out wholly or in part with university funds and facilities. It is the policy of the university to assure the utilization of such inventions for the common good and, where necessary, to pursue patents and licenses to encourage their development and marketing.

Duke University has established the following policies and procedures with respect to inventions, patents, and technology transfer in order to:

- A. Promote the university's academic policy of encouraging scientific research and scholarship;

- B. Serve the public interest by providing an organizational structure and procedures through which inventions which arise in the course of university research may be made readily available to the public through established channels of commerce;
- C. Encourage, assist, and provide tangible reward to members of the university community who make inventions processed under this policy.
- D. Establish principles and uniform procedures for determining the rights and obligations of the university, inventors, and sponsors, with respect to inventions arising during the inventor's and sponsor's association with the university;
- E. Enable the university to enter into institutional agreements with federal research funding agencies;
- F. Produce funds for further scientific investigation and research and for the overall needs of the university.

II. Administrative Responsibility

- A. The president of the university shall be responsible for administrative matters relating to inventions, patents, and technology transfer and shall represent the university in all matters of policy affecting the university's relations with inventors, government, private research sponsors, industry, and the public. The president may designate another senior administrative officer to carry out these responsibilities in whole or in part.
- B. Director of the Office of Science and Technology. The president of the university shall appoint a director of the Office of Science and Technology who may be a full or part-time employee of the university or a recognized patent management organization. The director of the Office of Science and Technology shall:
 1. Establish liaison with appropriate faculties to monitor research and to assist in the identification of potentially patentable discoveries and in the reporting of such discoveries;
 2. Establish liaison with federal and private sponsors of research and ensure compliance with any provisions in sponsored research agreements regarding inventions;
 3. Receive all disclosures of invention submitted under this policy;
 4. Determine the ownership of and equities involved in inventions, in accordance with Section V below;
 5. Determine whether an invention in which the university has an equity is patentable;
 6. In consultation with the inventor, evaluate potential commercial use and investigate possible courses of action for patenting and/or marketing inventions in which the university has an equity;
 7. Negotiate patent licensing and technology transfer agreements;
 8. Maintain complete records on all disclosures and other patent matters of interest to the Duke administration;
 9. Serve as an ex-officio member of the Intellectual Property Committee in the capacity of secretary, and prepare an annual report to the committee;
 10. Promote the cross-fertilization of ideas within the Duke scientific community consistent with the need for confidentiality of potentially patentable subject matter until patent applications have been filed.
- C. Intellectual Property Committee. The president of the university shall appoint an Intellectual Property Committee consisting of five members. Three committee members shall be selected from the faculty and two from the administration. One faculty member shall be selected from the School of Medicine and one from the Pratt School of Engineering. The chairman shall be designated by the president of the university. The committee shall:
 1. Receive and review the annual report of the director of the Office of Science and Technology and consult with the director of the Office of Science and Technology when requested.
 2. Report to the president on the implementation of this policy, and recommend such new or different policies or guidelines as may be more suitable for the achievement of its objectives.
 3. Sit as a tribunal for the resolution of specific disputes involving the ownership of and equities involved in inventions, on appeal from decisions of the director of the Office of Science and Technology.
 4. Receive requests for interpretations of this policy and, after deliberation, recommend to the president such interpretations as it considers appropriate.

III. Invention Management

- A. For all inventions assigned to the university under this policy, the university will at no expense to the inventor make reasonable efforts to evaluate the interest to others in commercializing the invention, seek licenses and options for licenses, have applications for patents filed and prosecuted, and otherwise manage the inventions or arrange for their management by recognized patent management organizations. The university may assign such inventions to a foundation or corporation organized by the university for purpose of patent management.
- B. The university will normally evaluate potential commercial use of an invention prior to the filing of patent application. Options to license and other contractual arrangements appropriate in the circumstances will normally be sought as early as possible as a validation of potential commercial use. If the university determines that neither commercial possibilities nor the potential contribution to the public good warrants proceeding further, the invention will be returned to the inventor and shall belong to him unless such action is precluded by prior agreement with sponsors. The university shall make such determination within a reasonable time, in no event longer than one year from the date of disclosure.
- C. In licensing, sale, or other disposition of rights to inventions, the university will seek to guard against repressive practices. Royalty rates shall be reasonable and consistent with the goal of the university effectively to transfer technology in the public interest. Where feasible, the university will grant non-exclusive, reasonable royalty-bearing licenses to all qualified licensees. However, the university recognizes that non-exclusive licensing in many cases may not be effective in bringing the invention to the commercial market in a satisfactory manner and thus will grant an exclusive license if it determines that such is required in the public interest to encourage the marketing and eventual public use of the invention. In all cases, the university shall reserve to itself a right to make or have made and to use the invention within Duke University for its own purposes.
- D. If within a reasonable time from the date of issuance of the patent the university does not license or sell a patent assigned to it, ownership of the patent will revert to the inventor at his/her request.

IV. Report of Inventions

University employees who during their associations with the university invent a device, product, or method, whether or not on university time or with university facilities, shall cooperate with the university in defining the rights to such inventions by promptly reporting to the director of the Office of Science and Technology on the university's Invention Disclosure Form. The term university employees, for purposes of this policy, includes all faculty, staff, and other persons receiving compensation from the university for services rendered, as well as students and graduate assistants, whether compensated or not, who work on any research project under university control.

V. Ownership of Inventions and Supportive Technology

- A. Inventions resulting from research or other work conducted by university employees wholly on their own time and without use of university funds or facilities shall be considered the property of the inventor and may be patented and/or commercialized by the individual at the individual's expense. It is recognized that when the invention is within the specific subject area of the inventor's current and ongoing university research activities, disputes may develop concerning whether the work was conducted by university employees wholly on their own time and without use of university funds or facilities. In order to reduce the possibility of such disputes, it shall be the responsibility of the employee to provide his departmental chairman notice that he is engaging in research activities independently within the subject area of his current university research, and describe in such notice the focus of these independent research activities, with a copy to the provost or chancellor for health affairs. In questionable cases, it shall be the responsibility of the inventor to demonstrate that the above criteria are present.
- B. Inventions resulting from research or other work conducted by university employees wholly on their own time, but involving some but not significant use of the university funds or facilities, shall be considered the property of the individual and may be patented and/or commercialized by the individual at the individual's expense. The university will not construe the payment of salary from unrestricted funds nor the provision of office or library facilities as constituting significant

- use of university funds or facilities. However, a percentage of gross returns to the inventor shall be remitted, in recognition of the use of university facilities, to the university, as provided hereafter.
- C. Inventions resulting from research or other work conducted by university employees in whole or in part on university time or with significant use of university funds or facilities shall be considered the property of the university. Employees shall upon request assign to the university all rights and title to such inventions and shall make known and available to the university all supportive technology related to the same. Supportive technology is intended to include any nonpatentable invention which would assist the university in achieving the goals of this policy. If the university decides not to request assignment of all rights and title to such an invention, and if there are no restrictions by any outside sponsor of the research, the university may release its proprietary interest to the inventor.
 - D. Inventions arising from research financed by the U.S. Government are controlled by the terms of the applicable grant or contract. The university is obligated to report to the appropriate government agency all such inventions or discoveries for definition of the government's rights and interests. In cases where the government claims no patent rights or waives its rights, university patent policies will control, subject to such limitations as the government may impose.
 - E. Inventions resulting from research or other work sponsored by nongovernmental entities are controlled by the terms of the research agreement, if applicable, and if not, by university patent policies.
 - F. Where mutually agreeable between inventors and the university, and on terms and conditions acceptable to both, the university will accept by assignment, bequest, or other appropriate instrument, title to inventions falling in sections A and B above.
 - G. Any dispute between the director of the Office of Science and Technology and the inventor as to the determination of equities in an invention shall be resolved by the Intellectual Property Committee. The decision of the Intellectual Property Committee may be further appealed to the president or, upon the president's referral, to the Board of Trustees.
 - H. Any use of the university's name in connection with the commercialization of an invention by an individual shall be approved in advance by the university.

VI. Division of Income

- A. All income derived from inventions falling within Article V, section A above shall belong to the inventor.
- B. All inventions falling with Article V, section B shall be patented and/or commercialized, if at all, under a simple agreement between the university and inventor which shall provide for periodic reports of sales subject to royalties and for payment to the university of ten percent (10%) of gross income derived by the inventor as royalties on the invention. The president and senior officers may decide that such payment be reduced or eliminated if it appears that a 10% contribution is excessive under the circumstances.
- C. All income derived from inventions falling within Article V, section C shall be distributed in accordance with the following rules:
 - 1. The university will first deduct any direct expenses incurred by it in connection with the initial patenting and commercialization of the invention. Any such expenses incurred by the inventor with the prior approval of the director of the Office of Science and Technology will also be deducted and paid to the inventor.
 - 2. The university will then pay and distribute the income remaining after payment of direct expenses in the following manner:
 - a. income from \$0 to \$500,000:
 - (1) fifty percent (50 %) thereof to the inventor;
 - (2) ten percent (10 %) thereof to the Office of Science and Technology;
 - (3) ten percent (10 %) thereof to the inventor's laboratory until, in the discretion of the president after consultation with the chancellor of health affairs or the provost, this distribution equals the maximum amount which can reasonably be expended in that laboratory, after which any excess shall be added to and distributed as a part of the twenty percent (20%) share to be distributed for research support in accordance with VI.C.2.a.(v) below;
 - (4) ten percent (10 %) thereof to the inventor's department; and

- (5) twenty percent (20 %) thereof to provide research support in the university as determined by the president upon the advice and counsel of the chancellor for health affairs or the provost.
 - b. income from \$500,000 to \$2,000,000:
 - (1) thirty-three percent (33 %) thereof to the inventor;
 - (2) ten percent (10 %) thereof to the Office of Science and Technology;
 - (3) fifteen percent (15 %) thereof to the inventor's laboratory until, in the discretion of the president after consultation with the chancellor of health affairs or the provost, this distribution equals the maximum amount which can reasonably be expended in that laboratory, after which any excess shall be added to and distributed as a part of the twenty percent (20%) share to be distributed for research support in accordance with VI.C.2.b.(vi) below;
 - (4) fifteen percent (15 %) thereof to the inventor's department;
 - (5) seven percent (7 %) thereof to the inventor's school; and
 - (6) twenty percent (20 %) thereof to provide research support in the university as determined by the president upon the advice and counsel of the chancellor for health affairs or the provost.
 - c. \$2,000,000 and higher:
 - (1) twenty-five percent (25 %) thereof to the inventor;
 - (2) ten percent (10 %) thereof to the Office of Science and Technology;
 - (3) fifteen percent (15 %) thereof to the inventor's laboratory until, in the discretion of the president after consultation with the chancellor of health affairs or the provost, this distribution equals the maximum amount which can reasonably be expended in that laboratory, after which any excess shall be added to and distributed as a part of the twenty percent (20%) share to be distributed for research support in accordance with VI.C.2.c.(vii) below;
 - (4) fifteen percent (15 %) thereof to the inventor's department;
 - (5) five percent (5 %) thereof to the inventor's school;
 - (6) ten percent (10 %) thereof to a quasi-endowment fund established by the university to provide direct support for graduate and post-doctoral research, as the president of the university shall direct; and
 - (7) twenty percent (20 %) thereof to provide research support in the university as determined by the president upon the advice and counsel of the chancellor for health affairs or the provost.
3.
 - a. If for any reason the inventor ceases to be a university employee or, if not an employee is no longer studying or working in research at the university, then the disposition of the share to which that inventor's laboratory would have been entitled shall be determined by the school.
 - b. For purposes of this Article VI.C., the word "inventor" shall include co-inventors as a group and related words such as "laboratory" shall include not only the singular but also the plural form of the word, as may be appropriate.
 - c. For purposes of this Article VI.C., the dollar ranges in paragraphs VI.C.2.a. (0 to \$500,000), VI.C.2.b. (\$500,000 to \$2,000,000), and VI.C.2.b. (\$2,000,000 and higher) above, shall be adjusted by the director of the Office of Science and Technology as of July 1 of each year to reflect the change, if any, in the cost-of-living, such adjustment to be effective for the fiscal year from that July 1 through the following June 30. The cost-of-living adjustment to be made each year shall be the cost-of-living adjustment calculated by the Department of Human Resources of the university for use by that department in determining wage and salary levels for the fiscal year for which the adjustment of dollar ranges under this Article VI.C. will be effective (whether or not such wage and salary adjustments are implemented). In any year in which the Department of Human Resources of the university does not make such a calculation, then the director of the Office of Science and Technology shall obtain the same cost-of-living calculation from the Department of Human Resources which that department would have made for determining wage and salary levels if that calculation had been required by that

department, for the purpose of making the adjustments required by this Article VI.C.3.c. The adjustments shall be published as amendments to this policy no later than July 1 of each year in which such amendments are effective.

- d. For purposes of this Article VI.C., the net income referred to in paragraphs VI.C.2.a. (0 to \$500,000), VI.C.2.b. (\$500,000 to \$2,000,000), and VI.C.2.b. (\$2,000,000 and higher) above, as the same shall be adjusted from time to time, shall mean the cumulative net income earned from inventions.
- D. Income from inventions falling within Article V, section D, where the government claims no patent rights or waives such rights, shall be distributed in accordance with Article VI, section C above, unless the waiver or other agreement between the university and the government provides for a different distribution.
- E. In the case of inventions falling within Article V, section E, any royalties received by the university shall be distributed in accordance with Article VI, section C above, unless the contract between the university and the sponsor provides for a different distribution.
- F. Income from inventions falling within Article V, section F, shall be distributed in accordance with the agreement between the inventor and the university.

VII. Publication

Inventors should be aware that publication prior to the filing of a U.S. patent application is a bar to the grant of certain foreign patents and can bar the grant of a U.S. patent if it occurred a year earlier than the filing date.

VIII. Interpretation

Questions of interpretation concerning this policy shall be submitted to the Intellectual Property Committee and resolved, after consideration of the Intellectual Property Committee's recommendations, by the president or, upon the president's referral, by the Board of Trustees.

IX. Termination or Revision of Policy

This policy may be changed or discontinued at any time by action of the Board of Trustees. Such changes or discontinuance shall not affect rights accrued prior to the date of such action.

X. Agreements

The policy as amended from time to time shall be deemed to be a condition of initial or continuing employment of every university employee and a condition of enrollment and attendance of every student who works on any research project under university control. All such employees and students will be expected to sign agreements incorporating the terms of this policy; but failure to sign shall not affect the applicability of the policy nor relieve any employee or student from the obligations imposed by it. Any use of university funds or facilities after the effective date of this policy shall be subject to this policy.

XI. Effective Date

This revision of the policy on Inventions, Patents, and Technology Transfer shall be effective July 1, 1996.

DUKE UNIVERSITY POLICY ON INTELLECTUAL PROPERTY RIGHTS

Approved May, 2000. To be effective July 15,2000.

I. (General Principles)

- A. Duke's primary mission lies in the creation and dissemination of knowledge in works of the intellect, in whatever medium (tangible or otherwise) they may be embodied or expressed. This Policy recognizes and acknowledges that intellectual property rights (other than patent rights) may arise in such works from time to time as a result of efforts by members of the Duke community. The Policy addresses certain recurring issues of ownership with respect to such rights. (*Footnote 1*)
- B. In this Policy Duke reaffirms its traditional commitment to the personal ownership of intellectual property rights in works of the intellect by their individual creators, whether the creators work alone or with others, and whether they work privately or as members of the Duke community.
- C. As in the past, Duke also may create or commission such works in its own behalf, whether as works-for-hire or otherwise; and Duke may acquire such works from, or develop them in company with, individual authors on mutually agreeable terms.

II. (Recurring or Categorical Exceptions)

- A. Notwithstanding the general principles respecting individual ownership expressed in Article I, intellectual property rights arising in certain categories of academic works (i.e., works primarily related to the teaching or research missions of the university), appear to justify exceptional treatment on a recurring or categorical basis:
 - 1. Computer programs, when the programs are primarily created to perform utilitarian tasks.
 - 2. Data bases and similar collections of information which are obtained primarily on behalf of schools or departments rather than individuals, or which involve issues of privacy (as in the case of medical patients or identifiable human subjects) or require approval by the University's Institutional Review Board.
 - 3. Works supported by extraordinary allowances, grants or subventions (whether in money or money's worth, and whether or not supported by outside sources under contract), when designated as such in advance by the University. Works obviously created in such circumstances prior to the date of this Policy shall be deemed covered by this Policy without requiring that prior designation have been given.
 - 4. Collaborative works by persons working as members of the Duke community, when numerous individual original contributions are indistinctly merged, as a practical matter, into a new and distinct work fixed in a tangible medium of embodiment, and the individual creators have not entered into an agreement with respect to joint authorship.
 - 5. Intellectual property rights in works supported by grants or contracts shall be governed according to the terms and conditions of such grants or contracts or, in the event such grants or contracts are silent as to intellectual property rights, such grants or contracts shall be governed by this policy.
- B. In each instance, the intellectual property rights arising from the creation of these works shall vest (as works for hire or the equivalent) in Duke, which may thereafter grant licenses or royalties or both to individual creators or contributors on just and reasonable terms.

III. (Particular Provisions Applicable to Courses of Instruction Approved for Duke Credit)

- A. Intellectual property rights arising in courses approved for Duke University credit ordinarily belong to their individual creators in accordance with the general principles expressed in Article I of this Policy; but rights may vest in Duke to the extent that a course (or some portion of it) is created, acquired or developed by Duke under Article I, or when the course (or some portion of it) falls within the exceptions set forth in Article II.

- B. With respect to each such course (and whether the rights in that course belong to an individual creator or to Duke), every member of the university community at large (including students, faculty, staff and administrators) shall enjoy a permanent non-exclusive, royalty free license to make all traditional, customary or reasonable academic uses of the immediate content of that course (the License).
 - 1. The "immediate content" of a course includes both the ideas and the expression arising *ex tempore* as the course is actually taught and delivered to students in the classroom (or otherwise at an assigned time or place); and this is so even when a permanent record of the delivery of the course is simultaneously made, as in the case (for example) of a videotaped recording of a lecture. To this extent "the immediate content" of the course is subject to the License.
 - 2. But works which are created outside the classroom (or otherwise beyond the immediate temporal setting in which a course is taught or delivered) - works (for example) such as books, texts, articles, notes for lectures, outlines, photographs, videos, films, recordings, audiovisual works and the like - are not part of "the immediate content" of a course, even if they are created expressly for the purpose of being assigned or used (in whole or in part) in the actual teaching or delivery of a course. Rights in these works are not subject to the License created by this Policy, though of course they remain subject to other more general legal or customary principles applicable to fair use, whether in the academy or elsewhere.
- C. The License shall be presumed to spring into existence automatically, by virtue of a course's approval for credit by Duke with the consent of any individual rights-holder; no additional formality shall be required. No royalty shall be payable for the License, sufficient consideration for which shall be deemed to reside in the mutual benefit realized by Duke and the consenting rights-holder, as well as by the individual members of the university community.
- D. The License shall include a particular right in students duly enrolled in a course to take class notes for their personal use; but notes in a course shall not be taken or disseminated for commercial purposes unless approved by the instructor.
- E. The License also shall include a right in Duke to offer the course, or to develop and offer derivative courses of instruction, in both conventional and non-conventional settings (including courses intended for use in internet distance education projects), whether at Duke or elsewhere. The License shall continue to be available to Duke even if the faculty member in whom individual rights otherwise vest should leave Duke.
- F. No claim of rights in teaching style or the like will be recognized under this Policy; but individual instructors may claim personal rights of privacy against non-consensual commercial exploitation of their name, likeness or private personality.
- G. A willing instructor who creates a highly original or singular course ordinarily may expect a preference (as against the claims of others) with respect to any assignment to teach that course (whether in conventional or unconventional settings) from time to time; but no continuing entitlement is implied as against reasonable administrative considerations to the contrary, including the particular demands or prerequisites of the curriculum.

IV. (Particular Provisions Applicable to Internet Distance Education Projects)

Given the increasing presence of digital technologies, and the growing likelihood that distance education projects via the internet may bring about significant changes in the practices and fortunes of the academy, it appears prudent to establish additional provisions particularly applicable to such projects:

- A. Duke may appropriately consider any internet distance education project that offers the promise of securing and advancing Duke's place among the leading universities of the world. To that end, Duke may participate in the development of such projects with members of its own community; or it may enter into relationships with persons outside the established academic community. In either case, it may enter into such projects on terms and conditions which are fair and reasonable in the circumstances, whether or not they are customary in the academy, so long as they do not adversely affect the fundamental principles of governance, tenure and academic freedom otherwise recognized in conventional settings at Duke from time to time.

- B. An individual member of the Duke Faculty, who is employed on a permanent full time or equivalent basis, and who intends to enter into any non-Duke internet distance education project in which he or she proposes to teach a course regularly or recurrently, shall first disclose the proposed undertaking in advance to his or her Dean or Department Chair (or their designate), who will examine the proposed undertaking in order to insure that no conflict of interest or commitment will arise.
1. Conflicts of interest or commitment will be addressed generally in accordance with the terms of the University Policy on Conflicts of Interest in force from time to time.
 2. In addition, a conflict of interest or commitment will be presumed to arise under this Policy on Intellectual Property Rights:
 - a. when an individual proposes to teach a non-Duke internet course substantially equivalent to a conventional course he or she is regularly assigned to teach at Duke;
 - b. when an individual proposes to teach a non-Duke internet course in circumstances likely to be directly competitive with an existing or proposed Duke internet course which he or she has been offered an opportunity to teach;
 - c. when an individual proposes to participate in teaching a non-Duke internet course in circumstances likely to confuse or mislead the public with respect to his or her primary obligations or allegiance as a member of the Duke Faculty; or
 - d. when an individual proposes to participate in teaching a non-Duke internet course in circumstances likely to impair the continuing performance of his or her primary responsibilities at Duke.

The Dean or Department Chair (or their designate) who examines a proposed undertaking in which a conflict of interest or commitment presumptively arises under this Sub-Paragraph (2) may determine that the conflict is trivial, or that it can be cleared on terms reasonably calculated to serve the best interests of Duke and the individual faculty member alike, and in either case shall give notice to that effect in writing within ninety days, both to the individual and to the Provost; but in the absence of such a determination the individual shall not proceed further with the undertaking as proposed while remaining a member of the Duke faculty.

A faculty member who has engaged appropriately in a non-Duke distance education project as provided above shall nevertheless repeat the process of notice and clearance annually thereafter with respect to his or her continuing participation in that project. If changed circumstances thereafter create a conflict as provided above, and the conflict cannot reasonably be cleared, the faculty member will withdraw from the project within one year of the date when the existence of that conflict is determined.

- C. The University Intellectual Property Board (established by Article VIII of this Policy) may develop additional interpretations or regulations reasonably designed to implement these provisions, and may promulgate additional requirements with respect to prior notice and clearance. But the purpose of all such additional interpretations, regulations or requirements will be to avoid unreasonable conflicts and the appearance of evident professional impropriety, rather than to limit unduly an individual's ability to engage in suitable outside professional activities, including distance education projects; and to that end, Duke will exert reasonable efforts to clear such conflicts and to eliminate any appearance of impropriety through appropriate disclaimers, licenses or the like.

V. (Provision for Declaring Extraordinary Exceptions)

The Provost, acting upon the advice or recommendation of the University Intellectual Property Board, and with the concurrence of the Executive Committee of the Academic Council, may declare additional exceptions to these principles prospectively, on just and reasonable terms, when a particular transaction or category of work appears to require extraordinary treatment. Works created specifically for or in the context of the emerging digital or internet environment, and particularly when intended directly for use in distance education ventures in which the University proposes to invest its own singular identity, may justify extraordinary treatment more often than do works in traditional media. Exceptions limited to compulsory non-exclusive licenses from an individual creator to Duke, accompanied by suitable provisions for royalty

payments by Duke, will appear just and reasonable more often than will appropriations of a creator's entire intellectual property rights in a work.

VI. (Moral Rights)

The moral rights of each individual creator will be respected to the extent practicable in every case contemplated by this Policy; and in no case will the University fail to recognize an individual creator's entitlement to acknowledgment, attribution or other appropriate credit, to the fullest extent practicable.

VII. (University Name and Identity)

- A. Intellectual property rights arising in Duke University's name, logos and other impedimenta of identity belong to Duke. Such rights may be licensed from time to time upon suitable terms and conditions approved by the President or her delegates, taking into full and appropriate account the research, teaching and collegial missions of the University.
- B. Members of the Duke Community may identify themselves as such from time to time, with such indicia of their status as is usual and customary in the academy; but any use of Duke's name, logos or impedimenta of identity shall be reasonably calculated to avoid any confusing, misleading or false impression of particular sponsorship or endorsement by Duke, and when necessary shall include specific disclaimers to that end.

VIII. (University Intellectual Property Board)

- A. This policy shall be interpreted and administered by a new University Intellectual Property Board, to consist of seven members appointed by the Provost, no fewer than four of whom shall be members of the faculty nominated by the Executive Committee of the Academic Council (and from among whom the Committee's Chair shall be appointed). Members of the Board shall serve initial terms of one to three years (as designated by the Provost); upon the expiration of each such initial term, successor members of the Board shall be appointed thereafter for a term of three years. A member may be reappointed from time to time upon renomination.
- B. The Board shall publish such additional interpretations, regulations and requirements, and shall take such other administrative actions, as are necessary to the suitable discharge of its duties and the adequate functioning of this Policy, including specific provisions for the further appointment of its members; but in every case the Committee's interpretations, regulations and requirements, as well as its administrative actions, shall be consistent with the provisions expressed in this Policy.
- C. The present University Intellectual Property Committee shall be renamed The University Patent Policy Committee, and shall retain continuing jurisdiction over the University Patent Policy, as further provided in Article XD. hereof.

IX. (Appeals and Arbitration)

A person aggrieved by the proposed application of any provision of this Policy may appeal within six months from the appearance of such grievance for a plenary ruling, on such grounds as appear relevant, just and reasonable, first, to the Provost of the University (or the Provost's delegates), who shall give decision within no more than ninety calendar days from the lodging of the appeal; and second, within ten business days after the Provost's decision, to the President of the University (or the President's delegates), who shall give decision in no more than ninety days from the date of the Provost's decision, and whose ruling shall end the University's claim of appellate jurisdiction in the matter. Thereafter, the aggrieved person may proceed as of right to binding arbitration before a single arbitrator pursuant to the commercial arbitration rules of the American Arbitration Association. Each party shall bear its own costs in connection with the proceedings; but in the event an Arbitrator finds that a party has proceeded in bad faith the Arbitrator may award costs and expenses (including attorneys' fees) to the other party.

X. (Effective Date; Prior Works)

- A. This Policy shall take effect upon approval by the President and the Provost, when concurred in by the membership of the Academic Council, and by the Board of Trustees of the University.
- B. The 1996 University Policy on Copyrightable Work shall be superseded by this Policy upon the effective date hereof.

- C. This Policy on Intellectual Property Rights shall constitute the sole Duke University Policy governing all non-patent intellectual property rights of every kind arising in any work of the intellect (cf, Article I, fn 1), and in any medium in which the work may be embodied or expressed.
- D. This Policy on Intellectual Property Rights, and the Policy on Inventions, Patents, and Technology Transfer (effective July 1, 1996) (the Patent Policy), shall be construed in pari materia so as to give reasonable force and effect to the provisions of both policies. Otherwise, the Patent Policy shall not be affected in its application to the disclosure and subsequent management of inventions, patents or technology transfers; and the jurisdiction of the Patent Policy Committee with respect to the Patent Policy shall continue unabated, pro tanto.
- E. In the event of any conflicting interpretation of the two Policies by the Intellectual Property Board and the Patent Policy Committee, the President, the Provost, and the Chair of the Academic Council (acting jointly as a committee of the whole, to be chaired by the President) shall resolve the issue promptly; and their decision in the matter shall be binding upon both the Board and the Committee. In such a case, a "person aggrieved" by their decision (as contemplated in Article IX of this Policy) may elect thereafter to appeal as provided or to proceed directly to arbitration.
- F. Intellectual property rights in works created prior to the effective date of this Policy shall be treated in accordance with the principles articulated herein, to the extent that such treatment is practicable, just and reasonable.

Footnote 1. (Throughout this Policy, the term "intellectual property rights" includes, inter alia, copyrights, trademarks and unfair competition, trade secrets, rights of publicity or privacy, the law of ideas, moral rights, and all other neighboring rights of whatsoever kind; but the term excludes patent rights arising in inventions of the sort addressed in the University's Policy on Inventions, Patents and Technology Transfer, effective July 1, 1996. Know-how associated with patentable inventions or tangible material is not included in this policy.).

Interpretations of the Policy on Inventions, Patents, and Technology Transfer

The university agrees to the following interpretations of its policy on Inventions, Patents, and Technology Transfer.

1. Article III-A.

The university has created an Office of Science and Technology to manage all inventions assigned to it under this policy, and does not anticipate assigning any such inventions to an existing patent management organization such as Research Corporation. In the unlikely event the university decides to use such an organization for patent management, the inventor's agreement would be obtained in advance.

2. Article IV.

To avoid the possibility of adverse impact on faculty members' private consulting arrangements, the university intends to amend its disclosure form to first request information concerning the basic idea of the invention (what it will do but not how it does it) and the circumstances of its conception and/or development (whether on university time or not, what funding sources were involved, etc.). If the director of the Office of Science and Technology concurs with the inventor that the invention is not one in which the university has an equity under the patent policy, the remainder of the disclosure form need not be completed.

3. Article VII.

Inasmuch as a publication prior to the filing of a U.S. patent application is a bar to the grant of certain foreign patents and can bar the grant of a U.S. patent if it occurred a year earlier than the filing date, it may be necessary in some circumstances to temporarily restrict publication for short periods of time. Accordingly, the university may request employees to delay the publication date of any publication which discloses an invention made within the scope of their duties to the university until after a U.S. patent application has been filed on the invention, but in no event longer than three months.

Patent Agreement

This agreement is made by me with Duke University in consideration of my employment and/or my utilization of university research facilities.

I agree to notify the University (or any individual, corporation or governmental agency which the university may specify) promptly of any invention which I believe to be patentable and which I conceive or develop while employed by the University or while using any university research facilities, in order that determination of the rights and equities in such invention may be made in accordance with the Duke University Policy on Inventions, Patents, and Technology Transfer.

In the event the University desires to seek patent protection on any such invention which has been determined to be university property, I agree to assign to the University all my rights, title, and interest in and to such invention and to supply all information and execute all papers necessary for the purpose of prosecuting patent applications thereon. I understand that expenses for making such assignments and procuring such patents shall be paid by others than myself. I also understand that the University reserves the right to abandon the prosecution of any patent application.

If the University receives revenue from patents on inventions assigned by me pursuant to this agreement, I understand that I will share in these funds according to the distribution schedule set forth in the patent policy.

I further agree to do all things necessary to enable the University to fulfill its obligations to any person, corporation, or other agency sponsoring the particular research projects in which I am or may be engaged.

I understand that this agreement is part of the terms of my employment and that any contract of employment heretofore or hereafter entered into between me and the University shall be deemed to include this agreement except to the extent that an express provision of such contract of employment is inconsistent therewith.

Name (Print or Type)

Signature

Department

Date

University-Industry Guidelines

Preamble

Duke University wishes to increase its cooperation with private industry in the search for new and useful knowledge. Duke believes that, while maintaining academic traditions and values that advance the search for truth through free inquiry, it can find ways to combine its unique resources with the resources of private industry to investigate important questions of interest to the research sponsor, the university, its faculty, and the public as a whole. This document is a statement of principles and policies that will guide Duke in establishing fruitful research joint ventures with private firms.

There are, to be sure, certain potential conflicts between the missions of academic institutions and industrial sponsors of research. A fine university perceives its *raison d'être* to be the generation and dissemination of knowledge for the benefit of society as a whole; viewing knowledge as a public good, a university subscribes to the scientific tradition of fully and promptly making public all research findings so that others may build upon them. Industry, on the other hand, is usually interested in recouping and profiting from its investments in research by capturing, rather than freely sharing, the value of new knowledge. Universities are also interested primarily in pursuing fundamental research and are less interested in applications than industrial firms are apt to be.

Largely because of these differences in outlook, the production of new knowledge in the United States has in the past been rather rigidly divided between a public sector producing public goods (with universities supported by governments and philanthropy as a vital element) and a private sector producing information for proprietary use. The barriers between these two sectors may have inhibited the production of valuable knowledge by making it difficult to bring together the unique resources available only in universities with the private capital and research capabilities of industrial firms. While useful collaboration has occurred, the public would benefit substantially if the conflicts perceived between the public responsibilities of universities and the private interests of corporate research sponsors could be resolved in light of a higher common objective, the search for truth.

Duke believes that the overarching value to be served in these matters is the pursuit of useful knowledge and that this goal can be advanced both through maintenance of its own academic and scientific traditions and through cooperative projects with interested parties. Where these two paths to new knowledge necessarily diverge, Duke will seek to accommodate the conflict whenever possible. In cases where the university is convinced that special arrangements are necessary to protect a research sponsor's essential interests, Duke will seek a constructive solution to a sponsor's problems within the policy limits described here. However, as noted in detail below, Duke must also be satisfied that its own commitments to free inquiry, to education, to collegiality within the university, and to enlarging the common pool of knowledge will not be prejudiced by the terms of any particular arrangement.

The establishment and maintenance of research relationships with industry will be facilitated if all parties recognize from the beginning that the university adheres to certain principles and is guided in its actions by certain policies. For such policies to be effective in a rapidly changing environment, such as we have today, they must be wisely and flexibly interpreted. Interpreting the policies given below will be the responsibility of the Research Policy Committee, which it is recommended be created with the approval of this policy document. This committee is charged with advising the provost regarding the implementation of these policies, as well as with recommending those changes in the policy that may prove necessary or advisable.

The overriding goal of this policy is to promote close and imaginative working relationships between the university and industry that will nurture the development of new knowledge while still maintaining the integrity and independence of the university, its faculty, and students.

SECTION I: Policy

Acceptance of a Research Project

Circumstances may arise where it is considered to be in the university's best interests for a particular principal investigator to do certain research for a sponsor. In such cases, the investigator may feel some pressure to participate in such research. It is especially important that investigators be free not to accept

grants or contracts that, in their view, circumscribe their independence or control of their professional work.

POLICY: No principal investigator shall be required to participate in a particular research effort as a condition of employment at the University.

Direction of Research. Limits on the Sponsor's Power to Direct or Control Research

While public or private research sponsors may reasonably expect to define broadly the project they will support, university principal investigators may expect to have wide discretion in designing and modifying their sponsored research. Although the sponsor may consult on matters of concern, generally it is not appropriate for a sponsor to specify in detail how the work is to be done.

POLICY: A sponsor shall have the privilege to define broadly the topic of the research to be funded. The university principal investigator shall have final authority over the design and control of that research.

Limits on the Control of Sponsors Over the Scope of Legally Free-Standing Research Units

From time to time the university may choose to establish, in cooperation with a sponsor or sponsors, a research institute, center, or program that is legally free-standing from the university, but that depends upon faculty of the university for partial staffing. In such a situation, a sponsor may seek a formal voice in how its committed funds are spent. The situation, while offering important opportunities, also poses certain risks. In particular, if inappropriate control over the unit's research program is provided to the sponsor, the academic freedom of the faculty involved may be diminished.

POLICY: The University shall not participate in a joint free-standing research unit that would restrict the academic freedom of the faculty. The provost, advised by the Research Policy Committee, shall determine whether this risk exists and, if so, whether the level of risk is acceptable. The review by the committee and the provost shall take place before the university decides whether to enter into an agreement to create such a unit.

Publication

Tradition has long held that university researchers must be free to publish their research results. This freedom is essential if the university is to be the source of new knowledge for society. Therefore, it must be vigorously guarded. At the same time, good business practice requires that sponsors protect their proprietary rights, trade secrets, or other confidential information. These separate and legitimate interests may diverge on questions relating to publication. Clearly, it is in both the researcher's and the sponsor's best interests to find ways to protect academic freedom while at the same time meeting the nondisclosure requirements of the sponsor.

There are three ways in which a sponsor may affect the process of publication: by reviewing materials prior to publication; by delaying the date of publication; and by preventing publication.

Review Prior to Publication and Resulting Delay

The university has traditionally allowed a sponsor to review materials prior to publication, but such review has been allowed only under certain circumstances and has been limited to a reasonable period of time. This practice has been followed in order to prevent inadvertent disclosure of a sponsor's proprietary information and/or to allow the sponsor time to file proper proprietary protection on research-generated technology. Such a review may delay publication for no more than a brief period.

POLICY: A sponsor may, prior to publication, review materials resulting from research it has sponsored in those cases where possible proprietary right may be involved or where the University has been provided a sponsor's proprietary information. Such reviews should not delay publication for more than ninety (90) days, except with the approval of the provost.

Preventing Publication

While having due regard for the sponsor's interests, the university encourages the publication of research results. The university must retain final authority over publication rights, including the right to

publish. As a matter of policy, the final determination of what may be published or not published normally will remain with the University.

POLICY: Final determination of what may be published or not published shall remain with the University. The University will also retain the right to make a final determination with respect to publication of computer programs. Exceptions may be granted by the provost only after detailed review and upon the advice of the Research Policy Committee.

Communication among Research Colleagues

When a sponsored research project deals with proprietary information, the sponsor may wish to restrict the researcher's freedom to discuss the research with colleagues. While recognizing the need for researchers to protect the sponsor's proprietary rights, the university recognizes a concomitant responsibility to honor the researcher's membership in an intellectual community. It is essential that the free exchange of ideas among colleagues not be inappropriately restricted.

POLICY: Agreements to treat as confidential information generated by research done at the University are ordinarily unacceptable. There may, however, be situations where exceptions to these guidelines are consistent with the university's educational, professional, and scholarly principles. Such exceptions are granted by the provost only after detailed review and upon the advice of the Research Policy Committee.

It is also the responsibility of each individual researcher to protect freedom to communicate with colleagues and to refuse to enter into sponsored agreements that will restrict that freedom in unreasonable or unacceptable ways.

Freedom to Do Related Work

One potential concern of a sponsor may be that a faculty member whose research it is funding will do closely similar research for a second sponsor. This could undermine the first sponsor's competitive and legal position. To address this concern, the sponsor may sometimes ask the university to include language in the sponsoring contract assuring that such parallel research will not take place. The university has a different concern: that such language might limit the academic freedom of the researcher to do research in related but different areas.

POLICY: A sponsor may request that, prior to entering into additional sponsored research agreements to do research that is closely similar to the research sponsored by that sponsor, a researcher will notify the sponsor of that intention. In such situations, the University will only consider restricting the freedom of the researcher to do such related work if the first sponsor raises a concern about protecting its proprietary rights prior to the signing of the second agreement. The University will agree to restrict the activities of a researcher to do related work only if there is a reasonable possibility that the work done for the second sponsor will infringe on the proprietary rights of the first sponsor under the pre-existing sponsored agreement.

Best Efforts

A sponsor making a financial commitment to a particular research project may desire to reduce its risk by stipulating the expected results as specifically as possible. While recognizing the sponsor's right to require reports to be provided by certain dates, the university is not able to guarantee to a sponsor that a particular research project will succeed or produce particular results. Instead, the university will commit to using best efforts in conducting a research project.

POLICY: Since state-of-the-art research is by nature unpredictable and without guarantee of success, research within the University is conducted on a best efforts basis. However, a good faith effort will be made to organize research projects in a manner that is sensitive to the special needs and time constraints of the sponsor.

Graduate Student Involvement

- G. Graduate Students and Proprietary Information. An essential aspect of education, in particular graduate education, is the development and dissemination of new knowledge through publication of research results. This reflects the academic community's belief that the sharing of knowledge

advances knowledge. In this context, the use of confidential information in research poses risks. When faculty participate in research that involves the handling of proprietary information, the university believes that a student's participation under such circumstances should be monitored by a third, disinterested party.

POLICY: In general, students shall not participate in projects that, because of confidentiality or other factors, might constrain their right to publish or communicate freely. Exceptions to this policy must be approved in writing by the student's chair (or chairs, if the faculty member is in a second department) or dean (or deans if the faculty member is in a second school). The student shall also sign this document to signify understanding of the issues involved. Copies of the signed document must be sent to both faculty member and student before the student may become involved in the project.

- H. Graduate Student Involvement in Faculty's Outside Professional Activities. The university recognizes that benefits may accrue to students, and in particular graduate students, who are able to participate in the outside professional activities of faculty. Such participation may result in intellectual growth, the acquisition of new skills in frontier areas of knowledge, and additional income. At the same time, it is understood that these arrangements are likely to change the relationships between faculty and student in ways that are not always desirable. For example, a graduate student who, though very able, is not making satisfactory progress toward a degree because of absorption in a faculty member's growing new business, may present a dilemma for the instructor/supervisor. It should be added that the dilemma is one that the student may well be unaware of or unconcerned about. Most students welcome involvement in a faculty member's outside professional activity, and may not realize the potential problem the situation may create for the faculty member.

POLICY: To protect the student and the University, the appropriate chair and dean must give prior approval, in writing, for any involvement of students in the outside professional activities of faculty. The student must also sign this document, to signify understanding of the issues involved. Copies will be sent to both faculty member and student. The chair or dean is asked to review the case with particular care when the faculty member is the student's thesis advisor or supervisor as a teaching assistant, or if the student is already working full-time as a research assistant. In situations where, in the chair's and dean's judgment, the quality of the student's education or other university interests are in jeopardy, such arrangements should not be approved.

Conflict of Interest or Commitment and Outside Professional Activities

- A. Definitions of Conflict of Interest and Commitment. Conflict of Interest: a conflict of interest can be said to exist when a member of the university community has a relationship with an outside organization such that his or her activities within the university could be biased by that relationship in a direction that would ultimately provide direct financial benefit to the individual or a close family member. Conflict of commitment: a conflict of commitment can be said to exist when a member of the university community has a relationship that requires a commitment of time or effort to nonuniversity activities such that an individual, either implicitly or directly, cannot meet the usual obligations to the university. Obligations to the university are not discharged solely by meeting classes but require availability of faculty to students outside the classroom, participation in various committees, supervision of graduate and postdoctoral students, and progress in research programs. Any relationship with an outside organization that requires frequent and/or prolonged absence from the university presents a conflict of commitment.

POLICY: Faculty members shall avoid relationships that constitute a conflict of interest or a conflict of commitment.

- B. Conflict of Interest Procedures
1. Disclosure to Chairs/Deans: It has long been recognized that consulting, in certain situations, can create in a faculty member a conflict of interest or commitment. The university's policy of restricting a faculty member's consulting to one day a week addresses this issue in part.

Other situations in which faculty may face a conflict of interest or commitment include ownership (or management responsibilities) by a faculty member or his or her immediate family of a significant financial interest in an outside concern. Immediate family are defined as spouse and minor children.

POLICY: To assure that chairs and deans are informed about arrangements that may pose a conflict of interest or commitment, faculty members shall disclose to their chair or dean once a year and in writing their outside relationships with corporations or other business entities, as consultant, advisor, or manager. Information disclosed must include the name of the company, and the nature and scope of the relationship. No information about financial arrangements need be provided.

2. Disclosure to Senior Administrators

POLICY: Direct and active management obligations in such an enterprise raise the possibility of a conflict of interest. A faculty member is required to notify the provost in writing prior to accepting any such direct and active management obligation, and may assume that no conflict of interest exists unless otherwise notified by the provost. The provost may, at the time of acceptance or at a later time, require appropriate action to assure that no conflict of interest exists.

3. Research Policy Committee

POLICY: In cases where a faculty member wishes to appeal an interpretation or decision made under this policy by a chair, dean, or provost, or where a chair, dean, or provost wishes to consult others for advice before making such a decision, the case may be brought to the Research Policy Committee. On request from a faculty member, chair, dean, or provost, the committee shall review the status of that faculty member's (or his or her immediate family's) new or continuing significant financial interest in or managerial relations with a private enterprise. The committee shall report to the provost whether in their opinion this involvement may pose a conflict of interest or commitment.

4. Definitions of Certain Terms Used in This Policy. Significant financial interest in a private enterprise means holding more than twenty percent of the equity, options, or other types of corporate security. Such interests, if held by a faculty member's immediate family, shall fall within this definition. Direct and active management obligations include serving as a member of the board of directors, chief executive officer, chief operating officer, director of research, treasurer, or other senior line management officer.

5. University Business with Faculty Enterprises. The university's current policy governing its business dealings (i.e., contracts) with companies owned or controlled entirely or in substantial part by faculty is administered at present by the Conflict of Interest Committee. We recommend that the Research Policy Committee implement this policy instead, and that the Conflict of Interest Committee be dissolved.

SECTION II: Administrative Issues

Research Policy Governance at Duke University

There are at least seven offices and nine committees that have research-related responsibilities at the university. At present, coordination among these units is primarily informal, although individual units have some formal ties to each other as well. These units and their functions are:

Research Administrative Structure

Office of Research

Medical Center Development Office

Office of Grants and Contracts (Medical Center)

Office of Science and Technology
Office of Research Support
Office of Sponsored Programs
Office of University Development

Committees/Councils

Committee on Conflict of Interest
Institutional Animal Care and Use Committee
Institutional Biosafety Committee
Institutional Review Board (Medical Center)
Intellectual Property Committee
Research Policy Committee
Small Grants Committee (Medical Center)
University Research Council (non-Medical Center)
University Review Committee on the Use of Human Subjects in Nonmedical Research

Research Policy Committee

The Research Policy Committee is responsible at the request of the provost for reviewing university research policy, maintaining liaison with existing research committees and councils, reviewing major institutional proposals, and smaller proposals that have important policy implications.

Membership

The Research Policy Committee consists of representatives from both the faculty and administration. The committee is chaired by the senior vice president for research administration and policy. Five faculty members, knowledgeable about research and sponsored projects issues and representing a spectrum of fields, shall be appointed by the senior vice president for research administration and policy on the recommendation of the Academic Council and with the concurrence of the provost. Members who serve by virtue of their office or are appointed by a senior administrator are:

- Dean of the Graduate School;
- One member appointed by the chancellor for health affairs;
- One member appointed by the senior vice president for alumni affairs and development;
- One member appointed by the university counsel.

Policy on Data Retention and Access

As Approved by the Academic Council; revised May 5, 1994

The preparation and retention of appropriate records are essential components of research endeavors. These endeavors include all aspects of university research that are obtained and tested through the scientific method. The university, its faculty, and its trainees have a common interest and a shared responsibility to assure that research is appropriately recorded, archived for a reasonable length of time, and available for review under appropriate circumstances. Original research records are essential to protect intellectual property rights, to answer ongoing questions regarding management of a research program, and to address possible questions that may arise regarding the propriety of research conduct.

Definition of Research Records

Research records include (but are not limited to) material contained in research notes, laboratory notebooks, and other media such as computer disks and machine printouts. Research materials or products generated by the research may also become archived research records.

Retention of Data

Faculty, or the responsible investigators, have the obligation to ensure that, for all aspects of their research program, sufficient records are kept to document the experimental methods and accuracy of data collection as well as the methods and accuracy of data interpretation. This policy does not create an obligation to retain the research records of an unfunded project unless it results in publication or involves the use of animals or human subjects.

Research records should be archived for a minimum of five years after final reporting or publication of a project. The records archived should be the originals whenever possible. In addition, the records should be kept for as long as may be required to protect any patents resulting from this work or required by an external funding source. If any questions regarding the research are raised during the five-year retention period, the records should be kept until such questions are fully resolved. In the event an investigator leaves the university for any reason, he or she must notify his or her supervisor of the designated custodian and location of research records covered by this policy.

Access to Data

The university has the right of access to the supporting records for all research at the university or supported by university-sponsored funds provided such access to the records shall be for reasonable cause, at reasonable times, and after reasonable notice. The university's right of access to the data shall continue regardless of the location of the responsible investigator. Information or data that would violate the confidentiality of sources or subjects involved in the research should not be disclosed. Extramural sponsors providing support for research at Duke University may also have the right to review the data and records resulting from that extramural support. Co-investigators and trainees who are an integral part of a research project have the right to review all records and data that are part of that project.

Duke University Policy and Procedures Governing Misconduct in Research

Effective November 1995

The following policy and procedures shall apply to all research conducted at Duke University, and shall be the exclusive method for handling allegations of misconduct in research.

Policy

Duke University aims to foster an atmosphere of honesty and trust in which pursuit of knowledge can occur. Integrity of research forms the foundation of respect among scholars and students and between the academic world and the public. All members of the university community share responsibility for maintaining this climate of trust. Occasionally, however, scholars may, inadvertently or not, violate accepted norms of professional behavior, jeopardizing the reputation of the university, and possibly damaging their careers and those of colleagues.

Misconduct is especially serious in collaborative research, where the reputations of several researchers pursuing different parts of an integrated project may be damaged by the actions of one partner. Colleagues in a cooperative venture bear a mutual responsibility for ensuring the integrity of research performed and published jointly under their names. Investigators are encouraged to exercise care in selecting collaborators and to make periodic and reasonable inquiry concerning the integrity of research. Principal investigators must bear primary responsibility for ensuring the integrity of collaborative research performed under their supervision.

It is the responsibility of the principal investigator to ensure that non-faculty participants in research comply with the university policy on integrity of research. Department and section chairpersons and center directors are expected to make periodic and reasonable inquiry concerning the integrity of the activities conducted by their faculty.

Duke University has established procedures for handling allegations of misconduct in research. These procedures are in conformance with National Science Foundation and Public Health Service guidelines. In certain instances, these procedures may be modified to the extent necessary to conform with additional requirements of funding agencies. These procedures recognize the importance of handling allegations of misconduct in research in a timely fashion and with the utmost sensitivity and confidentiality.

The procedures outlined below are designed to ensure that charges of alleged misconduct are handled as fairly and judiciously as possible, and that there are no recriminations for a person bringing an allegation in good faith. The aim is to define clearly the mutual responsibility for integrity shared by the Duke community, and to make the preservation of trust more secure.

Misconduct--What Is It?

Misconduct in research is defined as fabrication, falsification, or plagiarism. In addition, other practices that seriously deviate from those that are commonly accepted within the research community for proposing, conducting, or reporting research are governed by this document. It does not include honest error or honest differences in interpretations or judgments of data. Institutional mechanisms are currently in place to address questions about financial improprieties (Internal Audit Office), human research subjects (Institutional Review Board), and the use of animals in research (Institutional Animal Care & Use Committee); though these issues will be reviewed and governed by those bodies as to compliance with relevant regulations and ethical standards, these matters are not precluded from review under the procedures governing misconduct in research. Criminal acts should be handled through the usual law enforcement agencies. By Federal regulation, all persons participating in National Science Foundation-funded activities are subject to this definition, and to misconduct review in the event of retaliation against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.

Examples of Activities Representing Misconduct

The following are but examples of misconduct; the list does not include all activities that would constitute misconduct:

1. Claiming the ideas or words of another to be one's own.

2. Including false statements or data in research proposals, progress reports, publications, or related documents.
3. Manipulating research procedures or data so as to bias results.
4. Failure to give appropriate recognition to people who have made significant contributions to the research.
5. Misuse of confidential material such as manuscripts and grant proposals received in the peer review process and proprietary information or materials.

Examples of Research Practices Which Are Inappropriate But Which Do Not Generally Represent Misconduct

1. Maintaining inadequate research records, especially for results that are published or are relied on by others.
2. Conferring or requesting authorship on the basis of a specialized service or contribution that is not significantly related to the research reported in the paper.
3. Refusing to give peers reasonable access to unique research materials or data that support published papers.
4. Releasing preliminary research results, especially in the public media, without providing sufficient data to allow peers to judge the validity of the results or to reproduce the experiments.
5. Negligence in supervising others in work for which the faculty member is responsible.

Examples of Activities Not Representing Misconduct

1. Honest differences in interpretation or judgments of data.
2. Honest errors in the recording, selection, or analysis of data.

Policy Development and Implementation

Research Policy Committee

The Research Policy Committee is a standing committee of the university and is responsible for:

1. reviewing misconduct in research policy and procedures on a regular basis and proposing modifications, as necessary;
2. notifying the academic community of misconduct in research policy and procedures;
3. ensuring that the research community is educated in the standards for the conduct, reporting, and supervision of research;
4. consulting with individuals about the policy and procedures governing misconduct in research;

Misconduct Review Officer

Two members of the academic administration will be designated as Misconduct Review Officers (MRO)--one for the university, appointed by the provost, and one for its Medical Center, appointed by the chancellor for health affairs. The MROs are responsible for:

1. receiving and handling allegations of misconduct in research in the manner provided for in the procedures set forth below;
2. providing necessary administrative support for the Standing Committee on Misconduct in Research and, as necessary, ad hoc committees;
3. serving as the focal point for communications with the parties involved in the misconduct review process, and maintaining a secure repository for misconduct review documentation;
4. taking appropriate action to safeguard and preserve relevant data or evidence relating to the allegation, or to ensure the health and safety of patients or personnel at Duke University.

Standing Committee on Misconduct in Research

Two Standing Committees on Misconduct in Research (SCMR) will be established--one for the university and one for its Medical Center:

1. the Executive Committee for the Academic Council will provide a list of nominees for the University SCMR to the provost who will appoint the University Committee;

2. the Basic Science Faculty Steering Committee and the Clinical Sciences Faculty Council on Academic Affairs will provide a list of nominees for the Medical Center SCMR to the chancellor for health affairs who will appoint the Medical Center Committee.

The SCMRs shall:

1. assess allegations referred from the relevant MRO to distinguish between carelessness or incompetence and misconduct;
2. determine if the allegation warrants a formal investigation;
3. advise the MRO of the need to ensure the health and safety of research participants and to preserve and protect physical evidence such as research data;
4. report to the MRO the assessment outcome in a written report accompanied by all relevant documents.

Ad Hoc Committee on Misconduct in Research

If, on the basis of the SCMR's allegation assessment or as a result of the decision of the vice provost for research or the vice chancellor for medical center academic affairs upon appeal by the complainant, it is determined that an investigation is warranted, the vice provost for research or the vice chancellor for medical center academic affairs (as appropriate) will:

1. appoint an ad hoc committee to determine whether misconduct occurred or not;
2. appoint a legal advisor to serve the ad hoc committee.

The ad hoc committee will consist of:

1. no fewer than three members;
2. individuals deemed necessary for the investigation to be carried out as completely and competently as possible.

Formation of the ad hoc committee will be governed by two principles:

1. the need for total impartiality on the part of the committee members;
2. the need for specific knowledge of the research field.

Other considerations in the formation of the ad hoc committee:

1. members must have no personal interest in the case;
2. departmental affiliation must be weighed.
3. the ad hoc committee may include senior professors and external scientists with knowledge of the individual suspected of misconduct's research field or persons with expertise in other areas as necessitated by the nature of the research field or by the nature of the allegations.

Procedures Applicable to an Allegation of Misconduct in Research

The Allegation:

Any member of the Duke community (student, faculty member, or staff member) having reason to believe that a researcher has committed misconduct in research (as defined above) should report, in writing, the matter to the researcher's department or section chairperson, division chief, dean, or the appropriate Misconduct Review Officer (MRO). Allegations addressed to other than a MRO shall be promptly forwarded to the appropriate MRO, who will immediately notify the provost and the vice provost for research (university) or the chancellor for health affairs and the vice chancellor for medical center academic affairs that such an allegation has been made.

Appropriate efforts will be made to protect the positions and reputations of those making allegations of misconduct, unless those allegations are judged to be baseless and malicious or reckless in nature. If, at any point in the misconduct procedures, it is determined that the allegation was baseless and malicious or reckless, the matter will be dealt with in accordance with existing university policies and mechanisms.

Appropriate action will be taken to protect those individuals who report alleged misconduct or provide related information in good faith from any reprisals or retaliation.

Inquiry into Allegation by Misconduct Review Officer:

Within 7 days of receipt, the Misconduct Review Officer (MRO) will: (1) discuss the allegation with the person accused of misconduct ("respondent"); (2) determine if the issues which form the basis of the allegation are appropriate for consideration through misconduct review mechanisms, including whether they should be handled through other mechanisms (such as the Internal Audit Office, Institutional Review Board, or Institutional Animal Care & Use Committee); and (3) refer the matter, as necessary, to the

appropriate review body. The MRO may consult with others as appropriate in making this determination and referral.

The Misconduct Review Officer may ask the complainant for more specificity, as necessary to achieve a basic understanding of the nature of the allegation. Confidentiality of the allegation will be maintained to the extent possible.

If, at the conclusion of his review, the MRO determines that there are no adequate grounds for the allegation and that no further assessment is warranted, the MRO will submit to the vice provost for research (university) or the vice chancellor for medical center academic affairs a written report documenting the reasons for the decision and will advise the complainant of the decision.

If the individual who reported the suspected misconduct disagrees with the conclusions of the MRO's inquiry, he or she may make a direct request to the vice provost for research or the vice chancellor for medical center academic affairs to review the matter. The vice provost for research/vice chancellor for medical center academic affairs, on his/her own review of the conclusions and circumstances surrounding the allegation of misconduct, may decide that no further action is required or may require a formal assessment by the Standing Committee on Misconduct in Research.

If the MRO or the vice provost for research/vice chancellor for medical center academic affairs determines that the issues are appropriate for consideration through misconduct review mechanisms, the MRO will notify the chairperson of the University or Medical Center (as appropriate) Standing Committee on Misconduct in Research of the need for action and will provide to the chairperson all materials in his or her possession related to the allegation. The MRO will notify in writing the vice provost for research/vice chancellor for medical center academic affairs, the chancellor for health affairs/provost, the appropriate school dean, the person suspected of misconduct, and the complainant that an allegation assessment will be conducted under these procedures; the notification will include the substance and the source of the allegation.

Allegation Assessment by Standing Committee on Misconduct in Research:

A Standing Committee on Misconduct in Research (SCMR) (one for the Medical Center and another for the non-medical campus) shall assess allegations referred from the MRO to distinguish between carelessness or incompetence and misconduct; to determine if the allegation warrants a formal investigation; to advise the MRO of the need to ensure the health and safety of research participants and to preserve and protect physical evidence such as research data; and report to the Misconduct Review Officer the assessment outcome in a written report accompanied by all relevant documents.

Upon notification by the Misconduct Review Officer that an allegation assessment is required, the chairperson of the Standing Committee on Misconduct in Research (SCMR) will promptly convene the committee. During the allegation assessment process, the SCMR shall review available evidence of the alleged misconduct (e.g., plagiarized text, papers containing falsified data, etc.) to the extent necessary for it to determine whether a formal investigation is warranted. The committee is authorized to recommend action as necessary to ensure the health and safety of research participants and to preserve and protect physical evidence such as research data. All individuals involved in the process are expected to cooperate with all efforts to obtain or safeguard data.

The respondent will be given the opportunity to respond to the allegation during an interview with the SCMR, and in writing if desired. The allegation assessment will remain confidential to the extent possible, though the committee may conduct interviews as necessary to fulfill its responsibilities. The SCMR may request additional documents at its discretion, and may arrange interviews with any individuals who may have knowledge of the events in question.

The SCMR's written report, addressed to the Misconduct Review Officer, will include a list of the evidence reviewed, a summary of relevant interviews, and the conclusions of the assessment. The assessment shall be concluded within 45 days. If not concluded and the report submitted within that period, the report will document the reasons for the delay.

If the SCMR determines that an investigation is not warranted, the report will detail the reasons for the determination. The report and all records obtained by the SCMR during its investigation will be sent to the MRO and will become a permanent institutional record, but no record will appear in the personnel record of the person suspected of misconduct. The MRO will promptly provide a copy of the report to the respondent and to the vice provost for research/vice chancellor for medical center academic affairs, and will notify in writing the complainant and third parties as necessary of the findings. If the complainant disagrees with the conclusions he/she may submit, within seven days of receipt of the SCMR notification of

findings, a direct written request to the vice provost for research/vice chancellor for medical center academic affairs to review the conclusions. vice provost for research/vice chancellor for medical center academic affairs shall review the material received from the SCMR, and shall determine either that no further action is required or that investigation by an ad hoc committee is warranted.

If an investigation is determined to be warranted, the Misconduct Review Officer will provide a copy of the Standing Committee's report and all relevant documents to the respondent and to the vice provost for research/vice chancellor for medical center academic affairs, advise the complainant of the conclusions, and advise third parties on a need-to-know basis.

Investigation by Ad Hoc Committee:

If, on the basis of the Standing Committee's allegation assessment, it is determined that an investigation is warranted, the vice provost for research/vice chancellor for medical center academic affairs will appoint an ad hoc committee to determine whether misconduct occurred or not. The vice provost for research/vice chancellor for medical center academic affairs also will appoint a legal advisor to serve the ad hoc committee. The MRO will promptly provide to the chairperson of the ad hoc committee the entire record amassed by the SCMR.

Within 30 days after the submission of the SCMR's report to the MRO, the ad hoc committee will initiate its investigation into the alleged misconduct. The ad hoc committee is authorized to obtain expert consultation and to secure any necessary documentation or data, and all personnel are obliged to cooperate.

Throughout the investigation, the person suspected of misconduct has the right to legal counsel at his/her own expense; he/she will have access to materials used in the investigation, but will not be provided with committee minutes, summaries or notes prepared by the committee or individual committee members, or other deliberative documents.

Interviews will be conducted with all individuals involved either in making the allegation or against whom the allegation is made, as well as others who might have information regarding key aspects of the allegations; refusal to participate will be dealt with according to existing university mechanisms for upholding faculty and employee standards of conduct. Written summaries of interviews will be provided to the interviewed party for comment, and written comments received from the interviewed party will be included in the record.

It is recognized that new elements of misconduct may come to light during the investigation; this information will not be ignored. The point at which the additional information or an additional allegation of misconduct is received, and its relation to the original allegation, will be considered in decisions as to whether the information or allegation is treated as a separate issue or as part of the current investigation. The MRO will inform the respondent promptly of any additional acts potentially constituting misconduct in research which have been identified, and the manner in which that information will be reviewed.

The ad hoc committee will prepare its final report within 120 days of initiation of the investigation unless there are extenuating circumstances.

In drawing conclusions, the ad hoc committee shall act by majority vote of the committee members. The ad hoc committee's report, in "draft" form and without any recommended course of action or sanctions, will be made available by the MRO to the respondent and, if deemed appropriate, to the complainant, so as to resolve, if possible, any fundamental factual discrepancies. The complainant and respondent will have 7 days to provide written comments to the MRO, which comments will be considered by the ad hoc committee in its preparation of its final report.

The final report of the investigation will include a description of the procedures under which the investigation was conducted, how and from whom information was obtained, a list of individuals interviewed by the committee, a summary of the records compiled during the investigation, the findings, the basis for the findings, and a copy of the respondent's written comments. The report will be addressed and delivered to the vice provost for research/vice chancellor for medical center academic affairs. A copy of the final report will be provided to the respondent, and the complainant will be informed of the ad hoc committee's findings.

If, on the basis of the investigation, an individual is found to have engaged in misconduct, the report will also recommend an appropriate course of action. The recommended action may include sanctions as well as adequate steps to ensure that the institution meets its obligations to affected third parties, including funding sources, journals, the scientific community, research subjects, and referral sources.

vice provost for research/vice chancellor for medical center academic affairs may relieve the person

suspected of misconduct from some or all duties at any time during the course of the investigation, but only if it is determined that serious harm to the individual or to others could be caused by the individual's continued performance. Any such suspension will not interrupt salary payments.

Final Determination:

Within 14 days of receipt of the ad hoc committee's report, the vice provost for research/vice chancellor for medical center academic affairs shall review the report, render in writing a final determination, including the imposition of sanctions as appropriate, and provide a copy of the determination to the respondent. In making this determination, the vice provost for research/vice chancellor for medical center academic affairs shall not be expected to review independently the evidence considered by the ad hoc committee, but may request clarification or additional information from the ad hoc committee if necessary. The complainant and appropriate third parties will be advised of the final determination.

The respondent has the right to appeal in writing, within 14 days of receipt of the final determination by the vice provost for research/vice chancellor for medical center academic affairs; the appeal must be delivered to the vice provost for research/vice chancellor for medical center academic affairs and to the provost/chancellor for health affairs. If the respondent elects to appeal the determination, the provost/chancellor for health affairs will consider whether the final determination and the sanctions imposed are supported by facts referenced in the ad hoc committee's report. The provost/chancellor for health affairs may request clarification or additional information from previous review bodies if necessary, and the respondent will be afforded an opportunity to meet with the provost/chancellor for health affairs. The chancellor for health affairs will inform the provost of any decisions affecting faculty status.

If misconduct in research is found and the appropriate sanction is determined to be dismissal from the university, the president and the respondent will be so notified. The respondent will be entitled to a hearing in accordance with existing procedures for dismissal; for faculty members, the procedures are detailed in the Faculty Handbook. If there are no existing procedures applicable to the individual in question, the opportunity for a hearing will be afforded under procedures similar to those for faculty members.

Notification of External Research Sponsors

If, on the basis of the allegation assessment, it is determined that an investigation is warranted, and if the individual accused of misconduct is receiving or has requested external research-related funding, the Misconduct Review Officer will advise the appropriate office in the sponsoring entity (which when Public Health Service research funding is involved will be the Office of Research Integrity) in writing. Notification will occur on or before the date the investigation begins and will include the name of the person(s) involved, the general nature of the allegation, and any identifying application or grant number. When National Science Foundation-funded activities or Public Health Service research-related funding are involved, the notification and future correspondence related to the matter will be sent to the appropriate federal official.

Sponsors will also be notified in writing if at any stage of the assessment or investigation any of the following conditions exist:

1. there is an immediate health hazard involved;
2. there is an immediate need to protect funds or equipment;
3. there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
4. it is probable that the alleged incident is going to be reported publicly;
5. there is a reasonable indication of possible criminal violation--in which case notification within 24 hours of obtaining that information is required.

If an investigation is initiated and the ad hoc committee determines at the end of 90 days that it will be unable to complete its investigation in the usual 120 days, the sponsor will be so notified in writing. The notification will include an explanation for the delay, an interim progress report, and an estimated date of completion. All documents or reports required by law or regulation to be sent to federal agencies will be forwarded in a timely manner consistent with legal requirements. All sponsors will be advised of the resolution of the investigation at the conclusion of the process. In the interim, administrative action will be taken to protect sponsor funds and to insure that the purposes of the sponsored activity are carried out.

The administration will make diligent efforts to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed; and will also undertake diligent efforts to

protect the positions and reputations of those persons who, in good faith, make allegations.

The senior vice president for research administration and policy will file “assurances of compliance” and other documents as appropriate with sponsoring and regulatory agencies.

Record Retention

All documents related to allegations of misconduct in research will become permanent institutional records and will be maintained in strictest confidence by the Misconduct Review Officer.

Principal Investigator Status

(from the Duke University Policy Manual, Policy # VII.180)

August 1997

It is the University policy that only those whom the University has or intends to have an on-going employment or contractual relationship may serve as Principal Investigators or Program Directors for projects, research or otherwise, supported by external funding sources. This policy is implemented as follows:

Campus Components:

The status of principal investigators is granted as a matter of privilege to regular-rank faculty and to select senior administrative staff. This status is available to faculty on the tenure track and to other regular-rank faculty on the Research Professor or Professor of the Practice of tracks. In special instances, other members of the University community may request permission to serve as Principal Investigator. Requests for PI status should be sent on behalf of the individual with an approval and endorsement from the relevant department chair (if applicable) to the dean; the request should include an endorsement and an assurance that the department will assume responsibility for the conduct of the grant or contract.

Medical Center Components:

The status of principal investigator is granted as a matter of privilege to all faculty in the Medical Center and to select senior administrative staff. This status is available to faculty on the tenure track and to other regular-rank faculty on the Research Professor, Clinical Professor, and Professor of the Practice of tracks. In addition, faculty who are appointed to the non-regular rank tracks may serve as Principal Investigators with the approval and endorsement of their departmental chairpersons, who assure the assumption of responsibility for the conduct of the grant should the Principal Investigator not remain with the University for the duration of the grant.

Progress of a Proposal -- Campus

- I. Before preparing a proposal for a foundation or corporate sponsor, applicants should seek clearance to apply directly from Foundation or Corporate Relations in University Development (2127 Campus Dr., 684-2123). Applicants can also talk with the development officers in their school who in turn can seek clearance on their behalf from University Development.
- II. All proposals, regardless of source of funds, must be reviewed and approved prior to submission by the Office of Research Support. To ensure sufficient time for review and processing of the materials, the following must be submitted at least five working days prior to the mailing date:
 - A. A completed Duke Proposal Approval Form with all necessary signatures, approvals, and endorsements;
 - B. A completed Request for Cost Sharing Form (if necessary), together with the required letters of institutional endorsement, as well as materials documenting the need for cost-sharing;
 - C. Proposal materials including: Cover Sheets; Abstract or Summary; the most recent draft or the completed Statement of Work; detailed budget and budget justification; certifications and representations (if any); subcontract materials including budget, description of work, and letter from authorizing official at subcontracting organization agreeing to accept and manage subcontract; and any other required forms or paperwork.
- III. Proposals are reviewed in ORS. Those to foundation and corporations are further reviewed by the Vice Provost for Research and, if the budget exceeds \$50,000 per year, by the President. This secondary review is handled by ORS and must be completed before the final approval of the proposal.
- IV. Applicants are notified when the review has been completed and approval given. Problems in the materials are discussed with the applicants prior to the completion of the review process.
- V. Applicants are notified when their materials are ready for pick-up and applicants are responsible for incorporating any changes, for copying the proposal, and for mailing the proposal to the funding agency.
- VI. Applicants send two full and final copies (appendices excluded) to ORS.

Progress of a Proposal -- Medical Center

- I. Applications to foundations and corporations require clearance before the applicant contacts the source or submits a proposal. Consult with the Medical Center Development Office, which will coordinate clearance with the University Development Office.
- II. Applications for competitive awards for which the university may submit a limited number of applications must be approved by the Medical Center Awards Committee.
- III. Applications should be submitted to the Office of Grants and Contracts two weeks prior to funding agency due date to allow sufficient time for review and approval. The original and one copy of the following material should be submitted:
 - A. Completed Duke Proposal Approval Form (DPAF) with all necessary information and approval signatures;
 - B. Proposal cover page;
 - C. Abstract or summary statement of proposed work;
 - D. Detailed budget and justification;
 - E. Any other forms that require institutional signature;
 - F. Any proposed subcontracts with other institutions require description of work, detailed budget and endorsement from an authorized institutional official of that institution.
- IV. Applicant will be notified when the application review is complete and the application has received institutional approval. The applicant is responsible for copying and mailing the proposal to the funding agency.

Appendix R: EDUCATION RECORDS

In accordance with the Family Education Rights and Privacy Act of 1974, Duke University (1) permits students to inspect their education records, (2) limits disclosure to others of personally identifiable information from education records without the student's prior written consent to such disclosure, and (3) provides students the opportunity to seek correction of their education records where appropriate.

I. Definitions

- A. Student means an individual who is or who has been in attendance at Duke University. It does not include individuals who were unsuccessful applicants for admission to the university.
- B. Education records include those records that contain information directly related to a student and that are maintained as official working files by the university. The following are not education records:
 - 1. Records about students made by professors and administrators for their own use and not shown to others;
 - 2. Campus police records maintained solely for law enforcement purposes and kept separate from the education records described above;
 - 3. Employment records, except where a currently enrolled student is employed as a result of his or her status as a student;
 - 4. Records of physicians, psychologists, or other recognized professionals or paraprofessionals made or used only for treatment purposes and available only to persons providing treatment (however, these records may be reviewed by an appropriate professional of the student's choice); and
 - 5. Records that contain only information relating to a person's activities after he or she graduates or withdraws from the university.

II. Duke University permits students to inspect their education records

- A. Right of Access. Each student has a right of access to his or her education records, except financial records of the student's parents and confidential letters of recommendation received prior to January 1, 1975.
- B. Waiver. A student may waive his or her right of access to confidential recommendations in three areas: admission to an educational institution, job placement, and receipt of honors and awards. The university does not require such waivers as a condition for admission or receipt of any service or benefit normally provided to students. If the student chooses to waive his or her right of access, he or she will be notified, upon request, of the names of all persons making confidential recommendations. Such recommendations are used only for the purpose for which they were specifically intended. A waiver may be revoked in writing at any time, and the revocation will apply to all subsequent recommendations.
- C. Types and Locations of Education Records.
 - 1. Registrar. Undergraduate, graduate, and professional schools except Medicine: 103 Allen, associate registrar, academic records, computer files (biographical data, course information). Medical School, Allied Health: 125 Davison, registrar, academic records.
 - 2. Departments. Departmental offices: chairs, directors of undergraduate studies, directors of graduate studies, grade reports, biographical data, results of certain examinations, other advisory information. Records kept vary with departments.
 - 3. Financial Aid. Undergraduate: 2138 Campus Drive, associate director. Graduate and professional schools: located in deans' offices. Financial aid applications, needs analysis statements, awards made. (Note: students do not have access to parents' confidential statements.)
 - 4. Colleges and Schools. Dean's office of each college and school. Admissions information, progress towards degree information, financial aid information. Student Development: 200 Crowell--judicial and disciplinary records (Trinity and Engineering); 300 Crowell--housing

- records. 1003 School of Nursing: student's personnel card, judicial and disciplinary records, housing records. Assistant deans: various offices on first floor of Allen Building.
5. Career Development Center. 109 Page, director, recommendations, copies of academic records (unofficial). Note waiver section.
 6. Bursar's Office. 102C Allen, bursar, records of financial payments.
 7. Office of Student Loans. 108 East Duke, director, promissory notes, copies of correspondence.
- D. Procedure to be Followed. Requests for access specifying the records to be inspected should be made in writing to the Registrar, 103 Allen Building. The university will comply with requests within a reasonable time, at most within forty-five days. Arrangements normally are made for students to read their records in the presence of a staff member. Students may also obtain copies of their records by paying reproduction costs of 15 cents per page. However, the university may refuse to release copies of records of students who have not settled their accounts with the university. The university does not provide copies of official transcripts from other schools.

III. Duke University limits disclosure of personally identifiable information from education records without the student's prior written consent to such disclosure

- A. Directory Information.
1. The following categories of information have been designated as directory information:
 - name
 - addresses
 - telephone listing
 - email address
 - place of birth
 - photograph
 - major field of study
 - participation in officially recognized activities and sports
 - weight and height of members of athletic teams
 - dates of attendance
 - degrees and awards received
 - the most recent previous education institution attended
 2. The university gives annual public notice to students of the categories of information designated as directory information, and allows a reasonable period of time after such notice for the student to inform the university that in his or her case the information should not be considered directory information.
 3. Directory information may appear in public documents and may otherwise be disclosed without the student's consent unless the student objects as provided above.
- B. Prior Consent Not Required. Prior consent is not required for disclosure of education records to the following parties:
1. School officials of Duke University who have been determined to have legitimate educational interests
 - a. School officials include instructional personnel, administrative personnel, and members of duly constituted university committees and boards, who are or may be in a position to use the information in furtherance of a legitimate objective;
 - b. Legitimate educational interests include those interests reasonably related to the academic environment;
 2. Officials of other schools in which a student seeks to or intends to enroll or is enrolled. Upon request, and at his or her expense, the student will be provided with a copy of the records that have been transferred;
 3. Authorized representatives of the Comptroller General of the U.S., the Secretary of Education, and state educational authorities, but only in connection with the audit or evaluation of federally-supported educational programs, or in connection with the enforcement of or compliance with federal legal requirements relating to these programs. These officials will protect information received so as not to permit personal identification of students to outsiders, and the data shall be destroyed when no longer needed for the purposes above;

4. In connection with a student's application for or receipt of financial aid, but only to the extent necessary for such purposes as determining eligibility, amount, conditions, and enforcement of terms or conditions;
 5. State and local officials to whom such information is specifically required to be reported by effective state law adopted prior to November 19, 1974;
 6. Organizations conducting educational studies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. The studies shall be conducted so as not to permit personal identification of students to outsiders, and the information will be destroyed when no longer needed for these purposes;
 7. Accrediting organizations for purposes necessary to carry out their functions;
 8. Parents of a student who is a dependent for income tax purposes. The university will presume that an undergraduate student is a dependent of his or her parents unless the student gives timely written notification to the registrar's office that he or she is not a dependent;
 9. Appropriate parties in connection with an emergency, where knowledge of the information is necessary to protect the health or safety of the student or other individuals; or
 10. In response to a court order or subpoena. The university will make reasonable efforts to notify the student before complying with the court order.
 11. Alleged victim of any crime of violence, when disclosing the results of a disciplinary proceeding conducted by Duke University against the alleged perpetrator of such crime.
- C. Prior Consent Required. In no other cases will the university release personally identifiable information in education records or allow access to those records without the prior consent of the student. Unless disclosure is to the student him or herself, the consent must be written, signed, and dated, and must specify the records to be disclosed and the identity of the recipient. A copy of the record disclosed will be provided to the student upon request and at his or her expense.
- D. Record of Disclosures. The university maintains with the student's education records a record of each request and each disclosure, except disclosures
1. To the student him or herself;
 2. Pursuant to the written consent of the student;
 3. To instructional or administrative officials of Duke University; or
 4. Of directory information.
- The record of disclosures may be inspected by the student, the official custodian of the records, and other university and governmental officials.

IV. Duke University provides students with the opportunity to seek correction of their education records

- A. Request to Amend Records. A student who believes that information contained in his or her education records is inaccurate, misleading, or otherwise in violation of his or her privacy or other rights may submit a written request to the Office of the Registrar, specifying the document(s) being challenged and the basis for the complaint. The request will be sent to the responsible person at the origin of the record in question. Within a reasonable time of receipt of the request, the university will decide whether to amend the records in accordance with the request. If the decision is to refuse to amend, the student will be so notified and will be advised of his or her right to a hearing.
- B. Right to a Hearing. Upon request by a student, the university will provide an opportunity for a hearing to challenge the content of the student's records. A request for a hearing should be submitted in writing to the Office of the Registrar. Within a reasonable time the student will be notified in writing of the date, place, and time reasonably in advance of the hearing.
1. Conduct of the Hearing. The hearing will be conducted by a university official who does not have a direct interest in the outcome. The student will have a fair and full opportunity to present evidence relevant to the issues raised, and may be assisted or represented by individuals of his or her choice, including an attorney, at his or her own expense. The university official conducting the hearing will, after considering all relevant information, make a recommendation to the registrar.
 2. Decision. Within a reasonable period of time after the conclusion of the hearing, the university will notify the student in writing of its decision. The decision will be based solely upon evidence presented at the hearing and will include a summary of the evidence and the

reasons for the decision. If the university decides that the information in the student's record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, the university will amend the records accordingly.

- C. Right to Place an Explanation in the Records. If, as a result of the hearing, the university decides that the information is not inaccurate, misleading, or otherwise in violation of the student's rights, it will inform the student of his or her right to place in his or her record a statement commenting on the information and/or explaining any reasons for disagreeing with the university's decision. Any such explanation will be kept as part of the student's record as long as the contested portion of the record is kept, and will be disclosed whenever the contested portion of the record is disclosed.

Appendix S: USE OF UNIVERSITY AND OTHER FACILITIES

The university does not discriminate on the basis of race, color, religion, national origin, handicap or veteran status, sexual orientation or preference, sex, or age. This policy covers official activities sponsored, financed, and controlled by university personnel and campus organizations, whether held on or off campus. If activities are held off campus, facilities where discrimination is practiced may not be utilized.

University Facilities

The provisions of this policy are applicable to all Duke University facilities in Durham, including off-campus locations but excluding the Duke Forest and the Duke University Medical Center. Policies for the excepted areas are available from the offices of the dean of the Nicholas School of the Environment and the chancellor for health affairs, respectively.

I. Buildings and Structures: Priorities and Procedures

- A. Policy. The regularly scheduled educational programs have absolute priority of use for all facilities. After this priority is observed, the facilities of the university will normally be made available to other users in the following order of priority.
 - 1. Users who are members of the university community:
 - a. academic departments, schools, and academic programs of the university,
 - b. chartered and other officially recognized organizations and programs of the university (a list is maintained by each senior administrative officer for his or her area of responsibility).
 - 2. National and regional organizations in which the university maintains an official membership.
 - 3. Users who are not members of the Duke University community. Exceptions to the normal priorities may be permitted by the president or provost where the interests of the university so require.
- B. Procedures.
 - 1. Academic departments, schools, academic programs, and faculty members may reserve facilities with the office responsible for the facility only for their own regular internal activities provided that the proposed use of the facility will further the educational or academic mission of Duke University.
 - 2. Chartered and other officially recognized organizations and programs may reserve facilities with the office responsible for the facility. Chartered and other officially recognized organizations and programs may obtain reservations only for their own activities as opposed to the activities of unchartered or unrecognized organizations or programs.
 - 3. Duke University's facilities are not normally made available to users other than those referred to in paragraphs (1) and (2) above. When made available to such outside users, facility use shall be on a contract basis and a fee will be charged. All requests by outside users should normally be made to the appropriate office at least six (6) weeks in advance.
 - 4. Commercial enterprises, regardless of sponsor, will not be afforded use of university facilities for profit-making or advertising purposes. Exceptions to this policy may be made by the Executive Vice President upon a showing that the use will further the educational or academic mission of Duke University. For instance, a theatrical production may be afforded use of university facilities even if the production is for profit-making purposes.
 - 5. All parties reserving facilities referred to in (2) and (3) above must complete a reservation request supplied by the Executive Vice President. Copies of the reservation request are available from the office responsible for the facility. Offices responsible for reservations will submit a copy of the request to the Executive Vice President. The Executive Vice President, in consultation with the Committee on Facilities and Environment, reserves the right to cancel any reservation made in contradiction of this policy.
 - 6. All reservations and assignments of facilities are contingent upon the following factors:
 - a. availability of the facility, given the priorities established by this policy;

- b. ability of the university to provide support (equipment, security, etc.) required by the event, as determined by the Executive Vice President;
- c. ability of the sponsors to meet all costs and financial liabilities of the event, including contracted fees, equipment rental, personnel, insurance, overhead, cleanup, and all other costs as determined by the Executive Vice President or designated representative;
- d. approval of the Office of University Life with regard to schedule conflicts;
- e. ability of the organization or group to give assurances that the event will be conducted in an orderly manner;
- f. compliance with the university alcoholic beverage policy;
- g. compliance with this policy.

II. Open Areas

- A. Policy. The grounds of the campus may be used only in a manner that does not hinder free access to and through such areas, does not violate civil law or university policies and regulations, and is not detrimental to the academic, residential, or recreational environment of the area.
- B. Procedures.
 - 1. Events and activities on the grounds of the campus must be approved in advance and in writing by the Office of University Life for student groups and by the Office of the Vice President for Student Affairs for all other users. Such events must meet the requirements outlined above in Article I, section B, paragraphs 1, 2, 3, 5, and 6 for reservation.
 - 2. Any use of sound amplification equipment must be approved in writing by the Office of University Life for student groups and the Office of the Vice President for Student Affairs for all other users.
 - 3. Any construction on the grounds of the campus for exhibits or other purposes must be approved in advance and in writing by the Executive Vice President, in consultation with the Committee on Facilities and Environment.
 - 4. Commercial activity on the grounds of the campus must be approved in advance and in writing by the Office of University Life. Such activity must meet the requirements outlined above in Article I, section B, paragraph 4 for reservations. However, limited space will be made available on the main residential West Campus quadrangle and the Bryan Center environs for commercial activities not meeting the requirements of Article I, section B, paragraph 4. Users of this space must be sponsored by a recognized campus organization and approved by the Office of University Life.

Appendix U: TRAVEL INSURANCE

It is the policy of the university to provide travel accident insurance for its faculty and staff employees to afford them financial protection while they are traveling on university business.

- A. Eligibility. All officers of the university and its professional and administrative staff members are covered by this policy.
- B. Coverage. Coverage is provided for eligible employees in an amount of up to \$200,000 in the event of injuries that result in death, dismemberment, or loss of sight, and for up to \$5,000 for related medical expenses, provided the injuries sustained
 1. occur while the employee is traveling on university business;
 2. are in consequence of and occur during the course of the trip, the destination of which requires the employee to travel outside the city in which he or she is regularly employed or in which he or she lives;
 3. occur while riding, including boarding or alighting from, a vehicle designed for the transportation of passengers, while on business of the university and in the city of employment;
 4. occur while riding as a passenger in or acting as a pilot of an aircraft that is operated by an employee of the university who has logged not less than one hundred hours as pilot in command and has obtained written approval from a university officer to pilot said aircraft, while on university business and not engaged in transportation of passengers for hire.

For this purpose, university business is used to mean an assignment by or with the authorization of the university for the purpose of furthering the business of the university or a trip made by invitation of another institution or person because of the position held by the employee with the university.

- C. Coverage is *not* provided
 1. while the employee is on vacation, leave of absence (except sabbatical), or commuting between his or her residence and his or her place of employ; or
 2. for any loss resulting from suicide, disease or medical/surgical treatment thereof, declared or undeclared war, racing, endurance tests, or participation in any speed or performance contest.
- D. Effective Duration of Coverage. The policy is effective for the duration of any period of covered travel commencing when the employee leaves his or her residence or place of employment, whichever occurs last, and ending upon his or her return to his or her residence or place of employment, whichever occurs first. For this purpose, any loss that occurs within one hundred days after the date of accident from injuries sustained during a covered accident shall be deemed to have occurred during the effective duration of coverage.
- E. Contributions. No contribution or application for coverage is required from any employee. Coverage is automatic and the university pays in full all premiums and administrative costs of the program.

This program will obviate the necessity for individuals to take out personal accident insurance for each trip, and expenses for flight insurance are not reimbursable.

Personal Property

The university provides insurance on the business property (books, calculators, typewriters, and other office equipment) personally owned by faculty members and professional employees while within the premises of Duke University.

Excluded from coverage are rare books, manuscripts, bills, currency, deeds, notes and securities, jewelry, furs, clothing, and other personal effects covered by homeowner's policy and not related to employment.

This policy is on an all-risks basis subject to customary policy exclusions including wear and tear, mechanical breakdown, nuclear reaction, and others.

The maximum limit of liability per person is \$15,000. Each claim will be adjusted on the actual cash value (replacement cost less depreciation) at the time of loss less \$250 deductible per claim.

No contribution or application for coverage is required from any employee. Coverage is automatic and the university pays in full all premiums and administrative costs of the program.

A copy of the policy is available for review in the Office of Corporate Risk Management, 705 Broad St.

Travel Insurance Abroad

When traveling on business for Duke University, eligible employees¹ can access Worldwide Assistance Services, Inc. for complete travel services including medical and personal assistance. The service center is staffed by multilingual representatives 24-hours a day, 365 days a year. In addition, a large medical database enables them to provide emergency medical assistance almost anywhere in the world.

Prior to a trip, Worldwide Assistance will provide information on immunization, foreign exchange rates, cultural facts, weather, embassy and consulate locations, and travel advisories.

While an employee is traveling, if necessary, Worldwide Assistance will provide referrals to physicians, hospitals, and dental clinics. Additional medical services include, but are not limited to, medical monitoring by the multilingual medical staff, help with medical payment arrangements, emergency medical evacuation when advisable, and repatriation of remains in the event of death.

Worldwide Assistance also offers legal referral, translation services, cash advance, and help in recovering lost or stolen items.

Coverage for personal travel is available, as well as coverage for traveling companions. There is an additional fee and inquiries regarding membership may be directed to Worldwide Assistance at 1-800-821-2828. Note that the coverage for personal travel or companions is at the employee's expense.

Complete details of the plan are found in the *Worldwide Assistance Resource Handbook*, including exclusions and limitations. For copies of the handbook or questions regarding the plan, employees may contact Corporate Risk Management.

¹*Eligible employee* is defined as an individual who is employed by Duke University, is eligible for the Duke University Employee Benefits plan, and is traveling on official business for Duke.

Appendix V: PICKETS, PROTESTS, AND DEMONSTRATIONS

Statement of Policy

Duke University respects the right of all members of the academic community to explore and to discuss questions that interest them, to express opinions publicly and privately, and to join together to demonstrate their concern by orderly means. It is the policy of the university to protect the right of voluntary assembly, to make its facilities available for peaceful assembly, to welcome guest speakers, and to protect the exercise of these rights from disruption or interference.

The university also respects the right of each member of the academic community to be free from coercion and harassment. It recognizes that academic freedom is no less dependent on ordered liberty than any other freedom, and it understands that the harassment of others is especially reprehensible in a community of scholars. The substitution of noise for speech and force for reason is a rejection and not an application of academic freedom. A determination to discourage conduct that is disruptive and disorderly does not threaten academic freedom; it is, rather, a necessary condition of its very existence. Therefore, Duke University will not allow disruptive or disorderly conduct on its premises to interrupt its proper operation. Persons engaging in disruptive action or disorderly conduct shall be subject to disciplinary action, including expulsion or separation, and also charges of violations of law.

Rule

Disruptive picketing, protesting, or demonstrating on Duke University property or at any place in use for an authorized university purpose is prohibited.

While Duke University recognizes the right to voluntary assembly, members of the university community must recognize that the Medical Center provides care for individuals needing uninterrupted medical services in tranquil surroundings. Accordingly, all pickets, demonstrations, mass assemblies, and protests shall be confined to campus areas and are strictly prohibited in or around any Medical Center building.

Hearing and Appeal

Students. Cases arising out of violations of this policy will be heard by the University Judicial Board. The University Judicial Board shall have jurisdiction over members of the student body, members of the faculty, and administrative personnel of the university not subject to the Personnel Policy Handbook. Hearings will be conducted with regard for academic due process. The decision of the University Judicial Board shall be final if the accused is exonerated or if there is no appeal. In other cases, students may appeal to the president, or, in his or her absence, the provost, in which case such appeal shall be solely on the record of the proceedings before the hearing committee of the University Judicial Board. Argument on appeal shall be written submission, but the president may, in addition, require oral argument.

A hearing committee will consist of two faculty members, one dean, and two students. These students will be selected from members of the judicial boards or governments in the undergraduate, graduate, or professional colleges or schools. The chair of the hearing committee will be designated by its members.

Faculty. The procedures for faculty members will follow the arrangements provided under the regulations for the guarantee of tenure in the university.

Amendments

These regulations on pickets, protests, and demonstrations may be changed or amended by the university at any time but any such change or amendment shall be effective only after due notice or publication. These regulations supersede any regulations heretofore issued on the subject.

Appendix W: DUKE UNIVERSITY HARASSMENT POLICY

Policy Number: A-6
Effective Date: 1/1/94
Revision: 06/01/95

PURPOSE

Harassment of any kind is not acceptable at Duke University. It is inconsistent with the university's commitments to excellence and to respect for all individuals. Duke University is also committed to the free and vigorous discussion of ideas and issues, which the university believes will be protected by this policy. This policy is intended to complement Duke University's Equal Opportunity Policy (Duke University Personnel Policy A-5).

SCOPE

This Harassment Policy applies to all persons who are enrolled or employed at Duke University while they are on university property or are participating in a university-sponsored activity off campus. The Procedures for Resolution of Claims of Harassment, described below, apply to situations in which both complainant and respondent are enrolled or employed at Duke University.

Situations that involve others, including applicants for admission or employment who believe they have been harassed by employees of Duke University, and students and employees of Duke University who believe they have been harassed by contractors or vendors serving the university, will be resolved through procedures for complaints of discrimination. Persons who believe they have experienced these situations should contact the Office of the Vice President for Institutional Equity. (See Introduction of Procedures for Resolution of Claims of Harassment.)

POLICY

- I. Duke University is committed to protecting the academic freedom and freedom of expression of all members of the university community. This policy against harassment shall be applied in a manner that protects the academic freedom and freedom of expression of all parties to a complaint. Academic freedom and freedom of expression include but are not limited to the expression of ideas, however controversial, in the classroom, residence hall, and, in keeping with different responsibilities, in workplaces elsewhere in the university community.
- II. Definition of harassment at Duke University:
 - A. Harassment is the creation of a hostile or intimidating environment, in which verbal or physical conduct, because of its severity and/or persistence, is likely to interfere significantly with an individual's work or education, or affect adversely an individual's living conditions.
 - B. Sexual coercion is a form of harassment with specific distinguishing characteristics. It consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
 1. submission to such conduct is made, explicitly or implicitly, a term or condition of an individual's employment or education; or
 2. submission to or rejection of such conduct is used as a basis for employment or educational decisions affecting an individual.
 - C. The conduct alleged to constitute harassment under this policy shall be evaluated from the perspective of a reasonable person similarly situated to the complainant and considering all the circumstances.

- III. In considering a complaint under the Duke University Harassment Policy, the following understandings shall apply:
- A. Harassment must be distinguished from behavior that, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities.
 - B. In so far as Title VII (Equal Employment Opportunity) of the Civil Rights Act of 1964 is applicable (i.e., in complaints concerning carrying out of non-instructional employment responsibilities), the university will use the definition of sexual harassment found in the Equal Employment Opportunity Commission (EEOC) Guidelines: "conduct of a sexual nature ... when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."
 - C. Instructional responsibilities require appropriate latitude for pedagogical decisions concerning the topics discussed and methods used to draw students into discussion and full participation.
- IV. The following behaviors are also prohibited by the Harassment Policy:
- A. Reprisals
 - 1. Against the Complainant: It is a violation of Duke's Harassment Policy to retaliate against a complainant for filing a charge of harassment. A complaint of retaliation may be pursued using the steps followed for a complaint of harassment. When necessary, the appropriate dean or other university officer may monitor student grading or faculty/staff reappointment, tenure, promotion, merit review, or other decisions to ensure that prohibited retaliation does not occur.
 - 2. Against the Respondent: Lodging a complaint of harassment is not proof of prohibited conduct. A complaint shall not be taken into account during reappointment, tenure, promotion, merit, or other evaluation or review until a final determination has been made that the university's Harassment Policy has been violated.
 - B. Knowingly false or malicious complaints. To file a knowingly false or malicious complaint of harassment or of retaliation is a violation of the Harassment Policy. A complaint of such conduct may be pursued using the steps followed for a complaint of harassment. A complaint under this provision shall not constitute prohibited retaliation.
 - C. Intentional breaches of confidentiality. All participants in the Harassment Complaint Resolution process, including the complainant and respondent, witnesses, advisors, mediators, members of hearing panels, and officers, shall respect the confidentiality of the proceedings. Breaches of confidentiality jeopardize the conditions necessary to the workings of internal procedures for resolution of claims of harassment. Participants are authorized to discuss the case only with those persons who have a genuine need to know.
 - A complaint alleging an intentional breach of confidentiality may be pursued using the steps followed for a complaint of harassment. Such a breach may also constitute an act of retaliation. A breach of confidentiality may void the outcome of any previously agreed-upon resolution to a complaint.
- V. Individuals who believe they have been harassed, individuals charged with harassment, and individuals with knowledge of situations in which harassment may exist should consult Duke University's Procedures for Resolution of Claims of Harassment.
- VI. This Harassment Policy and the Procedures for Resolution of Claims of Harassment are only part of Duke University's effort to prevent harassment in our community. In addition to spelling out steps for making and resolving complaints, the university is also committed to programs of education to raise the level of understanding concerning the nature of harassment and ways to prevent its occurrence.

NOTE: This Harassment Policy replaces previous statements on Sexual Harassment in Employment and Sexual Harassment of Students. Specifically it replaces Appendix W of the 1987 *Faculty Handbook*, Policy IX.180 and Policy IX.190 in the *Duke University Policy Manual*, and the statement on Sexual Harassment of Students in the various school bulletins.

PROCEDURES FOR RESOLUTION OF CLAIMS OF HARASSMENT

I. INTRODUCTION

The Duke University Harassment Policy reflects the commitment to maintain a community that is free from harassment of any kind. Duke has designed procedures for prompt internal resolution of harassment complaints that arise within the university community. The university expects that the use of these procedures will facilitate a prompt resolution of such complaints.

Responsibility for overseeing the resolution of claims of harassment rests with the Director of the Harassment Prevention, Gender Equity Programs in the Office of the Vice President for Institutional Equity. A senior staff member within the office will be designated to act as harassment prevention coordinator (HPC). Other university personnel are also available to provide consultation and assistance regarding harassment complaints.

Human Resources staff and Labor and Employee Relations representatives are trained to assist either with informal resolutions or with filing of grievances or complaints. Supervisors of employees and deans who work with faculty and students across the campus can provide guidance about responding to situations that individuals believe to be harassing.

In addition, harassment prevention advisors are persons trained by the officers responsible for the Harassment Policy to assist members of the community either by aiding them through the informal options listed below or by advising them during formal harassment complaint procedures. Because the individuals acting as harassment prevention advisors may change periodically, the names of current advisors are available through the offices listed below.

The policy and its implementation are reviewed by the Harassment Grievance Board, a body of thirty individuals representing students, faculty, and staff in equal numbers.

Some forms of harassment may violate federal and state laws, and a complainant or respondent may choose to invoke external processes to resolve his or her grievance instead of, or in addition to pursuing the procedures set forth herein. Such individuals may contact the appropriate state and local agency, the Equal Employment Opportunity Commission, or the Office of Civil Rights in the Department of Education. Complainants should note that the statute of limitation for discrimination or sexual harassment charges is typically 180 days from the date of the alleged discriminatory act. The Office of the Vice President for Institutional Equity should be contacted for additional information about filing complaints of harassment or discrimination.

II. COUNSELING AND INFORMAL INTERVENTION

A member of the Duke University community who believes that he or she has been harassed in violation of this policy is encouraged to take action in any of the following ways. Although none of the actions described below is required before an individual may file a formal complaint, the University Harassment Policy favors informal resolution of harassment claims whenever such resolutions can be effected fairly.

A. Options for Informal Resolutions

1. Discuss the situation with harassment prevention advisors and other designated individuals, who are available through the following offices:

Undergraduate students: Student Affairs Office including the Office of Student Development, Office of Campus Community Development, Office of University Life; dean of Trinity College; dean of the School of Engineering.

Graduate and professional students: deans, deans of students

Faculty: Provost's Office, deans, faculty ombudsman

Non-faculty employees:

Campus: Employee/Labor Relations

Medical Center: DUMC Human Resources

For further assistance with complaints regarding harassment and discrimination:

Office of the Vice President for Institutional Equity

2. Meet with the individual whose behavior is disturbing, discuss the situation, and make it clear that the behavior is unwanted. Such actions may be discussed with harassment prevention advisors.
 3. Contact the supervisor or dean of the person whose behavior is disturbing and request assistance to stop the behavior.
 4. Request assistance from harassment prevention advisors for an informal intervention.
- B. Informal Interventions. In consultation with the appropriate harassment prevention coordinator (HPC), a harassment prevention advisor may assist an individual who does not wish to file a formal complaint, but who seeks informal intervention by the harassment prevention advisor to end conduct that the person believes violates university policies against harassment. After consultation with the HPC or another person designated by the Director may discuss the alleged conduct with the respondent, remind him or her of university policies against harassment, and seek a commitment by the respondent to comply with these policies. A complainant may request that, whenever possible, such a conversation be held without revealing his or her identity directly to the respondent. Action taken by an harassment prevention advisor under this provision shall not constitute a finding of harassment.

After an informal intervention has concluded, the harassment prevention advisor will send all documentation concerning the complaint to the HPC. This information will go under the complainant's name in the HPC's file of "Complainant Correspondence." Such a record will be kept in order to document that the claim of harassment was made informally and that a resolution was reached without a finding in the situation. This documentation will be used only if the complainant later raises a question about how the claim was handled, or if the respondent wishes to verify the informal resolution.

NOTE: Some forms of behavior that are disturbing to members of the Duke University community may not meet the definition of harassment found in the Duke University Harassment Policy. Such behavior may, nonetheless, be prohibited by other rules or procedures. Some behaviors may be violations of the Undergraduate Judicial Code or Employee Work Rules, or may be covered by various Grievance or Dispute Resolution Procedures. Questions about handling complaints under any of the procedures cited here may be directed to deans, to Human Resources staff, or to other harassment prevention advisors.

III. INITIATING A FORMAL COMPLAINT

All complaints of harassment should be filed with the appropriate office as soon after the offending conduct as possible, but in no event more than one year after the most recent conduct alleged to constitute harassment. The HPC may grant a reasonable extension of any other time period established in these guidelines; however, the one-year limit for filing a formal harassment complaint shall not be extended.

The one-year statute of limitation on the filing of claims of harassment is intended to encourage complainants to come forward as soon as possible after the offending conduct and to protect respondents against complaints that are too old to be effectively investigated. There may, however, be sound reasons why a complainant does not come forward within a one-year period. Although such a complaint cannot be pursued under the formal complaint procedures, there may still be options for responding to such complaints through counseling or informal intervention. If sufficient evidence is available, an investigation can be undertaken by appropriate authorities to determine if the behavior constitutes misconduct sanctionable under other judicial processes.

The process for resolution of formal harassment complaints consists of two stages: mediation and hearing panel. There must be an attempt to mediate before the complaint can be submitted to the hearing panel for resolution.

A formal complaint must be submitted in writing to the HPC and signed by the complainant. This written complaint shall include the names of the complainant and the respondent and the details of the conduct alleged to be harassment. Within five calendar days of receiving the written complaint, the HPC will provide the respondent with a copy of the complaint. The respondent must submit to the HPC a response to the charges of harassment within fourteen calendar days. Upon receipt of the respondent's answer to the complaint, the HPC shall forward a copy of the response to the complainant, and within seven days appoint a mediator to conduct the negotiations required by the first step of the Formal Complaint Procedures.

All employees may choose to utilize existing grievance procedures, and all individuals may, in addition or instead, consult Duke University's Equal Opportunity Office. When both parties are undergraduate students, cases of alleged harassment may be heard, at the formal grievance state, by the Undergraduate Judicial Board.

IV. MEDIATION OF A FORMAL COMPLAINT

Within seven calendar days of his or her appointment, the mediator shall schedule a meeting with each of the parties, together or separately, to attempt to negotiate a settlement of the complaint. If a settlement is not reached within fourteen calendar days of this initial meeting, the HPC shall inform both parties in writing that either may seek a resolution of the complaint by a panel hearing.

A settlement shall occur when the parties agree in writing to a resolution of the complaint. A resolution may include, but is not limited to, withdrawal of the complaint without the right to refile it; an agreement by the respondent to terminate or not repeat specific conduct; an apology; or participation in counseling. The HPC shall review all settlements to ensure that the parties fully understand the terms. If there is any sanction agreed to as part of the resolution, the official responsible for implementing any such sanction must also agree to the settlement in writing. Settlement need not imply an admission of culpability on the part of the respondent.

Any conduct admitted by the respondent as part of the settlement may be used against him or her in a future proceeding (a) if a hearing panel in such a future proceeding determines that the conduct admitted constituted a violation of the university's policies against harassment, and therefore should be taken into consideration in recommending a sanction or (b) if the HPC has reason to determine that the respondent has been engaged in a pattern of harassment.

V. HARASSMENT HEARING PROCEDURES

- A. **Initiation of Hearing Procedure.** Upon failure to reach a settlement through mediation, either party may request appointment of a hearing panel to resolve the complaint. The request for a hearing must be made no later than ten calendar days after the party receives written notice of the right to proceed under this part. The request must be in writing, signed by the party making the request, and accompanied by a copy of the complaint and response filed when the complaint was initiated. Within five calendar days of receipt of a request under this Part, the HPC shall appoint a hearing panel consisting of five members selected from the Harassment Grievance Board (see below) in the manner set forth in the Formal Complaint Procedures; alternatively, the HPC may, after consultation with all parties and for good cause, appoint a panel consisting of three members only.
- B. **Composition of Harassment Grievance Board.** The grievance board shall consist of thirty members, selected as follows:
 1. Ten members of the board shall be appointed by the Executive Committee of the Academic Council from among the various faculties of the university.
 2. Ten members of the board shall be selected from among the non-faculty staff of the university by the executive vice president.
 3. Five members of the board shall be selected by Duke Student Government (DSG) from the undergraduate student population, and five members shall be selected by the Graduate and Professional Students Council (GPSC) from the graduate/professional student population.
 4. The appointing authority for each category of members shall consult with the HPC prior to selecting any member to the board to ensure that the members selected within each category reasonably represent the population of the university.
 5. All members of the board shall serve for a term of two years. Vacancies on the board shall be filled in the same manner as members are selected. A member of the board appointed to fill a vacancy shall serve the remaining term of the member being replaced.
 6. The HPC shall maintain the roster for each category of board members (faculty, non-faculty employees, and students).
- C. **General Criteria for Composition of Hearing Panels.** In so far as the following restrictions allow, the members of the hearing panel shall be selected by the HPC by lot within the appropriate categories.

1. Each party to a proceedings in this Part may voice objections to any member of the grievance board as a potential member of the hearing panel. The HPC will consider these objections, along with any concerns raised about conflicts of interest, in naming the members of the hearing panel.
 2. No member of the panel may hear a case involving a party who is from his or her hiring unit. The parties to the complaint may raise questions of conflict of interest, and the chair of the hearing panel, in consultation with the HPC, shall determine whether any member of the panel has any conflict of interest that disqualifies him or her from service on the panel. The HPC shall determine if the chair has a conflict of interest. Any member who has a conflict of interest shall be replaced by another member from the same category in the same manner that the conflicted member was selected.
 3. The chair of the hearing panel shall be elected by the members of the panel.
 4. After appointment of the hearing panel, the chair shall consult with the HPC about the complaint to determine the need for any consultants to assist the panel. At the chair's request, the HPC may assign an appropriate consultant to assist the panel with technical issues relating to the type of harassment alleged. The chair may also consult the university's legal counsel for advice.
- D. Composition of the Hearing Panel for Specific Cases
1. Panels hearing complaints in which respondents are students or non-faculty employees
 - a. If the parties to the complaint are from different categories and the respondent is not a faculty member, the panel shall consist of two members from the same category as the complainant, two from that of the respondent, and a fifth member from the other category.
 - b. If all parties to the complaint are from the same category and none is a faculty member, a majority but not all of the members of the panel shall be from that category.
 - c. All members of such panels will be voting members and participate in all activities of the hearing and the deliberation, including voting on the findings and recommendations for possible sanctions if a respondent is found to be in violation of the university's Harassment Policy.
 2. Panels hearing complaints in which the respondent is a faculty member
 - a. If the respondent is a faculty member and the complainant is a student or non-faculty employee, the panel will consist of three faculty members from the harassment grievance board, one student and one non-faculty employee, plus one other board member from the constituency of the complainant (student or non-faculty employee). The student and non-faculty employee members will be participating but non-voting members of such a panel. The non-voting members will sit as part of the panel, question parties and witnesses, and participate in discussion of the evidence and possible final sanctions. Only the three faculty members will vote on the findings and recommendation of a possible sanction if the faculty member is found to be in violation of the university's Harassment Policy.
 - b. If both complainant and respondent are faculty members, a panel of five faculty will hear the complaint and vote on the findings, and on recommending possible sanctions.
- E. Conduct of Harassment Panel Hearings
1. Consistent with customary standards of fairness and with procedures specified in this policy, the hearing panel shall determine the most appropriate manner to proceed with the case. In all hearings, the following guidelines are intended to protect the rights of both parties and to assure the fairness of the process:
 - a. The hearing must commence no later than fourteen calendar days after the panel is appointed, except for good cause or by agreement of the parties. The panel shall give parties written notice of the time and place of the hearing.
 - b. Both parties shall attend the hearing. Neither party may be compelled to testify.
 - c. Both parties have the right to present evidence and to call a reasonable number of witnesses as determined by the hearing panel. Witnesses may be present only when testifying.
 - d. Both parties have the right to question all witnesses.

- e. Using a general standard of relevance to the complaint being heard, the panel shall determine what testimony will be permitted at the hearing. In cases in which the complainant alleges sexual harassment, other than those complaints brought by the HPC under Part VI alleging a pattern of harassment, the only sexual history admissible as evidence is that of the parties with each other. A non-party witness may not testify about any misconduct by the parties except the conduct alleged in the complaint.
 - f. Each party has the right to a representative from the student body, faculty, or staff. This representative, who shall not have a law degree, may help with preparation of the case, may be present when the case is heard, and may confer with the party during the hearing. The representatives may assist the parties in addressing the hearing panel or questioning witnesses. Neither party may have legal counsel present at the hearing.
2. Standard of Proof. A violation of the university's policies against harassment must be established by a preponderance of evidence. The complainant has the burden of proof. Neither party can be compelled to testify at the hearing. While the panel shall not draw a negative inference from the failure of either party to testify, a choice not to testify does not change the burden of proof.
- F. Decision of the Hearing Panel. The hearing panel shall decide whether the conduct alleged in the complaint occurred, and whether such conduct violated the university's policies against harassment. At any time before the hearing, or after the presentation of the complainant's case, the panel may determine upon written request of a party or the HPC whether the conduct alleged, if true, constitutes a violation of the university's policies against harassment. All parties and the HPC have the right to submit a written response to any such request. If the panel determines that the alleged conduct does not constitute a violation, it shall terminate the hearing.
1. The Panel's Deliberation. In deciding whether a violation of the policies against harassment has occurred, the panel shall attempt to reach a consensus. If consensus cannot be reached, a vote shall be taken. All decisions of the panel shall be made by a majority. When the panel is not unanimous in its findings or recommendations of remedial action, the report shall record both majority and minority opinions, but shall not identify the dissenting member(s). The report shall be signed by all members of the panel.
 2. Decision and Remedial Action. Following the conclusion of the hearing, the panel shall deliver to the HPC and to the official(s) responsible for implementing the panel's decision, a written report of the panel's findings and recommendations. If the panel finds that the respondent violated the university's policies against harassment, it shall recommend appropriate remedial action, taking into consideration all of the circumstances of the respondent's conduct. Examples of the types of remedial action that the panel may recommend in cases involving respondents who are faculty or staff are the following: participation of the respondent in counseling; prohibition of the respondent from participating in grading, honors, recommendations, reappointment and promotion decisions, or other evaluations of the complainant; letter of reprimand and copy of the grievance record placed in the respondent's personnel file; restrictions on the respondent's access to university resources, such as merit pay or other salary increases for a specific period; or suspension or dismissal from the university. Penalties recommended for students shall be consistent with those authorized for the respective judicial boards, up to and including dismissal.
 3. Prior Findings of Acts of Harassment. Before recommending remedial action, the panel shall request the HPC to testify concerning any prior final findings that the respondent violated the university's policies against harassment, including any settlements under mediation that constitute an admission of harassment. Such prior final findings shall be considered by the panel in its recommendation of a penalty.
- G. Implementation of the Decision. In all cases in which a hearing panel finds that the respondent violated the university's policies against harassment, the decision and recommendations of the panel shall be implemented as follows:
1. Responsible Officials. In cases in which the respondent is a member of the faculty, the responsible official shall be the dean of the school to which the respondent belongs or the corresponding academic officer at the Medical Center, as the immediate academic supervisor. The academic supervisor shall implement sanctions in consultation with the provost or the chancellor for health affairs, as the chief academic officer. In cases in which the respondent is

a non-faculty clinician, the responsible official shall be the chancellor for health affairs. In cases in which the respondent is a non-faculty staff member, the responsible official shall be the executive vice president, or his or her designate. In cases in which the respondent is an undergraduate student, the responsible official shall be the dean of student development. In cases in which the respondent is a graduate or professional student, the responsible official shall be the dean of the Graduate School or the professional school to which the student belongs. In cases in which the respondent is a post-doctoral fellow, research associate, or other individual not otherwise defined, the responsible official shall be the immediate supervisor, in consultation with his or her department head or dean.

2. Sanctions. In all cases where a respondent is found to have violated the Harassment Policy, the responsible official may adopt in whole or in part the panel's recommendations for sanction or may impose any other lawful sanction that the official deems appropriate, based on the panel's findings of fact. After consultation with the HPC, the official shall explain in writing the reason for imposing any sanction other than one recommended by the panel.

No later than fourteen calendar days after the hearing concludes, the HPC and the official responsible for implementing the panel's decision shall deliver to the complainant and the respondent a written report of the hearing panel's findings and recommendations; a description of the resolution to be imposed, including any remedial action or sanctions; and an explanation of any difference between the hearing panel's recommendations and the decision of the responsible official. Members of the hearing panel shall also receive a copy of this report.

3. Appeals from Findings of a Violation. The findings of the panel and the sanction imposed shall become final fourteen calendar days after the decision of the responsible official unless the respondent files a written notice of appeal within that time. An appeal from the findings of a hearing panel or the decision of a responsible official shall be made according to, and on the grounds allowed by, existing appeals procedures as follows:
 - a. Faculty: The Faculty Hearing Committee (Appendix M, Faculty Handbook)
 - b. Non-Faculty Staff: Nonexempt Employee Grievance Procedure (Personnel Policy Manual, D-25) or Exempt Staff Member Dispute Resolution Procedure (Staff Benefits Guide, Appendix A). At the request of the respondent, the appeal may go directly to the fourth step of the grievance procedure, as outlined in the Manual or the Guide.
 - c. Undergraduate Students: Appeal from undergraduate judicial board concerning disciplinary cases.
 - d. Graduate/Professional Students: Review by the provost.
4. Findings of No Violation. A finding by a hearing panel that the respondent did not violate the university's policies against harassment shall be final, except that the complainant may request that the president or his or her designate review the finding to determine whether it was made in accordance with these procedures. Both parties shall have the opportunity to make written arguments to the president or his or her designate. If the president finds that these procedures were not followed in any material respect, he or she may vacate the finding and remand the case to the hearing panel for further proceedings or may order a new hearing.

VI. COMPLAINTS FILED BY THE HARASSMENT PREVENTION COORDINATOR

- A. The HPC may file a complaint of harassment under these procedures against any individual he or she has a reason to believe has engaged in a pattern of harassment, based upon the number of complaints filed against the individual and resolved through mediation. In the event of a complaint under this Part, the HPC shall function as the complainant. In connection with a complaint under this Part, the president of the university or his or her designate shall perform all functions assigned to the HPC in the process for resolution of harassment complaints.

VII. RECORD KEEPING AND MONITORING

- A. Record of Hearings. The HPC shall maintain a copy of the record of each case, including a written statement of the final disposition of the complaint. Except where publication of the name of the respondent is imposed as a sanction, the record shall be subject to the confidentiality provisions of the Harassment Policy. Whenever there has been a finding of violation of the Harassment Policy, the responsible official will prepare a statement of the final disposition, which will become a part

of the respondent's permanent file; as such it is subject to the same rights to access, privacy, and confidentiality as other items in such files.

B. Monitoring

1. **Annual Record.** At the beginning of each academic year, the HPC shall submit a written report to the president setting forth the number of informal and formal cases filed in the prior year; which of these cases, if any, reached mediated solutions; and which were resolved by a hearing panel. The report shall specify the number of cases in which hearing panels made findings of harassment, the types of harassment found, and the final disposition of the cases, including any disciplinary action taken. The cases shall be reported in a manner that protects the privacy of the parties, except when publication of the name of the respondent is part of the penalty. The president shall make the HPC's annual report available to all members of the university.
2. **Grievance Board Recommendations.** The harassment grievance board shall meet at least once a year to monitor university policies against harassment and operation of these procedures. The HPC shall chair meetings of the board. The board shall recommend to the president any changes in policies or procedures necessary to accomplish the goal of preventing harassment of any kind within the university community.

Appendix X: DUKE UNIVERSITY UNDERGRADUATE HONOR CODE

An essential feature of Duke University is its commitment to integrity and ethical conduct. Duke's honor system helps to build trust among students and faculty and to maintain an academic community in which a code of values is shared. Instilling a sense of honor, and of high principles that extend to all facets of life, is an inherent aspect of a liberal education.

As a student and citizen of the Duke University Community:

- I will not lie, cheat, or steal in my academic endeavors.
- I will forthrightly oppose each and every instance of academic dishonesty.
- I will communicate directly with any person or persons I believe to have been dishonest. Such communication may be oral or written. Written communication may be signed or anonymous.
- I will give prompt written notification to the appropriate faculty member and to the Dean of Trinity College or the Dean of the Pratt School of Engineering when I observe academic dishonesty in any course.
- I will let my conscience guide my decision about whether my written report will name the person or persons I believe to have committed a violation of this Code.

I join the undergraduate student body of Duke University in a commitment to this Code of Honor.

Name

Date

Philosophy

Learning depends on honesty. It requires facing our own ignorance and confusion squarely, and admitting to others our undeveloped skills and our limited knowledge. It is furthered by credible responses to the work we do and, because it thrives on dialogue and debate, it flourishes in communities where trust and truthfulness prevail.

Dishonesty hurts us all. It adds suspicion and resentment to academic competition, and it distorts the meaning of grades. If academic dishonesty is widespread or accepted even tacitly, it can undermine and demoralize our common efforts.

The Honor Code is one part of a continuing effort at Duke to strengthen trust and reduce the likelihood of dishonest behavior. That effort includes the work of the Honor Council and the Undergraduate Judicial Board, a commitment by the faculty to act in support of academic integrity and a promise by the deans of Trinity College and the School of Engineering to act promptly whenever standards of trust or truthfulness are threatened. It also includes recurrent discussions throughout the Duke community of the issues central to the Honor Code.

In signing the Honor Code, students commit themselves to maintain their personal honor, to insist that the Code be honored by all in the community, and to act in response to violations of the Code. The dimensions of that commitment are worth pondering:

1. Personal honor

We learn early in life that honorable people tell the truth and keep promises and that to cheat or steal is dishonorable. We know, however, that everyone can be tempted, and that the fear of failure and that the prospect of comfort or future success can lead us to betray principles of truth, honesty and integrity. We also know that social pressures, pleasures, or personal problems can compromise our values. Thoughtless acts can cost us our integrity.

Codes and promises cannot change who we are, but adherence to them can help to ensure every decision we make is one that upholds those values. Conscience and character are shaped and maintained by decisions and actions. Clear commitments regularly reaffirmed keep the need for honor present in our minds. Honesty, integrity and truth are not just values, they are decisions that we make and must continue to make despite temptation and the lure of the "easy way out."

2. Social responsibility

The Honor Code emphasizes that students are citizens at Duke, and that civic responsibility here, as anywhere, means going beyond a purely personal concern for honor. The commitment to honor at Duke is not just an individual matter but a social contract; a consensus in support of academic honesty is the minimum necessity for accomplishing the aims we share.

So the Honor Code requires opposing what we know is wrong. This may mean speaking out against plagiarized papers or prohibited cooperation, or advising an instructor not to reuse an earlier year's exam. It surely means considering dishonesty openly, talking about it with others, informally or in class.

3. Awareness

The notification requirement is crucial. There are instructors unaware of cheating in their classes, and there are courses so oversubscribed and understaffed that adequate evaluation is difficult and the resultant temptation to cheat is high. Better information will help faculty, deans and students reduce the opportunities for dishonesty and will identify patterns that urgently require corrective action.

Notifying the deans is important, because the community as a whole needs to be more alert to whatever problems exist. If students tell faculty and deans when cheating is occurring, then all of us can know how widespread the problems are and whether they are getting worse or better. This knowledge is essential if we are serious about trying to achieve a more honest community.

4. Directness

The Honor Code charges each student to communicate directly with anyone that student has strong reason to believe has acted dishonestly. This is the most demanding requirement of the Code; yet it also holds the greatest promise of reducing plagiarism and cheating across the whole range of academic work.

What one should say to dishonest friends or classmates is not prescribed by the Code. However, it is expected that students act promptly based on clear evidence that the Code has been violated; that they report what they have seen; or notify the individual(s) suspected of alleged dishonest practices. When improper conduct is identified in this way, violators will know that they have been observed and that to continue will result in serious repercussions--knowledge that, by itself, could effect immediate constructive change.

The requirement to confront others about their acts of dishonesty may trigger violators to re-evaluate their decisions. Not every student will feel comfortable with confronting a fellow student about academic misconduct, but it is important to consider that corporations, government agencies, and small businesses all depend on the willingness of their people to recognize and take a stand against serious breaches in ethical conduct. Employees who do not confront wrongdoing within their organizations tacitly condone behavior which could ultimately compromise their own positions and security.

5. Choice

The Honor Code emphasizes the choice that witnesses to violations always face--whether or not to inform the authorities. To weigh that choice means to think about the costs of dishonesty both to individuals and to the morale of the community. It means as well to think about students who lie, or cheat, or steal, and whether facing the Undergraduate Judicial Board might help them come to terms with what they are doing.

There are never good reasons for ignoring dishonest acts and the harm they do to the academic enterprise. Communicating directly to those who act dishonorably and informing faculty and deans that cheating has occurred, will sometimes be sufficient. But there will be times when conscience requires you to do more.

The Honor System

Students and the Honor Code

Each undergraduate student admitted to Duke University is required to sign the Honor Code before matriculating. The Honor Council sponsors discussions of the Code and problems of academic dishonesty during New Student Orientation and in special sessions on campus every year. The Council also prepares an annual report on the Honor Code and academic dishonesty, noting the numbers and types of incidents reported. Members of the Honor Council are available throughout the year to serve as advisers to any students concerned about stipulations in the Code and their responsibilities .

The Honor Code is printed on the inside front cover of each blue book used in exams. Every student is expected to sign a statement indicating that "I have neither given nor received aid in completing this examination" as part of each exam, and to sign a similar statement on each paper submitted.

The Undergraduate Judicial Board

The Judicial Code of the Undergraduate Community defines and prohibits cheating, plagiarism, and other forms of academic dishonesty, including abuses of electronic transmissions. Charges under these rules are adjudicated by the Undergraduate Judicial Board (UJB), which consists of students, faculty, and academic deans. Convictions can be appealed to the Appellate Board according to university policies.

The Undergraduate Judicial Board has been successful in resolving cases of academic dishonesty. The Board has a reputation for high standards of proof and fairness, and will ensure that each student accused of academic misconduct be afforded the same rights and privileges in due process.

The Honor Code is supported by the Judicial Code and the hearings, decisions, and sanctions of the Undergraduate Judicial Board. The Honor Code's pledge not to lie, or cheat, or steal summarizes the more detailed provisions of the Judicial Code. The Honor Code's other pledges--to oppose dishonesty, to report dishonest acts (with or without names, as conscience dictates), and to speak to others one believes to have acted dishonestly--are not enforceable by the UJB. These are promises to act honorably and responsibly, commitments that go beyond what legal rules can effectively require.

The Faculty

Faculty members have a responsibility for making clear the rules by which their classes operate, including their expectations about when cooperation among students is encouraged or prohibited. The

faculty also has an obligation to reduce temptation by making sure that exams are proctored, and that multiple versions of exams are used when the possibility of copying exists.

Students who have access to files of previously given exams have an unfair advantage over others. Academic departments must continue to find ways to prevent this unfairness. Well-maintained departmental files of previous exams available to every student is one possible solution. Others might include passing out copies of relevant earlier exams as study materials, or making sure that exams differ sufficiently from semester to semester so that possession of an earlier exam is no advantage.

It is important that faculty members deal fairly and consistently with cases of academic dishonesty. The Faculty Handbook requires members of the faculty "to submit pertinent information on cases of possible misconduct to the Office of Student Development for investigation." It adds that when "faculty members take it upon themselves to adjudicate or penalize students for plagiarism or cheating" the system organized around the Undergraduate Judicial Board is significantly weakened.

It is fundamentally unfair for two students, equally guilty of academic dishonesty, to receive vastly different judgments for their actions. The student "fortunate" enough to be dealt with in an informal manner by a faculty member may only receive a failing grade for the work in question, while the other equally guilty student put through the formal UJB process may receive the same penalty and an additional sanction which removes him/her from the university for a semester or longer. Additionally, an established procedure ensures that a student who commits repeated academic dishonesty violations will not go undiscovered as a result of being dealt with by independent faculty members in isolation.

There are several other things faculty members can do to reduce the likelihood of academic dishonesty. They can raise the subject regularly, mentioning the Honor Code in syllabi and talking about it in class. To discourage the recycling of term papers, and at the same time to improve the quality of analysis, outlines of papers can be requested, and commented on, well in advance of their final due dates.

The Administration

The Dean of Trinity College or the Dean of the Pratt School of Engineering will ensure that the academic departments regularly review the Honor Code and its requirements and the faculty's responsibilities with relation to academic dishonesty. The deans will also take steps to assure that new faculty understand both the Honor Code and the regulations about academic dishonesty to which they are subject.

When the deans receive allegations of widespread violations of the Honor Code, they will meet promptly with the relevant faculty, directors of undergraduate studies, and department chairs, helping them to develop effective responses to whatever problems are found to exist.

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