Section 1.0
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1.0 Administrative Organization and General Information

1.1 Vision, Values, Mission / Institutional Purpose

1.1.1 Vision Statement (Revised December 1997)

To be the University of choice on the region and to become the best regional University in the nation.

1.1.2 Values

ETSU pursues its mission through a student-centered community of learning reflecting high standards and promoting a balance of liberal arts and professional preparation, continuous improvement, and based on the core values where:

- PEOPLE come first, are treated with dignity and respect, and are encouraged to achieve their full potential;
- RELATIONSHIPS are built on honesty, integrity, and trust;
- DIVERSITY of people and thought is respected;
- EXCELLENCE is achieved through teamwork, leadership, creativity, and a strong work ethic;
- EFFICIENCY is achieved through wise use of human and financial resources; and
- COMMITMENT to intellectual achievement is embraced.

1.1.3 Mission / Institutional Purpose (Revised November 2005)

East Tennessee State University strives to create a community of learning that actively advances the fundamental values of higher education—the free interchange of ideas, curiosity and the desire for learning, critical thinking and self-reflection, ethical behavior, academic freedom, and appreciation of human diversity. Every academic program and support unit at ETSU contributes to the creation of this community. The university places primary emphasis on student learning through effective and innovative teaching by faculty, working in partnership with administration and staff. It seeks to promote students' intellectual and social development by providing academic programs and co-curricular opportunities that meet high standards of quality.

ETSU embraces its regional setting and proudly reflects its traditional roots and Appalachian heritage. The university is committed to expanding student access and actively recruits well qualified undergraduate and graduate students from throughout Tennessee, especially from Northeast Tennessee and adjacent states. In addition, it supports selected programs that attract students from across the nation as well as from other countries. The university makes educational opportunities available to all eligible people without regard to age, sex, race, religion, national origin, disability, veteran status, or sexual orientation.

The university pursues community partnerships that will both enhance its institutional effectiveness and serve the region. It places special emphasis on community-based and interdisciplinary learning. ETSU is a leader in improving the intellectual, cultural, economic, political, social, and health environment of Northeast Tennessee and the Southern Appalachian region. The university demonstrates special commitment to enhancing P-16 education, workforce development, civic responsibility, uses of technology, and providing distinctive educational service and research appropriate to its mission.

ETSU offers programs through eight colleges and schools related to five areas: arts and sciences, business, education, health sciences, and technology. It affirms the value of liberal education for all undergraduate students and offers programs of study leading to expertise in the arts and sciences and selected professional fields. The university places a distinctive emphasis on improving student competence in writing, oral communication, and using information technology. It strives to address the needs of gifted students seeking greater educational challenges and nontraditional students returning to the classroom. ETSU is committed to providing a rich campus life, offering a variety of residential opportunities and student activities, and supporting excellent intercollegiate and intramural athletic programs.

The university is recognized for its unique focus on the health sciences. ETSU's Division of Health Sciences, composed of the colleges of Medicine, Nursing, and Public and Allied Health, seeks to support the health and wellness of the people of Southern Appalachia, with special emphasis on meeting the needs of rural populations. The university is committed to providing programs that achieve distinctive levels of regional and national recognition, to providing a variety of delivery systems (including online) to enhance access, and to becoming increasingly comprehensive in its focus on health sciences through expanding its inventory of undergraduate and graduate programming.

ETSU offers graduate programs to meet the needs of its student population and extensive service region. These programs award masters' degrees in most liberal arts disciplines and technical and professional fields. The university awards doctoral degrees in education and in selected disciplines that reflect its health sciences mission.

The university is committed to improving the availability and quality of programming for individuals seeking educational opportunities beyond the Johnson City campus and via the Internet. ETSU also seeks to use emerging technologies to enhance the quality of instruction it provides to all of its students.

As a doctoral research-intensive university, ETSU is committed to teaching based in scholarship and to advancing programs of research and creative activity that improve the quality of life in the region, the state, the nation, and the world. The university seeks to provide an environment in which faculty, students and staff are encouraged to inquire and to produce and disseminate the highest quality scholarly and creative work. To sustain and enhance this environment ETSU seeks to secure financial support for research and creative programs through partnerships with broader communities, through effective management, and through aggressive pursuit of extramural support and creative entrepreneurial initiatives.

East Tennessee State University strives to achieve optimal efficiency in its use of resources while always seeking to offer instructional, research and public service programs of the highest quality. The university recognizes that employees are its most valuable resource and students its most important constituents. Putting people first is the foremost value guiding ETSU's operations.

11/94; 06/95; 11/97; 11/99; 11/05

1.2 Organizational Structure

To view ETSU's organization structure, go to

http://www.etsu.edu/humanres/OrganizationalStructure_files/OrganizationalStructure_frames.htm

07/01/91; 05/15/01; Effective 03/06, policy changes will appear on the webpage cited

1.3 Equal Opportunity for Employment

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-04.htm

09/15/79; 02/15/91; 08/15/96; 10/18/00; Effective 03/06, policy changes will appear on the webpage cited

1.4 Employee Grievance/Complaint Procedures

1.4.1 Purpose

The purpose of these procedures is to provide a clear, orderly, and expedient method through which all employees of East Tennessee State University may process bona fide grievances or complaints.

1.4.2 Policy Statement

It is the intention of East Tennessee State University to provide an effective process for the resolution of problems arising from the employment relationship or environment. To this end, a formal grievance/complaint procedure has been established for the use and benefit of all employees. It is the responsibility of administrative, academic, and line supervisors to inform and make available to all employees information concerning these procedures. When an employee believes a condition of employment affecting him/her is unjust, inequitable or a hindrance to the effective performance of his/her employment responsibilities, he/she should seek resolution through this mechanism without fear of coercion, discrimination or reprisal. The objective of East Tennessee State University's Grievance/Complaint Procedures is to make every effort to resolve a grievance/complaint at the lowest possible step. Toward this end, faculty are encouraged to communicate openly with their immediate supervisors and to consult with a trained procedural consultant (so designated by the Faculty Concerns and Grievance Committee for the university and trained appropriately for the position) for clarity about definitions of grievances and complaints and procedures for advancing either.

1.4.3 Scope

These procedures apply to all employees and cover all employment related issues with the exception of Sexual Harassment, Affirmative Action Matters, and Tenure. The institution has a separate set of guidelines for the processing of Sexual Harassment complaints and matters involving Affirmative Action (i.e., unlawful discrimination on the grounds of race, religion, color, sex, age, handicap, nation origin, or veteran status). Sexual Harassment complaints should be filed with those individuals outlined in the Sexual Harassment Plan while Affirmative Action matters should be filed with the Affirmative Action Director. Furthermore, a separate Committee on Promotion/Tenure appeals exists for the disposition of matters involving tenure or promotion.

Moreover, an employee may choose to utilize these procedures for review by the grievance committee (established pursuant to the within guidelines) in the following situations:

1.4.3.1 Actions relating to the suspension of employees for cause or termination in violation of an employment contract which fall under TBR Policy 1:06:00:05 (cases subject to TUAPA); or,

1.4.3.2 Actions related to TBR Policy 5:02:03:00, Section III. 16. b. (2) (suspension of tenured faculty).

Furthermore, the University may choose to utilize these procedures for review by the grievance committee (established pursuant to the written guidelines) when resolving a matter initiated pursuant to TBR Policy 5:02:02:00 (faculty promotion).

1.4.4 Definitions

1.4.4.1 Matters Subject to the Grievance or Complaint Procedure

There are two (2) types of matters that may be addressed by these procedures: (1) grievances subject to committee review; and, (2) complaints that must be resolved without committee review.

a. Grievance - (committee review available)

An employee may only grieve those matters which result from any action the Institution has taken against the employee which:

(1) Violates school or TBR policy, or involves an inconsistent application of those policies; or,

(2) Violates any constitutional right including, but not limited to the First, Fourth, or Fourteenth Amendments to the Federal Constitution and specifically, but again not limited to, actions that hamper free speech, freedom of religion, the right to association, personal and professional property rights, provides for improper search and seizure, or denies constitutionally required notice or procedures.

b. Complaints (committee review not available)

A complaint is a concern an employee wants to discuss with supervisory personnel in an effort to resolve the matter. Personnel actions such as performance evaluations, rates of pay, position reclassification, or position termination due to reduction in force are not defined as complaints.

In effect, in order for a personnel action such as those described in the preceding paragraph to be formally challenged by an employee or faculty member, the action must be the result of an alleged violation of school or TBR policy, an inconsistent application of those policies, a violation of any constitutional right, *et. seq*. (Note: bases for challenges are listed in Section III ["Scope"] and Section IV ["Definitions"]).

This section recognizes that the informal "give-and-take" traditionally associated with the employment process will not be altered and that an employee should feel free to express dissatisfaction with the working environment; however, there is an appropriate framework for expressing personal dissatisfaction, which this policy attempts to outline.

1.4.4.2 Employees

All references to the term “employee(s)” contained in these procedures only include administrators, faculty (full-time or temporary contracts), professionals, clerical, and support personnel. Probationary employees are also included in the definition; however, student workers, graduate assistants, adjunct faculty, and temporary workers are not included in the definition of employee as it pertains to the grievance procedure.

1.4.4.3 Grievance Committee

There are two grievance committees utilized by the University. The two types are the (1) Faculty Concerns and Grievances Committee, and (2) Non-Faculty Grievance Committee.

a. Faculty Concerns and Grievances Committee

The Faculty Concerns and Grievance Committee shall (a) designate a panel of three faculty members to serve the university as procedural consultants; (b) participate with the University Attorney in training procedural consultants in the definitions, policies, and procedures related to filing both grievances and complaints; (c) serve, when asked by the faculty member, as a consultative body for the development of any grievance or complaint, subject to guidelines and restrictions of this process stated in *1.4.10 – Faculty Senate Policy for Faculty Grievances, Sections 1 & 2*; and (d) shall only consider and forward recommendations to the President on those matters which meet the criteria for *grievances*—with those problems which are deemed *complaints* to have their ultimate resolution through the Office of the President of the University.

b. Non-Faculty Grievance Committee

The Non-Faculty Grievance Committee shall only consider grievances brought by non-faculty members. The Non-Faculty Grievance Committee shall also be selected from a Non-Faculty Grievance Pool and shall be activated for individual grievances only.

(1) Non-Faculty Grievance Committee Pool

The President shall select a pool of potential committee members who will receive training by the Office of Human Resources regarding the University's Grievance procedure. Six (6) full-time permanent employees from each non-faculty EEO category will be selected by the President to serve as Pool Members. Their terms of service will be staggered such that two (2) members from each EEO category will serve a one (1) year term, two (2) members will serve a two (2) year term, and two (2) members will serve a three (3) year term. These individuals may serve subsequent terms but may not succeed themselves and the President shall replace all vacated positions. Furthermore, the percentage of females and minorities on the Non-Faculty

Grievance Pool shall reflect as closely as possible their representation at the University at large. The following personnel, however, shall not be eligible to serve as members of the Non-Faculty Grievance Pool: personnel in the Office of the President; personnel employed in the Offices of the Vice Presidents; or employees of the Office of the Internal Auditor. Payroll Office, or Office of Human Resources.

(2) Non-Faculty Grievance Committee Selection

The President shall select the Grievance Committee which shall consist of three (3) members selected from the Grievance Committee Pool. At least one member of the grievant's peer group must serve on the committee; however, relatives, employees who have supervisory responsibility over the aggrieved employee, or anyone working in the same department under the same manager or supervisor are ineligible to serve on the committee. The committee shall select a chairperson and conduct an impartial hearing on the grievance at which it would accept and review all pertinent information presented by the employee as well as any other information it deems appropriate. The committee's review shall be thorough and independent and its recommended action shall be based on a full and fair consideration of all the facts and circumstances.

1.4.4.4 Immediate Supervisor

That person who is directly responsible for the supervision of the employee's activities.

1.4.4.5 Next-higher-level Supervisor

That person who is directly responsible for the supervision of the immediate supervisor's activities.

1.4.4.6 Working Days

Days on which the business offices of the Institution are officially open.

1.4.4.7 Date of the Decision

Date the decision is communicated to the employee if communicated in person; or, three (3) days after mailing of the decision, if communicated by mail.

1.4.5 Responsibility for Implementation and Compliance

The President of the University has ultimate responsibility for the implementation of these procedures and is the final decision maker in the resolution of complaints. The final decision making authority in any action involving a grievance, pursuant to TBR Policy 1:02:11:00, resides with the Chancellor of the Tennessee Board of Regents.

1.4.6 General Rules of Implementation

The primary responsibility for resolving grievable matters rests with the employee/faculty member and his or her immediate supervisor. Initial steps should always be taken to resolve disputes at this level before proceeding to the following rules of implementation. When a concern or issue has not been resolved informally, and the concern might be foreseen to result in a formal complaint or grievance, the immediate supervisor will refer the faculty member to an appropriate procedural consultant or consultants for consultation and guidance by giving the faculty member a referral card developed and provided by Faculty Senate.

1.4.6.1 Employees using these procedures shall be entitled to do so without fear of retaliation, interference, coercion or discrimination.

1.4.6.2 A grievance which is the subject of an action filed with an external body shall not be processed through the University's grievance procedures. The term external body includes a court or federal or state administrative body such as the Equal Employment Opportunity, Office of Civil Rights, or Tennessee Human Rights Commission.

1.4.6.3 A grievance/complaint must be presented to the employee's immediate supervisor within ten (10) working days after the occurrence of the incident. Any claim not presented within the time frame provided shall be deemed to have been waived. For repetitive or ongoing incidents or circumstances, the grievance/complaint must be filed within ten (10) working days of the last occurrence of such incident or circumstance or of the discovery by the employee of the occurrence. This policy presumes that all employees or faculty members will use good faith and diligence in the discovery of grievable matters.

1.4.6.4 The grievant/complainant is entitled to be accompanied by an advisor at each step of the procedure; however, the advisor may not act as an advocate on behalf of the individual.

1.4.6.5 Employees shall be given the opportunity to pursue grievances/ complaints during their assigned work time.

1.4.6.6 The President may grant reasonable extensions of the applicable time limits at each stage of the procedure upon the timely showing of good cause. The request for an extension must be in writing. The approval or denial of the request shall also be in writing.

1.4.6.7 Supervisors to whom a grievance is raised and the Grievance Committee may consult the Director of Human Resources for advice on resolving grievances (except for grievances involving an action taken against the grievant by the Director of Human Resources).

1.4.6.8 Copies of all written and associated documentation will be filed in the Office of Human Resources.

1.4.6.9 There shall be a one-semester time limit placed on all grievable matters. In essence, no grievance may be heard unless the grievable incident(s) occurred within the semester immediately preceding the current semester or within the current semester.

1.4.7 Grievance/Complaint Process

1.4.7.1 Steps for Filing a Grievance Only

1.4.7.1.1 Discussion with Immediate Supervisor

A grievance must be brought to the attention of the employee's immediate supervisor within twenty (20) working days after the employee becomes aware of the problem. The employee should state the basis for the grievance and the corrective action desired in temperate and reasonable terms. The employee and the supervisor shall discuss the grievance in an attempt to resolve the matter in a mutually satisfactory manner. The supervisor shall conduct any necessary or appropriate investigation and inform the employee of a decision based upon full and fair consideration of all the facts within five (5) working days of the initial discussion. The immediate supervisor will assure that the decision is clearly communicated to, and understood by, the employee. If the employee is satisfied with the decision, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 2 and will be referred to an appropriate procedural consultant or consultants for consultation and guidance by giving the faculty member a referral card developed and provided by the Faculty Senate. If no decision is communicated to the employee within five (5) working days of the initial discussion, the employee may proceed directly to Step 2.

1.4.7.1.2 Discussion with Higher-Level Supervisor

If the employee and the immediate supervisor are not able to reach a mutually satisfactory resolution to the grievance, the employee may proceed to discuss the matter with the next-higher-level supervisor within ten (10) working days of the date of the decision of the immediate supervisor. Failure to comply with Step 2 in a timely manner shall be deemed a waiver by the employee for this particular occurrence and the grievance may not be raised again. The next-higher-level supervisor and the employee shall then follow the procedures required in Step 1.

If the employee is satisfied with the decision reached by the next-higher level supervisor, no additional action is required. If the employee is not satisfied, the employee may proceed to Step 3; if the employee has not already seen a procedural consultant, she or he will be referred to an appropriate procedural consultant or consultants for consultation and guidance by giving the faculty member a referral card developed and provided by the Faculty Senate. If no decision is communicated to the employee within five (5) working days of the initial discussion between the employee and the next-higher-level supervisor, the employee may proceed directly to Step 3.

1.4.7.1.3 Written Grievance Statement

If the employee and the next-higher-level supervisor are not able to reach a mutually satisfactory resolution to the grievance the employee may file a written grievance with his/her vice president on the designated form, available online at **http://www.etsu.edu/humanres/forms/FacultyGrievanceForm.pdf** or **http://www.etsu.edu/humanres/forms/FacultyGrievanceForm.doc**; **http://www.etsu.edu/humanres/forms/FacultyComplaintForm.pdf** or **http://www.etsu.edu/humanres/forms/FacultyComplaintForm.doc**. This form shall allow the employee to clearly indicate whether she or he is filing a formal grievance or complaint – or the university may choose to make available two different forms, one for a grievance and one for a complaint: It is the faculty member's responsibility to make her or his own case for the problem being addressed appropriately as either a grievance or a complaint as delineated in this policy. The grievance must be filed within ten (10) working days of the date of the decision of the higher-level supervisor. Failure to comply with Step 3 in a timely manner shall be deemed a waiver by the grievant for this particular occurrence and the grievance may not be raised again.

A copy of the grievance, along with any supporting documentation, shall be given to the immediate supervisor and the next-higher-level supervisor. The vice president may request either or both supervisors to respond in writing to the grievance statement. If the employee is satisfied with the decision reached by the vice president no additional action is required. If the employee is not satisfied the employee may proceed to Step 4. If no decision is communicated to the employee within fifteen (15) working days after filing the grievance with the vice president, the employee may proceed directly to Step 4.

1.4.7.1.4 Written Grievance Statement to be Received by the President and Grievance Committee

If the employee and the vice president are unable to reach a mutually satisfactory resolution the employee may file with the President of the institution. Any grievant, who may otherwise be entitled to a hearing before the grievance committee, may waive such a hearing and accept the findings of the President. Any faculty member considering such a waiver shall first be referred to an appropriate procedural consultant or consultants for a consultation on the advisability of signing a waiver of this right by giving the faculty member a referral card developed and provided by the Faculty Senate. Any such waiver shall be in writing and signed by the grievant. The waiver should state the matter involved and should expressly state that the right of the grievant to a formal hearing by the Grievance Committee is knowingly and voluntarily waived.

If the grievant waives his/her rights to a hearing, the President shall within twenty (20) days after receipt of the grievant's file, advise the grievant of the decision. The President's decision will be final and shall be directed to the employee. If no decision is communicated to the employee within twenty (20) working days of filing the grievance the employee may file directly with the Chancellor of the Tennessee Board of Regents.

If the grievant does not waive the right to a hearing, the President shall, within five (5) days of receipt of the grievant's file, refer the grievance and all relevant documentation to the appropriate grievance committee. Within twenty (20) days after receipt of the grievant's file the committee shall advise the President and the grievant of its decision. The recommendation shall be based on a full and fair consideration of all the facts and circumstances. The report shall also contain a summary of the committee's investigation and findings.

1.4.7.1.5 Appeal of Grievance to the Chancellor, Tennessee Board of Regents

In any case where the President makes a decision adverse to the grievant, the President shall advise the grievant of his/her right to appeal the decision to the Chancellor. The employee's appeal to the Chancellor must be filed within fifteen (15) working days of the date of notification of the President's decision.

1.4.7.2 Steps for Filing a Complaint Only

The steps involved in the resolution of complaints follow the same procedures as those outlined for the resolution of grievances with the following exceptions:

a. Complaints do not include a right to a hearing or adversarial proceeding before the grievance committee; and,

b. The President is the final decision maker involving complaints; that is, the complainant does not have the right to appeal to the Chancellor of the Tennessee Board of Regents.

1.4.8 Maintenance of Records

Copies of all written grievances/complaints and accompanying responses and documentation will be maintained with the Office of Human Resources for at least three (3) years.

1.4.9 Committee Membership and Selection

1.4.9.1 A Faculty Concerns and Grievances Committee shall serve as an advisory body to advise the Senate and, through the Senate, either the Vice President for Academic Affairs or the Vice President for Health Sciences on matters arising from either a concern or a grievance filed by a faculty member or members. The committee shall consist of one faculty senator from each college and school. An alternate may be asked, by the Senate president, to sit in place of a regular committee member in those cases in which the regular committee member is unable to serve or cannot be present for one or more scheduled meetings. A committee member who has a particular interest in the case outcome will excuse him or herself from the committee and be replaced by an alternate for that hearing.

1.4.9.2 The committee will be appointed by the Faculty Senate, as a committee of the Senate. The chair shall be elected by the committee members at their first meeting of each academic year.

1.4.10 Faculty Senate Policy for Faculty Grievances

All formal complaints and grievances by faculty are now governed by the East Tennessee State University's Employee Grievance/Complaint Policy and Procedure (1.4). Any faculty member wishing to formally challenge an administrative decision should carefully follow the procedures outlined there and it is recommended that she or he consult with an appropriate procedural consultant or consultants with regard to policy, procedures, and rights.

However, faculty members occasionally want an opportunity to discuss their concerns with their peers and to obtain their peers' advice, without becoming mired in formal grievance procedures. East Tennessee State University provides two avenues for such discussions/consultations—either or both of which are available to all faculty members: The first is a consultation with a trained procedural consultant or consultants, and the second is through a formal consultation (specified and limited below) with selected members of the Faculty Senate Committee on Faculty Concerns and Grievances. Members of the Committee on Faculty Concerns and Grievances who provide formal consultation on a case will not sit on a formal grievance hearing of that case.

Therefore, we recommend that the Senate Committee on Concerns and Grievances will serve two functions in addition to those specified in the Senate By-Laws 1.5.1.3.

1. The Committee will discuss concerns filed by individual faculty members. A concern is defined as any matter that could be subject to a complaint or grievance as outlined under the University's Complaint and Grievance Policy. In addition, the committee will have the discretion to discuss any other matters it deems appropriate.

   Prior to meeting with the committee, the faculty member will submit a brief statement of her/his concern. In discussing such matters, the Committee will not function as an adversarial hearing board. Rather the committee members will listen to the faculty member's/members' complaint and advise her/him as they see fit. They will advise the faculty member about the proper way to proceed. However, the committee's deliberations, since they are merely advisory, *cannot* become part of any formal grievance the faculty member chooses to file. Deliberations will be confidential, unless all parties agree otherwise. The committee will maintain no records.

2. If the faculty member chooses to file a formal grievance, the committee, in conjunction with the President of the Faculty Senate, will select a five-member committee who will formally hear the grievance in accordance with university policy. This committee will report its findings to the University President.

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1.5 Policy on Sexual Harassment

Refer to *ETSU Personnel Policies and Procedures Manual* for both policy and procedures at

http://www.etsu.edu/humanres/ppp/PPP-30.htm

http://www.etsu.edu/humanres/ppp/PPP-31.htm

02/87; 02/89; 02/95; Effective 03/06, policy changes will appear on the webpage cited

1.6 Policy Statement on Drug-Free Campus

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-26.htm

07/23/90; Effective 03/06, policy changes will appear on the webpage cited

1.7 University Policy on Smoking

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-53.htm

8/1/97; Effective 03/06, policy changes will appear on the webpage cited

1.8 Workplace Violence Prevention Guideline

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-58.htm

01/26/90; November 3, 1999 - TBR President's Meeting; 12/01; Effective 03/06, policy changes will appear on the webpage cited

1.9 Policy on Financial Exigency

1.9.1 Definition of Financial Exigency

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

1.9.2 Actions Required Prior to the Declaration of Financial Exigency

Financial exigency results from an imminent fiscal crisis characterizing the entire institution; thus, the condition of financial exigency *may not* be declared at a level below that of the institution (i.e., it *may not* be declared at the level of an academic or administrative unit such as a school, department, or similar account-level unit). In light of the gravity of consequences resulting from a declaration of financial exigency, the process leading to an institutional recommendation to the Tennessee Board of Regents that financial exigency be declared must be cautious, fair, well informed, and as responsive as possible to the interests of various segments of the institution.

1.9.2.1 The responsibility for initiating the proposal for declaration of financial exigency resides with the President of East Tennessee State University. Since recommending the declaration of financial exigency is an extreme measure, that responsibility requires the President to provide all appropriate assurances and documentation that available and reasonable procedures to reduce the expenditure levels of the institution are exhausted, and that no efforts have been spared to enhance revenues.

1.9.2.2 Prior to proposing the declaration of financial exigency, the President shall share with the entire faculty or its representative body and with representatives of other campus personnel constituencies all pertinent analysis and documentation that, in his or her opinion, demonstrate an imminent fiscal crisis for the entire institution that would warrant a declaration of financial exigency. That analysis and documentation should be shared promptly and with sufficient notice to all personnel constituencies including the Faculty and Staff Senates; and opportunities should be provided for discussions with and advice from those bodies, answers to appropriate questions, and general deliberations befitting an educational institution.

1.9.2.3 After discussion and review of any advice from various personnel constituencies, the President shall, if s/he remains convinced that conditions warrant a recommendation for declaration of financial exigency, present the recommendation with full documentation to the Chancellor of the Tennessee Board of Regents.

1.9.2.4 If his/her review supports the conclusion that conditions warrant a declaration of financial exigency, the Chancellor shall so recommend to the Board of Regents.

In addition to providing the Board of Regents with a recommendation to declare financial exigency, the Chancellor in consultation with the campus president shall also submit a statement of findings and conclusions including *at least* the following:

a. A description of the *current fiscal condition* of the institution, including the projected amount of deficit that would result from failure to declare financial exigency.

b. A *projection of the fiscal condition* that would result, in the opinion of the President and the Chancellor, from general types of action anticipated to be taken subsequent to a declaration of financial exigency.

c. An *analysis of the reason* for the current imminent fiscal crisis characterizing the entire institution, specifying with appropriate documentation those identifiable factors contributing to the crisis.

d. A *statement of assurance*, with supporting evidence, that available and reasonable procedures to reduce expenditure levels of the institution are exhausted, that further retrenchment within existing policies is not compatible with the objective of assuring maximum protection for the academic programs of the institution and the educational needs of students, and that efforts to enhance revenues have been carried out in a responsible manner.

e. A *transmittal of any advice, alternatives, or information* in writing by any institutional personnel constituencies including the Faculty and Staff Senates.

1.9.3 Actions Required Subsequent to the Declaration of Financial Exigency

Should the Board of Regents formally declare a state of financial exigency at East Tennessee State University, the President shall in a reasonable time and with appropriate documentation initiate a proposed plan to allocate necessary funding reductions among the primary budgetary sub-units (e.g., academic affairs, student affairs, fiscal affairs, etc.) within the institution. The following procedures shall be followed:

1.9.3.1 The President shall convene the University Council, which shall serve as the institution's Financial Exigency Committee. The membership of this council includes: the President of the University, the President of the Faculty Senate, the President of the Staff Senate, the President of the Student Government Association, two elected members of the student body, three elected members of the staff, eight elected faculty members (one from each College, School, Library), one dean elected by the deans (not to include the Dean of the College of Medicine), and the vice presidents of Academic Affairs, Health Affairs, Student Affairs, Finance and Administration, and Development.

1.9.3.2 The President's proposed plan for allocating necessary funding reductions to primary budgetary sub-units shall be reviewed by the Financial Exigency Committee. The Committee shall review the amounts of proposed reductions, evaluate proposed reductions in the light of institutional priorities, and consider administrative organization and academic priorities. It shall also consider the magnitude of proposed reductions in each primary budgetary sub-unit in the light of factors prescribed by applicable state or federal laws regarding fair employment practices.

1.9.3.3 The Committee shall submit *in writing* within thirty days to the President its response to the President's plan, which shall include either an endorsement or a recommendation of alternatives.

1.9.3.4 The President shall consider any alternatives recommended by the Committee and, within thirty days, shall indicate to the Committee a final decision relative to the internal allocation of necessary funding reductions. This financial plan should be communicated broadly to all personnel constituencies including the Faculty and Staff Senates.

1.9.3.5 Heads of primary budgetary sub-units, with broad and clearly defined faculty and staff consultation, shall recommend to the President plans for effecting their designated budget reductions. Those recommendations from heads of primary budgetary sub-units shall include proposed reductions in programs or personnel, shall achieve the designated reductions, and shall respond to any inquiries the President or the Financial Exigency Committee may direct.

1.9.3.6 As a primary component of his or her review of plans submitted by heads of primary budgetary sub-units, the President shall — prior to accepting them — submit the plans for review by the Financial Exigency Committee.

1.9.3.7 The Committee shall review plans submitted by heads of primary budgetary sub-units with consideration for the following general principles:

a. Retrenchment other than reduction-in-force should reflect as its major priority maximum protection for the academic programs of the institution and the educational needs of students.

b. When an academic or administrative unit undergoes reduction-in-force, the principle consideration in determining which persons to retain and which to terminate should be the maintenance of viable academic or support programs within that unit.

c. Personnel or affected academic or administrative units should have significant advisory involvement relative to determining specific persons and minimal personnel needs or areas of specialization essential to a unit's viability.

d. To avoid the possibility of compromising the quality of highly productive programs within the institution and to recognize the best interests of continued academic excellence, reduction-in-force *cannot* normally be accomplished on a strictly across-the-board basis.

e. Affirmative action plans should be carefully considered in all personnel decisions.

f. Unless an exception is made in order to maintain a viable academic or support program as identified in “b” above or for reasons of affirmative action as noted in “e” above, decisions as to the order of personnel terminations in academic or administrative units should be made in light of the following factors in rank order as they apply to personnel within the specific academic and administrative units:

(1) Faculty considerations:

(a) Tenure status (non-tenured before tenured);

(b) Rank (junior faculty before senior faculty);

(c) Seniority within rank (total years in current rank at ETSU and elsewhere);

(d) Local seniority within rank (total years in current rank at ETSU);

(e) Length of service (total years at ETSU).

Performance evaluations are an inherent part of promotion and tenure decisions. Therefore, performance is a determinant of the tenure, rank and longevity factors listed above. If equality of all the above factors exists, then a special performance evaluation covering the academic careers of the faculty members involved shall be the final deciding factor.

(2) Non-Academic Considerations:

(a) Length of service (total years at ETSU)

(b) Seniority within position/classification

(c) Performance evaluation.

1.9.3.8 The Financial Exigency Committee shall submit *in writing* to the President its response to the plans for recommended reductions submitted by heads of primary budgetary sub-units. That response shall include either an endorsement or a recommendation of alternatives.

1.9.3.9 After appropriate review of response by the Financial Exigency Committee, the President shall indicate acceptance, rejection, or amendments to reduction plans submitted by heads of primary budgetary sub-units. The President shall communicate his or her composite plan for reducing expenditures to the entire campus community.

1.9.3.10 The President shall submit for approval by the Chancellor the composite plan for effecting budgetary reductions as required by the fiscal condition of the institution. That transmittal *must include* the written response by the Financial Exigency Committee to both (l) the President's plan for allocating necessary funding reductions to primary budgetary sub-units, and (2) plans for primary budgetary sub-units for effecting their designated budget reductions.

1.9.3.11 If the Chancellor approves the plan for implementation, s/he shall submit it *as information*, together with any analysis s/he may deem appropriate, at the next meeting of the Tennessee Board of Regents.

1.9.4 Procedures for Termination of Personnel Under Conditions of Financial Exigency

Following declaration by the Tennessee Board of Regents that a condition of financial exigency exists at East Tennessee State University, the President of the University — having complied with those actions required subsequent to the declaration of financial exigency (see 1.9.3 above) — is authorized to carry out those actions, including reduction-in-force, which are included in the plan approved by the Chancellor. Reduction-in-force under this policy may include any personnel classification, including tenured faculty members or probationary faculty members prior to the end of their terms of appointment.

1.9.4.1 The procedures for termination described in section 1.9.4 of this policy are in force *only* during a period in which the Tennessee Board of Regents has declared that East Tennessee State University is in a condition of financial exigency.

1.9.4.2 An individual selected for termination shall receive prompt written notification from the President. That notification shall include the following:

a. A statement of the basis on which the individual was selected for termination (see 1.9.3.7 b, e, and f; if one or more of the three is appropriate);

b. an indication of the data or reasons supporting the choice *if it is not* a clearly defined factor such as rank or tenure status;

c. a statement of the date on which the termination is to become effective;

d. a copy of the declaration of financial exigency adopted by the Tennessee Board of Regents; and

e. such other information as the President may deem appropriate.

1.9.4.3 An individual who receives notice of termination, as described in section 1.9.4.2, may appeal the decision under the conditions indicated in this section.

a. Faculty who receive notice of termination shall appeal to a Faculty Hearing Committee, which shall consist of nine members of the faculty and administration; five appointed by the Faculty Senate and four appointed by the President. Staff who receive notice of termination shall appeal to a Staff Hearing Committee which shall consist of nine members of the staff and administration; five appointed by the Staff Senate and four appointed by the President.

b. The Faculty or Staff Hearing Committee shall ensure prompt hearings that are thorough and fair but need not be judicial in nature. Strict rules of procedure (e.g., confrontation, cross-examination and formal rules of evidence) need not be required.

1.9.4.4 The following conditions constitute grounds for appeal by an individual of notice of termination.

a. Established institutional procedures or provisions of Board Policy 5:02:06:00 were not followed.

b. Appropriate criteria were not applied, including but not limited to the allegation that his or her selection constituted a violation of the individual's academic freedom or that unfounded or arbitrary assumptions of fact were made.

1.9.4.5 The Hearing Committee shall not review the decision concerning the declaration of financial exigency of the President's plan for the amount of reduction to be assumed by each primary budgetary sub-unit.

1.9.4.6 A recommendation will be sent from the Faculty or Staff Hearing Committee to the President recommending that s/he uphold or reverse the action of termination, and the President will inform the appropriate hearing committee and the individual of a final decision.

1.9.4.7 The President's final decision may be appealed to the Chancellor and, after s/he has reached a decision, to the Tennessee Board of Regents.

1.9.5 Continuing Rights of Persons Terminated Under Conditions of Financial Exigency

No vacancy caused by a termination under conditions of financial exigency shall be filled for a period of three years from the time of notice of termination without first offering the position to the person terminated (academic or non-academic), provided that the person terminated keeps the institution informed of his or her current mailing address. If the person previously terminated is offered the position and accepts, s/he will be returned to the same rank and tenure status.

1.9.6 Termination of Declaration of Financial Exigency

The policies and procedures established by this policy shall continue in effect during the period of a state of financial exigency. If the financial health of the institution improves sufficiently, the President shall initiate a proposal for the termination of a declared state of financial exigency. At the termination of a declared state, that action by the Tennessee Board of Regents shall cause all policies, procedures, and bodies created in this policy for the sole purpose of making and implementing exigency decisions to cease to exist.

1.9.7 Definitions

The following are general definitions of words and terms used in this policy that are not defined above. These words and terms are subject to further qualification and definition in the previous sections of this policy.

1.9.7.1 *Reduction-in-force* — the termination of employment of faculty or staff resulting from a budgetary crisis reflected in a declared state of financial exigency.

1.9.7.2 *Entire institution* — any one of the institutions of the Tennessee Board of Regents System for which funds are separately appropriated by the Tennessee General Assembly.

1.9.7.3 *Academic or administrative unit* — an academic department or other similar account-level unit.

1.9.7.4 *Representative faculty body* — the major faculty organization devoted to governance (as implied in Board Policy 1:03:10:00).

1.9.7.5 *Primary budgetary sub-unit* — a major budgetary area of an institution (e.g., academic affairs, student affairs, fiscal affairs) usually headed by an administrator reporting directly to the President.

03/04/85

1.10 Selection and Periodic Review of Academic Administrative Personnel

1.10.1 Selection

1.10.1.1 Chairs

When a vacancy for the position of department chair exists, it may occur simultaneously with a job opening in the department or it may occur when a char will no longer serve in that capacity but will remain in the department as a member of the faculty. In both cases, however, the college/school dean will notify the department concerning a vacancy or an impending vacancy.

a. Vacancy Occurring Simultaneously with a Job Opening

The search committee will be composed of at least eight members. The dean of the school or college in which the department is located will ask the departmental faculty to elect three of their own full-time, tenured or tenure-track members and one tenured faculty member from outside the department to serve on a search committee. In addition, the department faculty will choose one undergraduate or graduate student majoring in the department to serve on the committee. The dean will appoint three additional members of the search committee. If the members chosen by the departmental faculty happen not to be sufficiently diverse in any way, the dean will use his/her appointments to ensure diversity of the search committee. The dean will name as chair of the search committee a committee member who is tenured and not a member of the department.

If the dean and/or department wish to establish a committee larger than the minimum of eight, this may be done as long as at least 60 percent of the voting members are chosen by the departmental faculty, either from within the department's membership or from outside it. Additional members may include additional tenured/tenure-track faculty, additional students, clerical/support staff, administrative staff, retirees, practitioners, community members, persons with special expertise, etc. Individuals who wish to be considered for the vacancy will not serve on the committee.

The dean will meet with the search committee to discuss mutual expectations and needs regarding the department chair. The search committee will be involved in developing the job description and advertisement for the chair's position. The search committee will seek advice from all the faculty in the department throughout the search and from others as desired, screen candidates for the position, and submit to the dean the names of two or more candidates who they think are best fitted for the position. If the dean agrees, the committee may submit the name of only one candidate. Candidates may or may not be ETSU faculty.

If the dean finds one or more nominations from the search committee acceptable, the dean will consult with the faculty concerning the preferred candidate(s) and determine that these are acceptable to the majority of the departmental faculty. One acceptable candidate will then be recommended by the dean to the appropriate vice president who, if in agreement, will recommend a nominee to the president. If the dean's nominee is disapproved, the dean may submit other nominations made by the committee. If none of the committee's nominees is acceptable to the dean, or if all of the dean's nominees are disapproved, the dean may request that the committee submit additional names for consideration (and for review and approval by the majority of the department) or may terminate the search and institute procedures for a new search.

When a nominee has been approved by the President, the department will be advised by the dean. Vacancies will be filled as expeditiously as is feasible. If for any reason a chair's position is left vacant pending the appointment of a new chair, the dean of the school/college will, after seeking the advice of the department and with the concurrence of administrative superiors, appoint an acting chair to serve during the interim.

b. Vacancy Occurring Without a Job Opening

Prior to the selection of a search committee the dean will obtain from the President, via the appropriate vice president, a statement as to whether or not an additional position can be created within the department. If a new position is created, the dean will appoint a committee according to the guidelines in section 1.10.1.1. If a new position is not created, the dean will appoint a committee according to the same guidelines with the added restriction that the search must be confined to the present members of the faculty.

1.10.1.2 Academic Dean

When a vacancy of a position of an academic dean exists, or when it is known that such a vacancy will exist within the next twelve months, the appropriate vice president will inform the faculty of the affected college or school. A search committee will be appointed or otherwise secured by the vice president, who will also appoint the committee chair. This committee will include faculty members and a student or students from the affected college or school, together with other individuals who must never constitute a majority of the committee.

Candidates may or may not be ETSU faculty. Individuals who wish to be considered for the vacancy will not serve on the committee. The search committee will seek the advice of the faculty in the affected college or school and others as desired; will screen candidates for the position; and will submit to the vice president the names of two or more candidates whom they think to be best fitted for the position. The vice president may accept or reject any or all names submitted. If the latter be the case, the committee may be instructed to furnish additional names until an acceptable list is submitted. If, however, one or more nominees is considered to be satisfactory the committee will be consulted regarding these preferences. The preferred candidate will then be recommended to the President. If the nominee is disapproved, further nominations from the search committee may be submitted. In the event all nominations are disapproved the vice president may request that the committee submit additional names until a satisfactory nominee has been submitted.

There may be deviations from this policy where necessary to conform to the requirements of the accrediting agency having jurisdiction over any college or school.

Vacancies will be filled as expeditiously as is feasible. If a deanship is left vacant pending the selection of a new dean, the appropriate vice president, after consultation with department chairs and such others as are deemed appropriate will, with the concurrence of the President, appoint an acting dean to serve during the interim.

1.10.1.3 Vice President for Academic or Health Affairs

When a vacancy of the position of the Vice President for Academic Affairs, or Vice President for Health Affairs exists, or when it is known that such a vacancy will exist within the next twelve months, the President will inform the faculty of the affected units of the vacancy. A search committee will be appointed or otherwise secured by the President, who will also appoint the committee chair. This committee will include faculty members and a student or students from the affected colleges and schools, together with other individuals who must never constitute a majority of the committee. Individuals who wish to be considered for the vacant position will not serve on the committee. The search committee will seek the advice of the faculty and others as desired; will screen candidates for the position; and will submit to the President the names of one or more candidates whom its members think best fitted for the position. The President may accept or reject any or all names submitted. If the latter be the case the committee may be instructed to furnish additional names until an acceptable list is submitted, or other means may be used to fill the position.

Vacancies will be filled as expeditiously as is feasible. If the position is left vacant pending the selection of a new vice president for academic or health affairs, the President will appoint an acting vice president to serve during the interim.

1.10.2 Periodic Review

In addition to annual personnel reviews of all staff, East Tennessee State University conducts periodic reviews of administrators. Ordinarily these reviews occur every four years from the start of an individual's time in a particular position. ETSU's *Personnel Policies and Procedures Manual* [http://www.etsu.edu/humanres/ppp/PPP-59.htm] describes the periodic review process in detail, including the calendar, criteria by which administrators will be evaluated, who will participate in the review process, and provisos regarding who is exempt from review.

09/15/79; 12/90; 11/6/97; 04/23/09

1.11 Office of Information Technology

1.11.1 General

1.11.1.1 East Tennessee State University Code for Computer Resource Use

Computer resources at East Tennessee State University are available to authorized students, faculty, staff and off-campus constituents. Access to these resources is obtained from the Director of Computer Services and is granted with the understanding that they will be used as stated in the request. These privileges are granted with the idea that one's interest ceases when it invades the right of personal and/or institutional privacy, results in the destruction of personal and/or institutional property, demonstrates a potential for loss, embarrassment of litigation to the individual and/or institution, or because of an otherwise irresponsible use of a limited resource. It is the policy of this office to avail these resources to as many users as possible and, to the extent possible, keep the number of restraints and restrictions on the individuals to a minimum consistent with the ability to provide service to all who request use.

For such a policy to work, it is essential that users observe responsible and ethical behavior in the use of the resources. In an effort to assist the user community in effective use of the limited computer resources, it is reasonable to highlight some specific responsibilities and types of behavior that represent abuse of a user's privilege. The examples do not constitute a complete list, but are intended to convey the intent of the code.

a. Users should not damage or attempt to damage computer equipment or to modify or attempt to modify equipment so that it does not function as originally intended. It is equally wrong to damage or modify or attempt to damage or modify the software components: operating systems compilers, utility routines, etc.

b. Users should not use or attempt to use an account without authorization from the owner of that account. Users have the responsibility of protecting their accounts through the proper use of passwords, but the fact that an account is unprotected does not imply permission for an unauthorized person to use it. Further, accounts are to be used only for the purposes for which they have been established. Additionally, it is wrong to use a University-sponsored account for funded research, personal business, or consulting activities. There are special accounts for such purposes.

c. Users should not use private files without authorization. Owners of such files should take precautions and use the security mechanisms available. However, the fact that a file is not protected does not make it right for anyone to access it, unless it is specifically designated as a public access file. It is equally wrong for anyone to change or delete a file that belongs to anyone else without authorization. Violation of property rights and copyrights covering data, computer programs, and documentation are also wrong. In the event of accidental access of private files, confidentiality of those files *must* be maintained.

d. Any deliberate wasteful use of resources is irresponsible; it encroaches on other's use of facilities and deprives them of resources. Printing of large unnecessary listings and the playing of games solely for entertainment are examples of such abuse. Users are expected to be aware of the resources they are using and to make reasonable efforts to use these resources efficiently.

e. Users should adhere to the operating procedures and their intent as established by University Computer Services.

f. Administrators, faculty, staff of the Office of Computer Services, and others in positions of trust within the East Tennessee State University community have a professional responsibility to ensure that the equipment, software, and services provide the most efficient levels of support and consider the needs of the total user community. Such persons in positions of trust who misuse computing resources or take advantage of their positions to access data not required in the performance of their duties are displaying unprofessional behavior.

   Whenever there is an indication of abuse of the user's privilege which interferes with the intended functions of the system, or impinges on another user's rights, or an otherwise irresponsible use of computer resources, the Office of Computer Services reserves the right to investigate and implement those actions deemed necessary to protect the system and/or other users.

   All state and federal copyright laws will be abided by at all times. Users must not copy any part of a copyrighted program or its documentation that would be in violation of the law or the licensing agreement without written and specific permission of the copyright holder.

   Serious or repeated instances of abuse of computer facilities and resources will be referred to the proper authorities for disciplinary or legal action including, but not limited to: restitution; restrictions; reprimand; suspension; probation; expulsion; termination; and, when adjudged a felony, legal action.

1.11.2 Administrative Systems

1.11.2.1 Description and Hours of Operation

The administrative systems utilize Compaq Alphas and are primarily intended to support the administrative applications. The administrative computer systems are also available to faculty who have a need for this environment. Faculty and staff may have accounts and use the resources that are not required for the administrative applications. The administrative applications have priority over all other jobs. Priorities will be set to ensure that the administrative applications will run as scheduled. Thus, priority for jobs other than the administrative applications will dynamically be lowered, if required, to meet the administrative operational demands. Students are not permitted to have an individual account on the Alpha.

1.11.2.2 Applications for Computer Use

Every individual requiring computer services must file an application for computer use. Application forms are available in the Office of Information Technology, Room 309, Dossett Hall. The application form requires the user's signature as well as his department chairperson's or director's signature.

1.11.2.3 Administrative Applications Systems

1.11.2.3.1 Data Access Policy

EAST TENNESSEE STATE UNIVERSITY
POLICY ON ACCESS TO ETSU INSTITUTIONALLY MAINTAINED
ELECTRONIC DATA, DATA FILES, SOFTWARE, AND NETWORKS

This “Policy on Access to ETSU Institutionally Maintained Electronic Data, Data Files, Software, and Networks” has been developed to define employees' responsibility concerning access and use of ETSU data files, software, and networks. The policy is intended to facilitate the accurate, secure, rapid, and efficient dissemination of data from institutionally maintained electronic files and networks to University employees, students, and other constituencies.

Because data are more readily available and the technical capabilities to access electronic files in an open environment have increased, a clear definition of employees' responsibility in handling data and procedures for access has been defined and implemented.

ETSU DATA

ETSU data and data files in any media are to be considered and treated as sensitive data. Any ETSU-generated information; i.e., papers, letters, documents, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material regardless of physical form or characteristics made or received in connection with the transaction of official ETSU business, is classified as ETSU data.

All employees have access to various types of ETSU data. These data are considered sensitive and in some cases confidential and are the property of ETSU. Data should not be released in any fashion without the consent of those authorized for its release. All data files for the University are protected by the Computer Crimes Act, Tennessee Code Annotated Sections 39-14-601 et seq., as well as the Copyright Act of 1976, 17 U.S.C. Sections 101 et seq., or any other law that may be applicable, and ETSU Financial Procedures Policy FP-12. <u>In addition, employees with access to student record information should be aware this information is considered privileged and confidential. These records are protected under the Family Educational Rights and Privacy Act (FERPA) of 1974 as well as Tennessee Code Annotated Section 10-7-301, 10-7-503 and 10-7-504 and ETSU Financial Procedures Policy FP-12 (Public Records-Inspecting and Copying).</u>

Guidelines concerning dissemination of ETSU data have been included in the *ETSU Faculty Handbook*, *Personnel Policies and Procedures Manual*, and *ETSU Student Worker Handbook.*

Any questions concerning the release of data should be directed to Director of University Relations or through appropriate channels to the Office of any Vice President.

POLICY ON ACCESS TO ELECTRONIC DATA, DATA FILES, SOFTWARE, AND NETWORKS

Access to institutionally maintained electronic data, data files, software, and networks will be available to all employees on a "need to know" basis. "Need to know" will be determined by the assigned job duties, the employee's supervisor, or student's instructor in conjunction with the official custodian of the data file. The official custodian is the creator of the file. A change in duties will require a review of the data files that have been deemed appropriate for access. When an employee vacates a position, all access will be removed; and computer files will be deleted or, if requested, transferred to the supervisor. Questions about access should be directed to the Office of Computer Services.

Access may be for inquiry (ability to read the data files) or for update and inquiry (ability to read the data files and make changes/corrections or enter new data on-line). Responsibility for file maintenance and access authorization resides with the official custodian of the file(s). The official custodian and access control of a data file(s) will be established at the time the data file or system is created. The Office of Information Resources is responsible for enabling and implementing control appropriate to enforce access authorizations in the University's communications and computing environment.

The request for access will be in writing using the "Computer Account Request Form," which includes the "Computer Resources Code of Ethics." The employee's signature on this form signifies their acceptance of the code of ethics and all policies governing access.

It is a conflict of interest to update one's personal records (student and/or employee). In order to protect on-line users of data files from this conflict of interest, under no circumstances may employees work with their own records. This conflict of interest is also construed to include the records of relatives and close personal friends.

Any irresponsible or unethical use of a computer resource (as defined in the *Faculty Handbook* section 1.11.8) will result in the immediate denial of use of the resource. Violations will be referred to the appropriate division for disciplinary and/or legal action including, but not limited to, restitution; restrictions; reprimand; suspension; probation; expulsion; termination; and, if necessary, legal action. Appeals will be handled through due process channels (Administrative Procedures Act) already established for students and/or staff. Student violations will be referred to the Vice President for Student Affairs and/or Vice President for Health Affairs; faculty violations will be referred to the Vice President for Academic Affairs and/or the Vice President for Health Affairs; and staff violations will be referred to the Vice President for Administration and Development.

(This statement will be on the reverse of the Computer Account Request Form.)

COMPUTER RESOURCES CODE OF ETHICS

All users of any institutionally maintained electronic data, data files, software, and networks are expected to handle the resource in a responsible and ethical manner. A user's interest ceases when it invades the right of personal and/or institutional privacy; results in the destruction of personal and/or institutional property; demonstrates a potential for loss, embarrassment, litigation to the individual and/or institution; or causes a limited resource to be used in a wasteful or careless manner.

All information processed through Computer Services is considered sensitive and/or confidential. The responsibility for the release or discussion of data is assigned to the official custodian of the data file(s). Access to information is based on a legitimate “need to know” and directly related to assigned duties.

University electronically maintained data, data files, software, and networks will be used for authorized purposes only. Users are responsible for the security of the resources.

Any use of the resource deemed irresponsible or unethical (as defined in the *Faculty Handbook* section 1.11.8) will result in the immediate denial of use of the resource. The violation will be referred to the proper authorities for disciplinary and/or legal action including, but not limited to, restitution, restrictions, reprimand, suspension, probation, expulsion, termination, and, if necessary, legal action. Appeals will be handled through due process channels (APA) already established for students and/or staff. Student violations will be referred to the Vice President for Student Affairs and/or Vice President for Health Affairs, faculty violations will be referred to the Vice President for Academic Affairs and/or the Vice President for Health Affairs, and staff violations will be referred to the Vice President for Administration and Development.

The following examples attempt to convey the intent of irresponsible and/or unethical use: violation of Federal/State copyright laws; violation of the Family Educational Rights and Privacy Act of 1974; use of the resource for obscene material; deliberate wasteful use of the resource; unauthorized altering of hardware, software, or data; piracy of data or software belonging to another person; or careless use of the resource which may result in the release of restricted information.

NOTICE TO USERS: It is the policy of East Tennessee State University to protect all institutional computing resources including, but not limited to, hardware and software, consisting of the actual equipment being supplied by the University as well as the programs and related materials used in conjunction therewith. In accordance with local, state, and federal law, indiscriminate examination of individual user's files is not permitted, nonetheless as a means of maintaining the integrity and security of those aforementioned resources, East Tennessee State University retains the right to inspect individual accounts and files stored on any system owned, maintained and/or leased by said University. While no prior authorization by individual users is required to inspect those files and accounts, you are, by virtue of accepting the account offered by ETSU and “logging” on to its computing equipment, granting to the University prior unrestricted permission, subject to University policy, to review, examine and/or otherwise view, by any method at the sole discretion of the University and without any additional advance notice to said user, any account and/or file stored on University computer resources.

Should such a review take place, you will be given notice, as a courtesy only, of the results of said review within a reasonable time after the review is completed. While use of University computing resources for personal use is strictly forbidden, should you have materials for which you have any reasonable expectation of privacy or which you consider to be confidential for any reason, you should retain those materials on a disk which can be secured as you would any other personal items or materials which you consider private in nature.

1.11.2.3.1.1 Network/Internet Access

East Tennessee State University (ETSU) operates a wide-area network that interconnects local area networks in academic and administrative offices, student computer labs, and in the future dormitory rooms. The University maintains connections into the Tennessee Education Cooperative Network (TECnet), the Internet and the World Wide Web. Thus, the University's network is a part of the global network that provides access to information and information processing technologies. By having access to the University's network and its resources, students, faculty, and staff can communicate and collaborate among themselves and their counterparts throughout the world. This privilege carries with it responsibilities with which all users must comply.

Everyone within the ETSU community who uses networked computing and communications facilities has the responsibility to use them in an ethical, professional and legal manner and to abide by TECnet policies. Users should respect the privacy rights of others. ETSU's facilities and network access capabilities should never be used for purposes intended to incite crime. Communications that violate Tennessee, federal, or international law are not acceptable. For example, the use of ETSU's computer and network resources to threaten or harass others or the misrepresentation of one's identity in electronic communications for the purpose of illegal or unauthorized actions or activities will not be tolerated. These statements concerning responsibility are not meant to be exhaustive. Any questionable use should be considered "not acceptable." Serious or repeated instances of abuse will be referred to the proper authority for disciplinary or legal action.

1.11.2.3.2 Access to Institutional Data

Every individual requiring access to institutional data must file an application for an account on the administrative systems indicating the systems where access is needed. The process varies depending on the system being requested. Use of available information shall be in accordance with the Policy on Access to ETSU Institutionally Maintained Electronic Data, Data Files, Software, and Networks.

1.11.2.3.2.1 Student Information System (SIS)

Faculty may have access to the SIS information by requesting access to the system through the Office of Information Technology. Requests may be submitted by using the computer account request form (using the description box above the signature lines, state "need SIS access") or by memo to the Office of Information Technology with the following information:

1) Name of person requesting SIS access
2) Account number
3) VAX account name
4) Requestor's job title

5) Phone number
6) Social Security Number
7) Budget supervisor's signature
8) Brief description of what the account will be used for; i.e., advising students, class schedule updates, hold flag updates, etc.

1.11.2.3.2.2 Financial Resources System (FRS)

All faculty and staff may have access to the following FRS information screens (inquiry only) by requesting access to the system on the computer account request form (using the description box above the signature lines, state "need FRS access") or by memo to the Office of Information Technology. Access to additional information is available by contacting the Comptroller's Office.

018 GL Account Summary
019 SL Account Summary
021 Open Commitments by Account
022 SL Budget Summary
023 Transactions by Account
027 Transaction Inquiry

1.11.2.3.2.3 Human Resources System (HRS)

All faculty and staff may have access to the following HRS information screens (inquiry only) by requesting access to the system on the computer account request form (using the description box above the signature lines, state "need HRS access") or by memo to the Office of Information Technology. Access to additional information is available by contacting the Human Resources Office.

012 Corporation Root Add/Maint
L16 Assignments List
016 Assignment Add/Maint
L23 Education History
023 Education
046 Accrual Maint
L61 Positions/Empl List
L63 Position Fund Accounting

1.11.3 Networks

1.11.3.1 ETSU Campus Network

The ETSU campus network is a multiprotocol network supported over Ethernet. Network capabilities exist in all campus buildings.

1.11.3.2 Tennessee Education Cooperative Network (TECnet)

ETSU is a member of the Tennessee Educational Cooperative Network (TECnet). This network is for the use of persons legitimately associated with the institutions of the Tennessee Board of Regents (TBR) and other institutions of higher education in Tennessee that choose to join the TECnet and agree to abide by the appropriate usage conventions and any terms and conditions of membership and affiliation of the TECnet, as they may be amended from time to time. TECNet is a member of SURANET and through this network faculty, staff and students have access to the Internet.

Tennessee Education Cooperative Network (TECnet) Acceptable Use Policy

The Tennessee Educational Cooperative Network (TECnet) mission is stated as: “It is the primary purpose of TECnet to provide data connectivity to non-profit institutions/agencies in the Tennessee region which have as their primary purpose academic and research activities and to state and local governments.”

The TECnet is for the use of persons legitimately associated with current institutional members and other institutions/agencies in the Tennessee region that choose to join the TECnet and agree to abide by the appropriate usage conventions and any terms and conditions of membership and affiliation of the TECnet, as they may be amended from time to time.

The TECnet will support the primary functions of the academic and research institutions; that is, instruction, research, public service, and the accompanying administrative support functions by facilitating the exchange of information consistent with the purposes of the cooperating institutions/agencies. Functions of state and local government members may likewise be facilitated by the use of the TECnet.

The TECnet is open to use, at the discretion of the individual educational institutions, by faculty, students, and staff affiliated with that institution/agency and by state and local government members. Users of the TECnet are expected to be responsible in their use and are subject to approval of their institution/agency. Each institution/agency is responsible to see that the acceptable use policy is widely distributed, that the TECnet users are aware of the policy, and that these policies are followed. Each institution/agency is responsible for exercising any control they deem necessary to maintain usage within the confines of the acceptable use policy.

Information that is transmitted over the network is not routinely encrypted or made private between the sender and the addressee. Anyone who can intercept the transmission has access to the information as if it were addressed to the interceptor. To intercept any transmission is a criminal offense.

Guidelines for use of the network are as follows. Other acceptable and unacceptable usage can be derived from these examples. Individual usage of the TECnet should be consistent with the goals and purposes of the TECnet.

The TECnet should not be used for any activity that does not support the mission and purposes of the individual institution/agency. If a particular usage is not in the best interest of the institution/agency or if it does not support the mission and purposes, then it should not be done.

The TECnet should not be used for commercial purposes.

Deliberate disruption of anyone's work or system is prohibited.

The TECnet should not be used for any unlawful purposes. It is NOT acceptable to use TECnet to transmit threatening, obscene, or harassing materials. Attempts to penetrate a remote site without proper authorization is strictly forbidden and also violates the Tennessee Code Annotated, which states suitable punishment for violators.

If institutions/agencies are authorized to use gateways to other networks, all rules and conventions of the other networks must be followed. The institution/agency having access to other networks should obtain and abide by that other network's acceptable use policy.

Institutions/agencies are forbidden to use the TECnet to gain access to any other network that requires membership if the accessing institution/agency does not have proper membership, rights, and privileges in the other network.

Disruption of any activity on a remote node is forbidden. Users should not do anything concerning remote nodes that will cause the loss or corruption of data, the abnormal use of computing resources, or the introduction of computer viruses by any means.

Authority for the TECnet acceptable use policies lies with the senior computing officers of the participating institutions/agencies as advised by the TECnet Advisory Committee and the TECnet Network Operations Center. Interpretation of questionable acceptable usage will be determined by the TECnet Advisory Committee, and recommendations will be made to the senior computing officers of the participating institutions/agencies. Until an issue is resolved, questionable use should be considered “not acceptable.”

Approved by TAC 12/15/94

1.11.4 Email and Internet Access Server

1.11.4.1 Hours of Operation

The Access Server is normally available 24 hours a day, seven days a week. Should maintenance be required, a message will be posted 48 hours in advance of the scheduled downtime.

1.11.4.2 Procedure for Use of the Computer

All ETSU employees have been assigned Internet e-mail addresses on the Access server. To use your Access account, you must log onto a special “activation” account first. This activation account, called EMAIL_SIGNUP, will bring up a screen asking you for your employee number and date of birth. If this information matches data in the master database, the next screen will provide you with information on your Access userid and initial password. Should you be unable to active your account you will need to come to the Information Technology Office in 309 Dossett Hall for assistance.

Once you have your userid and password you should log off the activation account and log into your Access account. The first time you access your account you will be asked to change the initial/temporary password before a menu screen is returned. On subsequent access to your account, the first screen after you enter your password should be a menu listing the functions you may perform.

1.11.4.3 Data Storage

Each Access account is allocated approximately 1.5 MB of storage.

1.11.4.4 Print Output

There are no public printers attached to the Access server.

1.11.5 Student Lab Server

1.11.5.1 Available Software

Software presently available includes: All of these labs operate under a windowing (Windows NT) environment, under its own domain. The software in the microcomputer labs includes Office 2000, Visual Studio 60, SAS 6.12, SPSS 10, Visio, Outlook Express, Internet Explorer, Minitab, and others.

1.11.5.2 Departmental Software

Requests for software to be housed in the microcomputer lab should be directed to Computer Services, ext. 94492. Software used specifically for a lecture/lab class must be provided by the instructor of the course. Computer Services cannot be responsible for software left in labs.

Manuals ARE NOT supplied by Computer Services. Any instructor that feels their class/students will need to reference a manual should make arrangements to put the manual on reserve in the campus library.

1.11.5.3 Data Storage

Any faculty needing disk space on the lab server must submit a formal request to Computer Services including a complete description of their needs and justification for using the server. Details can be found in our publication, “An Instructor's Guide to ETSU Student Computing Resources.” This document is on ETSU's gopher server on the Academic system, and copies are available from User Services.

1.11.6 Open PC Lab

1.11.6.1 Description and Location

An <u>open</u> microlab is located in D.P. Culp Student Center adjacent to the Post Office. It contains 76 DELL Pentium III PCs and 5 Macintosh computers. This lab also has one Mac and one IBM PC specially equipped for the physically challenged. <u>This lab may not be reserved</u>.

1.11.6.2 Use of the Microcomputer Lab

This facility is available to all currently enrolled students.

1.11.6.3 Operational Services and Policies

This lab is staffed by microlab monitors (student workers). The student workers are supervised by a microlab manager. These monitors help users with common problems and keep the labs neat and secure. They are not tutors.

Hours of operation are presently:

Monday through Thursday	8:00 a.m. - 2:00 a.m.
Friday	8:00 a.m. - 12:00 a.m.
Saturday	Noon - 12:00 a.m.
Sunday	Noon - 2:00 a.m.

Holiday hours will be posted two weeks in advance.

1.11.6.4 Print Output

Printing in OIT labs is automatically rapped to that particular lab's laser printer(s). Other printers in labs also on the lab domain are available for choosing.

1.11.7 PC Labs Available for Scheduling for Classes

1.11.7.1 Descriptions and Locations

One microlab is located in Room 124, Sam Wilson Hall, and consists of 30 IBM - compatible microcomputers and one HP laser printer.

8:00 a.m. - 10:00 p.m.	Monday-Friday
12:00 noon - 10:00 p.m.	Weekends

A second microlab is located in Room 105, Gilbreath Hall, and contains 30 IBM compatible microcomputers. There is one HP printer in this lab.

8:00 a.m. - 10:00 p.m.	Monday-Friday
12:00 noon - 10:00 p.m.	Weekends

A third microlab is located in Room 419, Warf-Pickel Hall, and consists of 21 Macintosh G3's microcomputers, one HP772C printer, and one Xante printer. printer.

8:00 a.m. - 10:00 p.m.	Monday-Friday
12:00 noon - 10:00 p.m.	Weekends

A fourth lab is located in Room 320, Rogers-Stout Hall and consists of 30 IBM compatible microcomputers and one HP laser printer.

2:00 p.m. – 10:00 p.m.	Monday-Friday
12:00 noon – 10:00 p.m.	Weekends

1.11.7.2 Use of the Microcomputer Labs

Three microlabs are available for limited use by faculty and staff for lectures, labs, and orientations on a preapproved reservation basis.

Prior scheduling and approval is required.

Faculty and staff may request use of the microlab for the following purposes:

a. Faculty Computer Literacy Development

A period of time may be reserved for a faculty/staff group to upgrade their level of computer literacy. However, you may also want to consider using the Academic Technology Lab for this purpose by calling 98611.

b. Lecture/Lab

A period of time may be reserved for the exclusive use of a class for hands-on instruction. It must be conducted by an instructor.

c. Directed Student Lab

A period of time may be reserved for the exclusive use of a class as a laboratory for a class or lecture/lab. It must be monitored by an instructor or his/her qualified graduate assistant.

d. Orientation Lab

A period of time may be reserved for the exclusive use of a class for a limited time to introduce students to the microcomputer and to develop elemental computer literacy. It must be conducted by an instructor.

1.11.7.3 Procedure for Requesting/Scheduling Use of Microlab

All scheduling must be made by completing an “Application for Use of Microcomputer Lab” form, available from the Office of Client Support Services, Room 309, Dossett Hall. No scheduling will be made by telephone. Requests must be signed by the applicant, department chairman, and college/school dean before being received by Computer Services. All requests for use of Sam Wilson 124, Sam Wilson 129, and Warf-Pickel 419 should be made by filling out an application form and routing it to Information Technology through the appropriate department head and dean. For those interested in scheduling Rogers-Stout 320, please call Criminal Justice. For those interested in scheduling Gilbreath 105, please contact Computer Science. The PC labs are not intended to replace the use of classrooms and should only be used when computers are required.

Requests for labs that will be included in the class schedule must be received by Computer Services by the last published date for the initial building of the class schedule for the semester in which the lab is being requested. All scheduling will be directed through Computer Services in conjunction with the Office of the Vice President of Academic Affairs. After the request is received by Computer Services, it will be held until the last published date for the initial building of the class schedule for the semester in which the lab is being requested. At that time the schedules will be checked for possible conflicts, and a preliminary schedule including all requests (except conflicts) will then be sent to Academic Affairs for their approval.

Requests for occasional or one-time use of the labs received after the initial building of the class schedule will be processed on a first-come, first-serve basis and should be received by Computer Services at least three weeks prior to the date the lab is needed. Computer Services will make every effort to meet the needs of those wishing to utilize the labs, but please do not wait until the last minute. The labs are open to students any time they are not scheduled for classes, and this information is posted so that students can plan their times in the labs. Changes in the times when labs are available to students after the postings will be made in emergency cases only. Failing to plan ahead is not considered an emergency.

1.11.7.4 Operational Services and Policies

The lab schedule will be posted each Monday for the current week. Any time a class is not scheduled, the lab will be considered open time for students and may not be closed to students during these times. If a class that has been scheduled in a lab cannot/will not meet, Computer Services should be notified at least 24 hours in advance of the scheduled time. If a class fails to meet in a microlab during a reserved time, the time will automatically be converted to open lab after 15 minutes unless the microlab manager is otherwise notified by the instructor.

1.11.7.5 Print Output

1.11.7.5.1 D. P. Culp Computer Lab

This lab contains three large HP laser printers that are accessible for all computers in that lab.

1.11.7.5.2 Sam Wilson 124 Lab

This lab contains one large laser printer that can be accessed from any lab machine.

1.11.7.5.3 Sam Wilson 129 Lab

One large dot matrix printer resides in this lab and is accessible from all machines.

1.11.7.5.4 Gilbreath 105 Lab

There is one large laser printer accessible from all machines in the lab.

1.11.7.5.5 Rogers-Stout 320 Lab

This lab has one large laser printer that is accessible from each machine.

1.11.7.5.6 Warf Pickel 419

All units in this lab are connected to a laser printer. The laser printer can be accessed through the CHOOSER.

1.11.8 Departmental PC Labs

Additional PC labs are operated by individual departments. Faculty should contact their department chair for information on these labs.

1.11.9 World Wide Web Server

The Office of Information Technology, in conjunction with University Relations, maintains a home page on the World Wide Web. This page may be accessed via the following URL: http://www.etsu.edu/. Many departments and campus groups have their own pages linked to the ETSU home page. Contact OIT Help Desk at 94648 for more information.

1.11.10 Optical Scanning

An optical mark reader (OMR) is available for data conversions and for the grading of objective tests. Data must be gathered on proper scanning forms. NCS forms #16504 or #6703 are required. These forms may be purchased in the University Bookstore.

1.11.11 Workshops

Workshops and seminars are offered periodically and include a wide variety of computer-related topics. A current list of workshops can be found at http://ats.etsu.edu/registration.htm. Faculty and staff are invited to participate in all workshops and seminars conducted by OIT's Academic Technology Support.

1.11.12 Consulting

Consultation and technical and programming assistance through the Client Support Services staff are available to the faculty and staff. Services are provided subject to staff workload. Faculty developing research proposals are requested to consult with Information Systems in determining the scope and nature of their computer research needs. Analysts are available in Office of Information Technology who will provide consultation to the faculty in research design; assist in getting data into the computer; help faculty to utilize the available packaged programs; help develop computer-assisted instruction material for classroom use; and, in general, help the faculty in the field of research and the use of the computer.

1.11.12.1 SAS

SAS is an integrated system of software providing complete control over data access, management, analysis, and presentation. This software is available on an Alpha Server. Call the OIT Help Desk at 94648 to request an account or email at oithelp.etsu.edu.

1.11.12.2 SPSS

SPSS is a comprehensive and flexible statistical analysis and data management system. This software is available on an Alpha Server. Call the OIT Help Desk at 94648 to request an account or email at oithelp.etsu.edu.

1.11.12.3 PC Virus Protection Software

Computer virus outbreaks should be reported to the OIT Help Desk at extension 94648. The Office of Information Technology provides the University with virus prevention software at http://antivirus.etsu.edu/.

1.11.13 PC Maintenance and Support

The Office of Information Technology provides the University with maintenance on PCs and related peripherals. Hardware and software problem calls can be made to extension 94648. The caller will be asked to provide the ETSU inventory number, a brief description of the problem, and a name/phone number of a contact person. Software problems, installations and general PC support are provided by User Services, which can be accessed by calling the OIT Help Desk.

1.11.14 On-line Information

Information on a variety of subjects is available on the ETSU World Wide Web Server (see 1.11.13). This information is constantly being updated and additional topics added. Both sources are an excellent source of information on new services and/or answers to “how to” questions.

1.11.15 Education Product Coordinator Program

Personal computers and other computer products can be purchased by faculty, staff, and students at a substantially discounted price. More information can be found at http://www.etsu.edu/oit/.

1.11.16 Information Technology Governance Committee (ITGC)

The Information Technology Governance Committee (ITGC) reviews policies and standards and makes recommendations to the Chief Information Officer regarding computing, data, voice and video services. These plans are produced by a subcommittee of the ITGC (see below). These plans then proceed through succeeding levels of review including the President's Council, the President's Senior Staff and then to the President.

Each Vice President, the Faculty Senate, the Staff Senate, Student Government and each subcommittee chair has a on the ITGC. Faculty are encouraged to contact their representative with issues, concerns or questions that should be addressed by the ITGC; however, these are open meetings and may be attended by anyone that has an issue and wants to be heard. Meetings are normally the second Tuesday of each month during the fall and spring semesters. Questions about meeting time and place or to get on the agenda should be addressed to the Office of Information Technology.

The ITGC has five subcommittees. The Academic/Instructional Technology Subcommittee (AITS) addresses technology issues that affect instruction. The Administrative Technology Subcommittee (ATS) deals with the main administrative software programs of the university such as the Student Information System, Financial Resource System, etc. The Telecommunications/Networking Technology Subcommittee (TNTS) addresses infrastructure issues. The World Wide Web Acceptable Use Policy Subcommittee deals with www policy issues. The Student Technology Access Fee Subcommittee (TAF) plans the distribution of the TAF funds. Most subcommittees meet monthly. More information about the chairs for the subcommittees is at http://www.etsu.edu/oit/ppp/policies/itgc.asp.

1.11.17 Academic Technology Support Services

The Academic Technology Support (ATS) division of OIT offers a four-pronged approach to technology training for faculty and staff. Additional information about ATS can be found at http://ats.etsu.edu/.

1.11.17.1 Open Enrollment Workshops

The first prong includes the wide variety of open-enrollment workshops available to all faculty and staff. A list of currently available workshops can be found at http://ats.etsu.edu/registration.htm.

1.11.17.2 Cohort Workshops

The second prong of technology training includes customized or cohort workshops that are tailored to meet department's specific needs. If any group of five or more faculty or staff request a cohort workshop, ATS will schedule it at the time and place most convenient to the group. Cohort workshops can be arranged by contacting the OIT help desk at 94648.

1.11.17.3 NETg On-line Web-based Technology Tutorials

The third prong includes the more than 300 NETg on-line web-based technology tutorials available to all faculty and staff. Since all you need is a valid ETSU ID Card and a web browser, these courses can be taken at the office or home. For instructions on how to log-on to NETg, go to http://ats.etsu.edu/netginstruct.htm.

1.11.17.4 One-on-One Assistance

Finally, one-on-one assistance is available to any faculty member who has used any of the aforementioned training options, but needs additional help with an application. ATS has recently assigned each of its academic user liaisons to the different colleges at ETSU in order to maximize the opportunity for developing a more personal and consistent technology training approach. For current assignments, see http://ats.etsu.edu/approach.htm or call the OIT Help Desk at 94648 to schedule one-on-one assistance.

1.11.18 Multimedia Classrooms and Multimedia Lecture Halls

1.11.18.1 Mission

The Multimedia Classrooms, five at ETSU and one at Kingsport, were established to provide a state of the art learning experience for students and teachers alike.

1.11.18.2 Purpose

The purpose of the multimedia classrooms is to develop a state-of-the-art teaching and learning environment in which: faculty are provided a stable, reliable teaching environment; faculty can use virtually any instructional media without having to worry about setting up equipment, allowing them to focus on the instruction (not the technology); students can see and hear whatever the faculty member is presenting; and students can connect their laptops at their seats (power and network connection provided).

1.11.18.3 Locations

The Multimedia Classrooms are located in: Sam Wilson 315, Rogers-Stout 101, Lamb 207, Wilson-Wallis 205, Warf-Pickel 209E, and Kingsport 319. The Multimedia Lecture Halls are located in: Rogers-Stout 102 and 118, Ball Hall 127, Brown Hall 112 and 206, and Warf-Pickel 315.

1.11.18.4 Equipment

The electronic equipment in the Multimedia Classrooms include: ceiling-mounted LCD projector, Dell computer, laptop connections, thin screen monitor, document camera, VHS recorder-player (also serves as cable TV and satellite downlink tuner), audio tape recorder-player, audio amplifier and microphones, Smart-Board, and touch screen controller.

Check-out equipment available for use in the Multimedia Classrooms and Lecture Halls includes: digital still camera, digital video camcorder, audio conferencing system, ISDN-based video conferencing system, laser disk player, and slide-to-video converter.

1.11.18.5 Additional Information

Additional information about the Multimedia Classrooms and Lecture Halls can be found at http://ats.etsu.edu/mc/

09/96; 11/20/97 (10/19/00)

1.12 Faculty Guide to Copyright Fair-Use

1.12.1 General Information for Faculty and Staff

Copyright is a form of protection provided by the laws of the United States (Title 17, U.S. Code) to creators of “original works of authorship” including literary, dramatic, musical, artistic, and other published and unpublished works, when “fixed in a tangible form of expression.” Protections lasts for the term of the author's life plus 50 years after death. It is given to individual, group or corporate authors and to “works for hire.”

It is illegal for anyone to violate any of the rights provided to the owner of a copyright. The Copyright Act (1976) contains provisions prescribing damages that can be assessed if infringements are committed. In civil cases, the law allows the assessment of actual damages or statutory damages. For each infringement, statutory damages range from $250 to $10,000.

These rights, however, are limited in scope. Sections 107-118 of the Copyright Act establish limitations that in some cases are specified as exemptions from liability. One major limitation is the doctrine of “fair-use” which is given statutory basis in Section 107 of the Act.

1.12.2 Copyright Fair Use at the University

Section 107 of the Copyright act states that the fair-use of a copyrighted work, including use by reproduction in copies, is not an infringement of copyright for purposes such as criticism, comment, teaching (including multiple copies for classroom use), scholarship, or research. In determining fair-use, all of the following should be considered:

“the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;

the nature of the copyrighted work;

the amount and substantiality of the portion used in relation to the copyrighted work as a whole;

the effect of the use upon the potential market for or value of the copyrighted work.”

The following guidelines are based on these points. They illustrate and minimum limits of fair-use for teaching, research, library/media, computer, and archives copying.

1.12.3 Permissible Photocopying

The copyright law allows anyone to photocopy copyrighted works without securing permission from the copyright owner when the photocopying amounts to a “fair use” of the material, and applies to all forms of photocopying, whether undertaken at a commercial copying center, at the University's departmental copying facilities or at a self-service machine. Users of commercial or departmental copy services should be prepared to provide documentation of permission from the publisher or copyright owner when such copying is beyond the limits of fair use described below. Instructions for securing permission to photocopy copyrighted works appear at the end of this guide. It is the policy of this University that the user (faculty, staff, or student) secures permission whenever it is legally required.

To assure compliance with the law, all copy machine installations at the University will display one of the following notices. Notices must be printed on heavy paper or other durable material in type at least 18 points in size. Notices must be clearly visible and legible to the casual observer within the immediate vicinity.

1.12.3.1 Supervised copier where materials are brought to be copied by designated operator

NOTICE
WARNING CONCERNING
COPYRIGHT RESTRICTIONS

The copyright law of the United States "(Title 17, United States Code)" governs the making of photocopies or other reproductions of copyrighted materials.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess "of fair use" that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

1.12.3.2 Unsupervised or self-service (coin-operated) copier

NOTICE

The copyright law of the United States (Title 17 U.S. Code) governs the making of photocopiers or other reproductions of copyrighted material. The person using this equipment is liable for any infringement of the copyright law.

1.12.3.3 Fair-Use Guidelines for Copying

1.12.3.3.1 Single Copying for Faculty

A single copy may be made of any of the following by or for a faculty member at his or her individual request for scholarly research or use in teaching or preparation to teach a class:

One chapter of a book

One article from a periodical or newspaper

One short story, short essay or short poem, whether or not from a collective work

One chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

1.12.3.3.2 Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per student in a course) may be made by or for the faculty member giving the course for classroom use or discussion, provided that:

The copying meets the tests of brevity and spontaneity defined below, and

Meets the cumulative effect test defined below, and

Each copy includes a notice of copyright

1.12.3.3.3 Definitions for Section 1.12.3.3.2

Brevity

(1) Poetry

(a) complete poem if less than 250 words and if printed on not more than two pages or

(b) from a longer poem, an excerpt if not more than 250 words.

(2) Prose

(a) either a complete article, story or essay of less than 2,500 words, or

(b) an excerpt from any prose work if not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words. (Each of the numerical limits stated in "1" and "2" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)

(3) Illustration

One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(4) Special Works

Certain works in poetry, prose or in "poetic prose" which often combine language and illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Item "(a)" above notwithstanding, such "special" works may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Spontaneity

(1) The copying is at the instance and inspiration of the individual faculty member, and

(2) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

(1) The copying of the materials is for only one course in the institution in which the copies are made.

(2) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

(3) There shall not be more than nine instances of such multiple copying for one course during one class term.

The limitations stated in "1" and "2" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

1.12.3.4 Library Reserve

At the request of a faculty member, libraries of the University may place on reserve one copy of excerpts from copyrighted works in accordance with the fair use guidelines above. For example, a library may place on reserve one copy of an entire article, or an entire chapter from a book, or an entire poem. Whenever appropriate for collection development purposes, the library will purchase one copy of a book from which a chapter has been placed on reserve. *Multiple copies of parts of books, periodicals, or media will not be placed on reserve without the publisher's or copyright holder's prior permission.*

Instructions for securing permission to make multiple photocopies of copyrighted works appear at the end of this guide.

1.12.3.5 Uses of Photocopied Material Requiring Permission

Repetitive copying: The classroom or library reserve use of photocopied materials in multiple courses and sections, or in successive semesters requires advance permission from the owner of the copyright.

Consumable works: The duplication of works that are consumed in the classroom such as standardized tests, exercises, and workbooks requires permission from the copyright owner.

Creation of anthologies as basic text material for a course: Creation of a collective work or anthology by photocopying a number of copyrighted articles and excerpts to be purchased and used together as the basic text for a course requires the permission of the copyright owners.

Copying for profit: Faculty should not charge students more than the actual cost of photocopying the material that is given to each student.

1.12.3.6 Interlibrary Loan

All interlibrary loans originating at the University will be processed by the Interlibrary Loan department of Sherrod Library. The library will be responsible for all records required by the Copyright Law, and the guidelines of the National Commission on New Technological Uses of Copyrighted Works. During a single calendar year the library will be limited to request from any one institution the duplication from the previous five years of publication no more than five articles from any one journal title it does not own, unless permission is granted to exceed this limit.

1.12.4 Off-Air Videotape Recording for Educational Purposes

The following guidelines are derived from the statement adopted by the Kastenmeier House Subcommittee on Courts, Civil Liberties and Administration of Justice. The guidelines apply only to off-air recording by non-profit educational institutions and to programming from commercial and public broadcast television networks received via transmission by a local television station or a local subscription cable service. They are not intended to apply to direct taping of a satellite feed, which requires advance permission from the copyright holder.

1.12.4.1 A broadcast program may be recorded off-air simultaneously with broadcast transmission and retained by the University for a period not to exceed the first 45 consecutive calendar days after date of recording.

Upon conclusion of such retention, all off-air recordings must be erased or destroyed immediately. “Broadcast programs” are television program transmitted by television stations for reception by the general public without charge.

1.12.4.2 Off-air recordings may be used once by individual faculty in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction within a single building, cluster or campus, as well as in the homes of students receiving formalized home instruction, during the first ten consecutive school days in the 45 calendar day retention period.

1.12.4.3 Off-air recordings may be made only at the request of an used by individual faculty, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same faculty, regardless of the number of times the program may be broadcast.

1.12.4.4 After the first ten consecutive school days, off-air recordings may be used up to the end of the 45 calendar day retention period only for teacher evaluation purposes; that is, to determine whether or not to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.

1.12.4.5 Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

1.12.4.6 All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

1.12.5 Public Performance of Videotapes and Audiovisual Works

The concept of nontheatrical performances, which was well established prior to the 1976 copyright revision, still applies to films and filmstrips, but not to videotapes. Many videotapes are now available for inexpensive purchase or rental with a label warning “For Home Use Only.” Because copyright proprietors hold exclusive rights to display and perform their works, purchase or rental of these materials does not include the right to perform publicly.

While educational use does involve public performance, Section 110 of the copyright law provides an exemption for face-to-face teaching activities of a nonprofit educational institution, which is assumed (in the absence of a test case) by most parties to apply to “home use only” tapes as well as those specifically intended for instructional applications. The limitations of what is permissible under this exemption are as follows:

a. They must be shown in nonprofit educational institutions.

b. They must be shown only to students and educators.

c. They must be shown by students, instructors, or guest lecturers.

d. They must be shown in a classroom or other school location devoted to instruction.

e. They must be shown either in a face-to-face setting or where students and teacher(s) are in the same building or general area.

f. They must be shown using a legitimate (that is, not illegally reproduced) copy with the copyright notice included.

Performance of audiovisual works, even in nonprofit education institutions, is prohibited without permission of the copyright holder when:

a. They are used for entertainment, recreation, or even for their cultural or intellectual value but are unrelated to teaching activity.

b. They are transmitted by radio or television (either closed or open circuit) from an outside location.

c. They are shown in an auditorium or stadium before an audience not confined to students, such as a sporting event or community lecture or arts series.

d. They involve an illegally acquired or duplicated copy of the work.

1.12.6 Duplication of Recordings, Films, Slides, and Other Audiovisual Works

Generally, permission must be obtained for any duplication of non-musical sound recordings, films, slides and other audiovisual works that are copyrighted. The following guidelines are considered in the ambit of fair use at the University for the two audiovisual categories described.

1.12.6.1 Photographic Copying: Photographic copying of a single copy of one chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper may be made provided the copy is used for scholarly research, teaching, or preparation to teach a class.

1.12.6.2 Non-Music Audio Recording: A single audio recording copy may be made if it corresponds to the spoken version of a chapter from a book, an article from a periodical, a short story, short essay or short poem, whether or not from the collective work, and provided the copy is used for scholarly research, teaching, or preparation to teach a class.

1.12.7 Music

1.12.7.1 Permissible Uses

Emergency copying to replace purchased printed copies of music that for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole, which would constitute a performable unit such as a section, movement, or aria, but in no case more than (10%) of the whole work. The number of copies shall not exceed one copy per pupil.

For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria, etc.) that is, (1) confirmed by the copyright proprietor to be out of print, or (2) unavailable except in a larger work, may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.

Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.

A single copy of recordings of performance by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.

A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)

1.12.7.2 Prohibitions

Copying to create or replace or substitute for anthologies, compilations, or collective works.

Copying of or from works intended to be "consumable" to the course of study or of teaching such as workbooks, exercises, standardized tests, and answer sheets and like material.

Copying for the purpose of performance, except as listed under Permissible Uses 1.12.7.1.

Copying for the purpose of substituting for the purchase of music, except as in Permissible Uses 1.12.7.1.

Copying without inclusion of the copyright notice that appears on the printed copy.

1.12.8 Archives

In order to comply with the 1976 Copyright Act while at the same time making its resources as freely available to researchers as possible, the Archives of Appalachia will:

a. Seek to have copyright transferred in writing at the time manuscripts are transferred.

b. Make written notes on the identity of the copyright holders when copyright is not transferred, in so far as the information is available, and freely share this information with interested researchers.

c. In the printed regulations and rules for use of the Archives, explain that it is primarily the researcher(s) responsibility to inform him/herself regarding the copyright status of the records s/he uses.

d. Display the required copyright warnings, and notices in the research room on copy request forms and on the copies themselves.

e. Require all users requesting photocopies to complete a “Request for Photoduplication” form, which includes a statement of purpose and of assumption of all liability for copyright infringement by the user. These forms will be permanently maintained by the Archives and will be consulted whenever a systematic copying endeavor appears to be underway.

f. Refuse to make copies or give permission to quote copyright-protected items to commercial vendors without written permission of copyright owners.

g. Refuse to copy or to give permission to quote records that the Archives has agreed not to reproduce.

h. Freely permit copying and publication of all records whose copyright the Archives controls except that for-profit publications will be expected to pay a standard fee for use of materials.

1.12.9 Computer Programs and Documentation

The Office of Computer Services has adopted the following policy on the use and copying of microcomputer programs and documentation.

a. The Office of Computer Services does not sanction, encourage, condone, or consent to unauthorized software use.

b. The software collections in the microcomputer laboratories will utilize, hold, and distribute only public domain software and documentation and authorized original, backup and archival copies of copyrighted software and documentation.

c. Instructors of courses, workshops or other instructional offerings conducted in the microcomputer laboratories are requested to utilize only authorized copies of copyrighted software and documentation.

d. Copying or otherwise reproducing any part of a copyrighted program or its documentation which would be in violation of the licensing agreement will not be sanctioned without written and specific permission of the copyright holder.

In addition, the Tennessee Board of regents Office of General Counsel has issued the following statement, which serves as the University's guidelines.

“The unauthorized use or distribution of computer software violates federal and state laws. The making of copies of microcomputer software is subject to the federal copyright laws. Violation of such laws may result in the filing of a civil law suit against the alleged infringer. If infringement is proven, the infringer may be ordered by the court to pay monetary damages. It is also a violation of the State Computer Crimes Act to acquire or use computer software without proper authorization. Such illegal activity may result in criminal prosecution. In addition, any such activity may subject the employee to disciplinary sanctions, including termination. Moreover institutional employees may be held personally liable in civil actions for activities that are in violation of the state law and/or Board policy.

The educational ‘fair use’ defense to liability for copyright infringement is extremely limited as defined by federal statute. It affords no special protection to the unauthorized use of computer software. A license to use or make copies of computer software programs must be procured by contractual agreement. The execution of such license agreement is subject to applicable Board policies and guidelines. It is recommended that software that is not acquired by the institution pursuant to a license agreement approved by the Board should not be used without written permission of the campus director of the computer facilities."

1.12.10 Sources of Information

Public Law 94-553. 94th Congress. Oct 19, 1976. Title 17 – Copyrights (Available at the Sherrod Library Information Desk or in the Government Documents department.)

Copyright Handbook, Second Edition, by Donald F. Johnston. N.Y. Bowker, 1982 (KF 2994. J63 1982)

Helm, Virginia M. *What Educators Should Know About Copyright*. Fastback #233. (Bloomington, IN: Phi Delta Kappa Educational Foundation) 1986.

ETSU Office of Computer Services "Policy on the Use of Copying of Microcomputer Programs and Documentation." *Pieces of Eight*. 4:5, Jan 85. pp. 4-5

1.12.11 Suggestions for Obtaining Permission to Reproduce Copyrighted Material

Experience has shown that faculty have greater success than the library in obtaining permission from copyright owners to reproduce and/or reuse copies for teaching. Generally, all that is asked of faculty by the copyright owner is that they follow fair use provisions of the copyright law with regard to educational purpose, brevity of the copied material, consideration for the cumulative effect of copying, and that a notice of copyright ownership be included on the reproduced material. In a few cases, however, the copyright owner might ask for a monetary payment, set specific conditions, or even deny permission outright. In the case of library reserve, the faculty member assumes full responsibility for following copyright requirements.

The following facts are necessary in any letter requesting permission to reproduce additional copies and/or reuse of copyrighted material for educational purposes:

a. Title, author, and/or editor, and edition of material to be duplicated.

b. Exact material to be used; page numbers, chapters, and if practicable, a photocopy of the material.

c. Number of copies you will be reproducing and/or reusing.

d. Use to be made of the duplicated materials; that is, educational research use, or classroom teaching.

e. Form of distribution; library reserve, classroom distribution, etc.

f. Whether or not the material is to be sold.

g. Type of reproduction; photocopy, ditto, offset, typeset, etc.

The request for permission should be sent, together with a self-addressed return envelope, to the Copyright Permissions Department of the publisher in question. If the address of the publisher does not appear at the front of the material, it may be obtained in a publication entitled *The Literary Marketplace*, published by the R. R. Bowker Company and is available in the library.

The process of granting permission requires time for the publisher to check the status of the copyright and to evaluate the nature of the request. It is advisable, therefore, to allow enough lead time to obtain permission before the materials are needed. Allowing 4-6 weeks for obtaining permission is recommended. A sample permissions letter is provided on the next page.

(This guide has been prepared by the Office of the Director of Libraries and approved by the Library, Archives and Museum Committee of the University.)

04/03/89

1.13 Intellectual Property Policy

1.13.1 Objective of the Policy

It is the policy of the East Tennessee State University (the University) to: (1) encourage inventions and the production of copyrightable works by employees of the University; (2) facilitate the utilization of such inventions and works to the benefit of the public, the University, and the members of the University community; and (3) provide for the equitable sharing of any proceeds derived from the commercial exploitation of inventions and copyrightable works in which, pursuant to this policy, the University is determined to have an interest. This policy is intended to protect the interests of all concerned parties: the University, members of the University community, external sponsors of research, and the public.

1.13.2 Factors to be Considered

"Author" means the person or persons responsible for creation of a copyrightable work.

"East Tennessee State University Research Foundation, Inc." (ETSURF) means a corporation established by East Tennessee State University and approved by the Tennessee Board of Regents to provide support for activities related to the mission of East Tennessee State University including management of Intellectual Property.

"Gross Income" as defined here is income coming to East Tennessee State University or the East Tennessee State University Research Foundation and means proceeds from the sale, lease, or licensing of Intellectual Property by the University; dividends derived from equity received in consideration for the sale, lease, or licensing of Intellectual Property by the University; or proceeds from the sale of equity received in consideration for the sale, lease, or licensing of Intellectual Property by the University.

"Intellectual Property" means Inventions and Creative Works.

"Invention" means any discovery, invention, new use or application, process, composition of matter, article of manufacture, know-how, design, model, technological development, or biological material.

"Inventor" means the person or persons responsible for conception of an idea or ideas leading to an invention.

"Net Income" as defined herein refers to income coming the East Tennessee State University or the East Tennessee State University Research Foundation and is gross income minus the direct costs associated with patent prosecution, copyright registration, commercialization, defense, maintenance, and administration of Intellectual Property.

"Scholarly Works" include, but are not limited to, articles written for publication in academic journals, textbooks, works of art, musical compositions, and literary works. Theses and dissertations are not, for the purposes of this policy, scholarly works.

Works by non-faculty employees shall not, for the purposes of this policy, be considered scholarly works.

"Scope of Employment" refers to activities which have been assigned to an employee by his or her supervisor or which are performed during normal working hours or which fall within the employee's job description.

"Significant Use" means utilization of Institution funds, personnel, facilities, equipment, materials or other resources resulting in a cost to the Institution (direct, indirect, or depreciative) of more than $2,500 (in constant 2001 dollars).

"Work" means any copyrightable material, such as literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works; computer software or databases; circuit diagrams; architectural and engineering drawings; and lectures.

1.13.3 Authorization

Institutions of the Tennessee Board of Regents are authorized to seek and hold patents and copyrights, to assign their rights in Intellectual Property, and to execute agreements concerning royalty distribution. TBR Universities shall develop additional Institution-specific policies and rules relating to Intellectual Property not inconsistent with the Tennessee Board of Regents Intellectual Property Policy (http://www.tbr.state.tn.us/policies_guidelines/personnel_policies/5-01-06-00.htm) or other policies of the Tennessee Board of Regents.

East Tennessee State University has authorized the East Tennessee State University Research Foundation to act as the agent for the University in matters concerning Intellectual Property. The University may, at the direction of its President and with approval of the Board of Directors of the ETSURF, assign its rights to Intellectual Property to ETSURF. ETSURF may, on behalf of the University, seek and hold patents and copyrights, negotiate and administer licenses, and collect and distribute royalties on behalf of the University in accord with the provisions of this policy.

1.13.4 Applicability

This policy shall apply to all persons employed (either as full-time, part-time or temporary employees, including Graduate Assistants) by East Tennessee State University, to students enrolled at East Tennessee State University, and to other persons using University facilities and resources. Contracts for works for hire between East Tennessee State University and independent contractors should define the respective rights and responsibilities of the parties with respect to ownership of any Intellectual Property developed as a result of the contract.

1.13.5 Ownership of Intellectual Property

Intellectual Property developed by persons to whom this policy applies shall be the sole and exclusive property of the University or ETSURF if the subject Intellectual Property is (1) developed within the person's scope of employment with the University, (2) developed in the course of a project sponsored by the University, (3) developed with the significant use of the University's facilities, services, or equipment (personal office space, libraries and the inventor or author's personal computer provided by the Institution excluded), or (4) developed in the course of a project arranged, administered or controlled by the University and sponsored by persons, agencies or organizations external to the University, absent prior written agreement to the contrary.

With respect to students, use of resources or facilities typically available to students in their educational activities shall not be considered "significant".

Prior to the University providing support (for example, release time or University funding) to a person to whom this policy applies, where that support could reasonably be expected to result in an invention or creation of a copyrightable work with commercial value, the University and the person or persons receiving that support shall agree in writing whether any Intellectual Property potentially arising from the supported activities would qualify as a Scholarly Work.

The University shall not assert ownership of Scholarly Works, regardless of whether the circumstances surrounding creation of the work satisfy one or more of the four tests outlined in this section for determining University ownership. Disclosure of Scholarly Works is nonetheless required, subject to the condition that only those copyrightable works which could reasonably be expected to have commercial value must be disclosed.

Intellectual Property developed outside an employee's scope of employment, on the employee's own time and without the use of significant University resources shall be the sole and exclusive property of the Inventor or Author. In consideration of University or ETSURF support in evaluating the Intellectual Property, seeking patent protection and/or pursuing commercialization activities, the University and the Inventor or Author may agree to assign all or a portion of the ownership rights to his or her invention or work to the University or the ETSURF.

Nothing in this policy shall preclude a mutually agreed upon contract between the University and persons to whom this policy applies wherein either party may agree to waive their rights under this policy.

1.13.6 Administrative Responsibilities

1.13.6.1 Inventors and Authors

Persons to whom this policy applies are responsible for disclosing to the University his or her invention or production of a copyrightable work that could reasonably be expected to have commercial value. Disclosure shall be made to the Vice Provost for Research and Sponsored Programs using an Invention Disclosure Form (http://www.etsu.edu/research/forms.htm) or Copyrightable Work Disclosure Form (http://www.etsu.edu/research/forms.htm.). The Vice Provost will coordinate review of the Disclosure by the University Intellectual Property Advisory Committee (Section 1.13.6.2). The Inventor or Author shall fully cooperate with the University Intellectual Property Advisory Committee other

University and ETSURF personnel in the disclosure process and in other subsequent activities associated with patenting and/or commercialization of the invention or work. Information regarding disclosure of inventions or copyrightable work may be found in "Information and Guidelines Concerning the Patent and Copyright Process at East Tennessee State University" (http://www.etsu.edu/research/ipandtechtransfer.htm).

In the event that two or more persons are entitled to claim ownership of the Intellectual Property, the Inventors or Authors shall reach agreement between or among themselves regarding relative contributions for the purposes of distribution of Net Income from the Invention or Work. That agreement should be in writing and be notarized. The agreement will be required prior to review by the University Intellectual Property Advisory Committee.

Inventors should particularly note that certain acts (for example, publication of the Invention in an academic journal or possibly even presentation at a conference) can constitute a statutory bar to patent protection. An Inventor contemplating public disclosure activities prior to filing an Invention Disclosure Form should contact the Vice Provost for Research and Sponsored Programs prior to engaging in those disclosure activities.

1.13.6.2 Intellectual Property Advisory Committee

The President of East Tennessee State University shall appoint members to the Intellectual Property Advisory Committee (IPAC). The IPAC will consist of nine (9) appointed, voting members experienced in Intellectual Property matters. Seven (7) of these members shall be drawn from the faculty and two (2) from the community. Two (2) of the nine members shall also be members of the Board of Directors of ETSURF. The Vice Provost for Research and Sponsored Programs shall serve as the chair of the IPAC and will not vote. All members of the IPAC shall execute confidentiality agreements to insure that all information concerning Intellectual Property disclosed to the Committee is held confidential.

The Inventor(s) or Author(s) will fill out the Invention Disclosure or Copyright Disclosure Form, have their chairman and dean review and sign it, and submit it to the Vice Provost for Research and Sponsored Programs. The Vice Provost shall conduct an interview with the Inventor(s) or Author(s) to discuss the process with them and make any recommendations he/she has to improve the Disclosure.

The Vice Provost for Research and Sponsored Programs shall convene the IPAC and charge them with evaluation of the Disclosure. A patentability evaluation shall in particular include a thorough evaluation of acts by the Inventor or items of prior art that would bar patent protection. Additional guidelines for evaluation may be found in "Information and Guidelines Concerning the Patent and Copyright Process at East Tennessee State University" (http://www.etsu.edu/research/ipandtechtransfer.htm).

The IPAC may seek outside assistance in preparing its recommendations. Any compensated assistance obtained from private legal counsel that is paid for by East Tennessee State University must be approved in advance by the Attorney General of the State of Tennessee. Approval by the Attorney General of the

State of Tennessee is not required if the outside legal counsel is retained and compensated by ETSURF.

The Committee shall conduct investigations as it deems necessary in performing the evaluation. Upon completion of the evaluation, the IPAC shall provide the Vice Provost for Research and Sponsored Programs with its recommendations as to ownership of the Intellectual Property, whether patent protection should be sought, and whether to seek commercialization opportunities. The Vice Provost for Research and Sponsored Programs shall transmit these recommendations to the President of East Tennessee State University. The final decision to pursue protection of the Intellectual Property rests with the President of East Tennessee State University who shall communicate this decision in writing to the Vice Provost for Research and Sponsored Programs Administration who shall communicate the decision in writing to the inventor(s) or author(s) and the IPAC.

If the decision of the President is not to seek patent or copyright protection of the Intellectual Property, and the Institution has an ownership interest in the Intellectual Property, the President may assign the Institution's ownership interest to the Inventor or Author. The Vice Provost for Research and Sponsored Programs will administer this action.

For those inventions or works in which East Tennessee State University is deemed to have an ownership interest, following a decision by the President of University to seek patent protection, copyright registration, and/or commercialization of the Intellectual Property, the Vice Provost for Research and Sponsored Programs shall arrange to have these activities undertaken and oversee there execution. All direct costs associated with those activities shall be borne by East Tennessee State University or ETSURF.

For inventions made in the course of a project funded in whole or in part by the Federal Government, the Bayh-Dole Act (37 CFR 401) imposes certain reporting requirements associated with the technology transfer process. The Vice Provost for Research and Sponsored Programs is responsible for ensuring that those reporting requirements are satisfied.

1.13.6.3 TBR Office of the General Counsel

The TBR Office of the General Counsel is available to support the TBR institutions, and specifically the IPAC, in evaluating the inventorship, ownership, and patentability of inventions disclosed to the Institution. To the extent that appropriate resources exist, the OGC shall be available to support prosecution of patent applications. The Office of the General Counsel is further available to the Institutions to support the drafting of licensing agreements. The Office of the General Counsel shall receive and evaluate disclosures originating at TBR Institutions without Advisory Committees.

1.13.7 Appeals

The Inventor or Author may appeal decisions of the President. If the Inventor or Author disagrees with an initial decision, he or she may request a re-evaluation by the President. The President is not authorized to delegate responsibilities relative to appeals. The request must be received within thirty calendar days of notification to the Inventor or Author of the initial decision. The Inventor or Author may submit documents or other evidence in support of his or her position. A second and final decision by the President relating to ownership or royalty distribution may be appealed to the Chancellor of the Tennessee Board of Regents. Decisions of the TBR Chancellor shall be binding.

1.13.8 Income from Intellectual Property

Income derived from the commercialization of Intellectual Property in which the University or ETSURF, acting on behalf of the University, has an interest shall be first applied toward any direct expenses incurred by the University or ETSURF in seeking patent protection or copyright registration, in pursuing commercialization of the Intellectual Property, in maintaining the patents and for legal expenses incurred in the event of infringement defense.

After reimbursement of direct expenses to the University or ETSURF as described in the preceding paragraph the remaining Net Income shall be distributed as follows: 50% to the inventor(s) or author(s), 20% to the inventor's or author's department, 15% to the inventor's or author's college, and 15% to the research support fund administered by the Vice Provost for Research and Sponsored Programs, or, if the Intellectual Property has been assigned to ETSURF, 15% shall go to ETSURF rather than to the research support fund. This distribution system shall also apply to license signing fees, license benchmark and diligence payments, and to payments from the outright sale of the patent or copyright.

The portion of the Net Income from royalties and any other Intellectual Property-related income retained in the Vice Provost for Research and Sponsored Programs research support fund or by ETSURF shall be kept in a restricted account and used for support the enhancement of research and instructional programs at East Tennessee State University and of the research support activities of ETSURF.

05/04/84; 06/08/06

1.14 Constitution of the Faculty Senate

1.14.1 Preamble

To fulfill its mission effectively, the University needs a mechanism for meaningful and continuing cooperation between the faculty and administrative officers of the institution. In order to foster mutual trust and respect and to produce cooperative efforts that enhance the stature of the University and its programs, formal and systematic lines of communication are needed to ensure full discussion of important matters and adequate reaction from one constituency to another.

Final authority for implementing the policies of the institution resides with the University president. It is a basic premise of this document that the faculty has the right and obligation to participate fully and actively in the determination of those policies that pertain to academic matters and faculty welfare. The Faculty Senate herein constituted provides, therefore, for meaningful and formal participation by the faculty in matters of University governance that are related to its right and proper concerns.

1.14.2 Article I: Name

The name of this organization shall be the Faculty Senate of East Tennessee State University.

1.14.3 Article II: Purposes and Functions

1.14.2.1 The purposes and functions of the Faculty Senate of East Tennessee State University shall be as follows:

a. To serve as the primary vehicle of faculty participation in the affairs of the University.

b. To serve as the forum for the determination and the expression of the representative opinion of the University faculty.

c. To serve as a means for reciprocal communication among all segments of the University (administration, faculty, students, and staff) concerning University problems, goals, programs, and policies.

d. To serve as a forum for the initiation, formulation, discussion and implementation of academic and related policies of concern to colleges, schools, or other academic units.

e. To make recommendations to the appropriate University administrator on matters of University policy and procedure in areas of concern to the faculty, including the following:

(1) Those matters about which the faculty is expected to take the initiative (e.g., curricula; academic policies; degree programs; faculty appointments; dismissal, retention,

promotion and tenure; and academic freedom and responsibility).

(2) Those matters about which the administration is expected to take the initiative (e.g., policies regarding use of University facilities; allocation of financial resources; research administration; student life; and selection of major University academic administrative officers.

1.14.2.2 The Faculty Senate shall expect to receive prompt notice of impending actions or decisions of the University president, or of other administrative officers, which could result in changes in University policy about which the faculty could be expected to have reasonable concern. The Senate shall discuss such actions or decisions and make recommendations to the appropriate administrator before these are put into effect. Similarly, the Senate shall expect to receive prompt notice of actions taken by the president to implement the Senate's recommendations. If such recommendations are not implemented, the president should offer an explanation for the decision.

1.14.4 Article III: Membership

1.14.4.1 Members

The Faculty Senate shall consist of elected members only.

1.14.4.2 Eligibility

Any member of the full-time faculty shall be eligible for election to membership in the Senate. The University faculty shall consist of all full-time faculty members holding academic appointments with the rank of instructor, assistant professor, associate professor, or professor, whose primary duties are teaching, research, library service, or departmental administration.

1.14.4.3 Term of Office

The term of office for an elected member of the Senate shall be three (3) years with the exception that:

a. The term of the president-elect shall be extended for one additional year to four (4) years if the president-elect is in the third year of his or her term. At the end of this extended term of office, the affected school, college, or academic unit shall elect a senator to complete the remaining two years of the normal three year term.

b. In the event of the death or resignation of a faculty senator during the senator's elected term of office, the remaining senators of the affected school, college or academic unit shall, at the direction of the president of the Faculty Senate, select a new representative from the affected school, college, or academic unit. The new representative is to complete the unexpired term of the vacated Senate seat. The selection of the new representative shall be accomplished by a majority vote of the remaining senators or as specified by the constitution of the affected school, college, or academic unit.

c. In the event that circumstances temporarily prevent a faculty senator from fulfilling his or her obligations as a senator, the senator (hereafter referred to as the requesting senator) may apply to the Senate Executive Committee for a leave of absence from the Faculty Senate. The procedure as outlined by the By-Laws shall be used. (See By-Laws 1.5.1.8.G.)

1.14.4.4 Proxy Voting

In the event that a senator may not, because of extenuating circumstances, be able to attend a Senate meeting, the senator may designate a faculty member who is eligible for Senate membership from the senator's school/college/academic unit to represent him/her. Prior written notice of such designation shall be provided to the president or secretary of the Senate before the meeting. The designated representative shall have voting privileges. Senators who designate representatives shall be noted as "present by proxy" in Senate records.

1.14.4.5 Representation

Each college, school, or equivalent academic unit with its own faculty shall be entitled to elect three (3) senators. Additional Senate members shall be elected by and within the various colleges, schools or equivalent academic units in the following manner:

a. A college, school or equivalent academic unit shall be entitled to one additional representative for every twenty-five (25) faculty members. The number of senators eligible shall be determined from the records of the Vice President of Academic Affairs at the beginning of each spring semester. In cases where new Senate representation is awarded to a college, school or academic unit, the Senate may determine with the consent of a simple majority of the unit's senators to utilize staggered terms. Terms of the new senators then would initially be established by drawing lot for terms of one, two, and three years, as appropriate. This provision shall apply beginning with senators elected for 1983-86 term.

b. The University Libraries shall be entitled to elect one (1) senator until it can comply with the proportional representation arrangement listed above in Article III. 1.14.3.5.a.

c. Any college, school or equivalent academic unit organized after the adoption of this constitution shall attain Senate representation in the first Senate election following its organization.

d. By two-thirds vote of those present at any regularly scheduled meeting, the Senate may grant senatorial representation to divisions or academic units not covered in this section. If a college, school, or academic unit loses faculty so as to affect Senate representation, the first position to become vacant will not be filled.

1.14.4.6 Elections

a. Elections shall be held each year by secret ballot prior to the first meeting of the Senate in the fall term. The term of office shall begin with the first Senate meeting in the fall.

b. Elections shall be supervised and conducted by the Committee on Faculty Elections or by senator(s) that the committee designates. The rules and regulations stated in the Senate By-Laws will be followed. (See By-Laws 1.14.1.4.)

1.14.5 Article IV: Officers

1.14.4.1 The Faculty Senate officers shall be a president, a president-elect, a secretary, and a treasurer. The president-elect, secretary and treasurer are to be elected annually from the membership of the Senate by secret ballot at the first fall meeting of the new Senate.

a. President: The president shall be the presiding officer of the Senate, shall chair the Executive Committee and shall be an ex officio member of all other Senate committees.

b. President-elect: The president-elect shall substitute in the absence of the president, assuming all duties of that office, and shall serve in other capacities as the president may direct.

c. Secretary: The secretary shall perform the following functions:

(1) Keep and maintain the minutes of any regular or special meetings of the Senate.

(2) Keep the official attendance records of all meetings.

(3) Prepare and maintain the official membership list of the Senate.

(4) Maintain a permanent and public collection of all of the records of the Senate.

d. Treasurer: The treasurer shall perform the following functions:

(1) Compile and maintain all records of any financial transactions involving the Senate.

(2) Make periodic reports and distribute these regularly to the members of the Senate.

1.14.6 Article V: Faculty Senate Committees

1.14.6.1 Establishment of Committees

As noted in the By-Laws, the Senate shall establish committees to study and make reports on matters of concern to the University faculty. Committees created by the Senate become committees of the Senate, receive their authority from the Senate, and shall report their findings and make their recommendations to the Senate.

1.14.6.2 Policies and Procedures of Senate Committees

Senate committees shall not act independently of the Senate, and all accomplishments of these committees shall be presented to the Senate for consideration. Committee work shall be done as a body and not as individual members of the committee. Actions taken shall be those of the committee as a whole representing a majority vote.

Minority reports and recommendations may be submitted to the Senate if desired by dissenting committee members. A majority of the committee membership shall constitute a quorum for the transaction of all business of the committee.

1.14.6.3 Standing Committees

The Standing Committees of the Senate shall be the Executive Committee and such other committees as are identified in the By-Laws. The Executive Committee shall appoint members to the standing Senate committees according to the procedures established in the By-Laws. The Senate standing committees shall be maintained at full membership and shall file reports in writing with the secretary of the Senate at least seven (7) workdays prior to the last regularly scheduled meeting of the academic year.

1.14.6.4 The Executive Committee

The Executive Committee shall be composed of eight members:

a. The president, the president-elect, the secretary, the treasurer, the immediate past president of the Senate, and

b. Three additional members of the Executive Committee shall be elected by the Senate from its membership by secret ballot each year after the new members of the Senate are seated.

c. No more than two (2) members of the Executive Committee shall be elected from a single college, school or equivalent academic unit represented in the Senate.

1.14.7 Article VI: Meetings

The Faculty Senate shall hold two regularly scheduled meetings each month during the fall and spring semesters at such time as specified by the membership of the Senate. Summer meetings and special meetings may be called by the Executive Committee or by the president upon petition of at least one-fourth of the Senators. Notification of summer or special meetings shall be made, in writing, to all members of the Senate at least three (3) workdays prior to such meetings. Except for executive sessions, all meetings of the Senate shall be open to anyone who wishes to attend.

The Senate may go into executive session by approval of two-thirds (2/3) of the members present.

A majority of the elected membership of the Faculty Senate shall constitute a quorum for the transaction of all business of the Senate.

1.14.8 Article VII: Amendment Procedure

1.14.8.1 Initiation

This constitution may be altered by a procedure begun in either of the following ways:

a. By a petition signed by one-fifth (1/5) of the full-time faculty members.

b. Through a proposal supported by one-third (1/3) of the Faculty Senate members.

1.14.8.2 Ratification

Any amendments shall be ratified in the following manner:

a. An amendment must receive a favorable vote by a majority of faculty senators voting in an official Senate meeting to be held no sooner than one week after the initiatory procedure has been completed.

b. The proposed amendment will then be distributed to the full-time faculty for review and evaluation.

c. Any such amendment must receive a favorable vote by a majority of the full-time faculty members voting thereon.

03/31/89

1.15 By Laws of the Faculty Senate

The Faculty Senate of East Tennessee State University shall be governed by the following by-laws in the conduct of its business.

1.15.1 Article I: Committees

The Senate shall establish committees to study and make reports on matters of concern to the University faculty. Committees created by the Senate become committees of the Senate, receive their authority from the Senate, and shall report their findings and make their recommendations to the Senate.

1.15.1.1 Standing Committees

a. Except for the Executive Committee, the size of standing committees shall be determined by the Senate. The membership of each standing committee should reasonably reflect the composition of the Senate. The chair of each committee, except for the Executive Committee, should be elected from the members of that committee at their first meeting.

b. The standing committees of the Senate are as follows: Executive Committee; Committee on Academic Matters; Committee on Faculty Concerns and Grievances; Committee on Faculty Senate Elections; Committee on Faculty Development and Evaluation; Committee on Research, creative and Scholarly Activities; and Committee on Committees.

1.15.1.2 Committee on Academic Matters

This Committee shall be broadly concerned with the various academic programs, policies, and procedures of the University. Matters of concern shall include but not be restricted to such things as:

a. Admissions, retention, and transfer requirements

b. Recruitment and retention of high quality students

c. Promotion and coordination of interdepartmental and intercollegiate programs

d. Degree and residency requirements

e. Honors programs

f. Establishment of new and review of existing academic programs

g. Academic advisement programs

h. Promotion and enhancement of honor societies.

1.15.1.3 Committee on Faculty Concerns and Grievances

The Committee on Faculty Concerns and Grievances may initiate recommendations and shall continuously review and evaluate University policies including but not restricted to such things as:

a. Academic freedom and responsibility

b. Faculty salaries and other benefits

c. Criteria for determining annual salary increments

d. All faculty personnel policies including appointments, promotion, tenure, dismissal, resignation, and leaves of absence

e. The Committee shall also act as an appeals body to hear grievances filed by individual faculty members. The committee is charged with developing procedures for this purpose, subject to approval by the Senate (See Section 1.4 of *Faculty Handbook*).

1.15.1.4 Committee on Faculty Senate Elections

The Committee on Faculty Senate Elections is charged with these responsibilities:

a. Formulating a standardized procedure for elections to the Senate and for all University elections involving faculty participation

b. Supervising the conduct of said elections

c. Conducting the annual election of Faculty Senate officers and of the elected members of the Executive Committee

d. Ruling on the eligibility of nominees and voters

e. Supervising the process for initiating and ratifying amendments of the Constitution and By-Laws

1.15.1.5 Guidelines for Faculty Senate Elections

a. In March of each year, each dean/director and all senators will be notified of forthcoming vacancies by the Elections Committee. Faculty shall be informed of vacancies by their senators in advance of the election.

b. Present senators from each college/school/unit will serve as election officials.

c. Elections to the Faculty Senate shall be conducted annually prior to the first meeting of the Senate in the Fall Semester.

d. Voting shall be by secret ballot.

e. A voter shall be entitled to cast one vote for each senate seat to be filled.

f. In the event that no nominee receives a majority of votes, a run-off election shall be held between the two nominees receiving the greatest number of votes in the initial election. Procedures for the run-off election shall be the same as for the initial election.

g. Senate vacancies occurring during the year shall be filled as expeditiously as possible following certification of the vacancy and according to the Constitution, paragraph 1.13.4.3.B.

1.15.1.6 Committee on Faculty Development and Evaluation

The Committee shall be concerned with various faculty developmental activities such as:

a. Methods for improving teaching

b. Avenues for strengthening faculty capabilities in research, advanced scholarship, and creative activity

c. Public and professional service possibilities and activities

d. Administrative training opportunities

The Committee shall also be charged with the review and appraisal of the total campus evaluation process where it is used for individual development or administrative judgment. Categories of evaluation include:

a. Self evaluation

b. Peer or collegial evaluation

c. Student evaluation

d. Administrative evaluation

1.15.1.7 Committee on Research, Creative, and Scholarly Activities

The Committee shall conduct a continuous review and evaluation of policies and procedures including but not restricted to such things as:

a. Awarding and administering University sponsored grants

b. Computer utilization

c. Allocation and utilization of overhead funds from grants

1.15.1.8 Committee on Committees

The Committee on Committees shall receive from all standing University committees an annual report of the activities and recommendations of the committee by June 1.

The Committee on Committees shall be concerned with, but not restricted to such things as:

a. Staffing of all University standing committees except those elected by the general faculty. Upon request by the President of the University, names of faculty will be submitted to the president, from which committee appointments will be made.

b. Evaluation of all standing University committees

c. Recommendations for change in the University committee structure

An annual report of the activities and recommendations of the Committee on Committees shall be made to the president of the Faculty Senate, who shall submit the report to the president of the University.

1.15.1.9 Executive Committee

The Executive Committee duties shall be as follows:

a. To consider and to act on urgent matters of immediate general interest to the University that cannot wait for action by the Senate in regular session. Such actions of the Executive Committee shall be reported to the Senate at its next meeting and shall be subject to ratification by a majority vote of the Senate.

b. To appoint members to the Senate standing committees no later than the second Senate meeting of the fall semester. The following criteria will be considered:

(1) One Executive Committee member will be assigned to each committee.

(2) Each college/school will be represented on the following committees:

(a) Academic Matters

(b) Concerns and Grievances

(c) Development and Evaluation

(d) Research, Creative and Scholarly Activities

(3) One committee member will be retained from the previous year, thereby preserving continuity of membership.

(4) Senators will rank order their personal preference for committees at the first meeting in the fall. Personal preference of the senators will be considered as much as possible in satisfying the above criteria.

c. To propose such ad hoc committees of the Senate as may be needed and to recommend to the Senate the membership of those committees. The life of an ad hoc committee shall be limited to the term of the Senate that created that committee.

d. To examine the work of the various Senate committees to prevent duplication of effort, to ensure the carrying out of the committee assignments, and to coordinate the work of all committees

e. To refer matters to the proper committees of the Senate

f. To meet at least five (5) workdays in advance of regular Senate meetings for preparing an agenda and making assignments to those who are to report to the Senate at the next meeting of the Senate. A copy of the agenda will be sent to each member of the Senate at least three (3) workdays before the Senate convenes.

g. To act on requests for leave of absence from the Senate which have been submitted according to the following procedure:

   (1) A letter requesting a leave of absence, which outlines the reasons for the request and the anticipated length of the leave of absence, shall be sent to the president of the Faculty Senate for transmission to the Executive Committee.

   (2) The Executive Committee shall, by a majority vote, either accept or deny the request for leave of absence.

   (3) In the event that the request for leave of absence is accepted, the president of the Faculty Senate shall instruct the remaining senators of the affected school, college or academic unit to select a temporary replacement senator by a majority vote among themselves or as specified in the constitution of the affected school, college or academic unit.

   (4) The temporary replacement senator shall occupy the seat of the requesting senator until the requesting senator notifies the president of the Faculty Senate in writing that he/she wishes to resume the duties of senator.

   (5) The maximum length of a leave of absence shall be one academic year.

1.15.1.10 Tennessee Board of Regents Faculty Subcouncil Representative

The Faculty Senate shall elect the representative from East Tennessee State University to serve on the Tennessee Board of Regents Faculty Subcouncil. Any full-time, tenured or tenure-track faculty member can be nominated for the position.

Nominations shall be made in writing to the President of the Faculty Senate by April 1 of the year in which the term of the current representative ends. The election will take place during the regular election meeting of the Senate during spring semester.

The elected representative shall serve a three-year, non-renewable term that shall begin on August 1 of the year of election. An individual may serve more than one term, but not consecutive terms. If the elected representative is not a member of the Faculty Senate or the Faculty Senate Executive Committee, he/she shall be a non-voting, ex-officio member of both groups.

The effective date of this amendment shall be January 1, 2002.

1.15.1.11 Release Time for Faculty Senate President

The Faculty Senate president shall receive at least three hours of academic release time from his/her traditional load in the fall and spring semesters in which he/she serves as president.

1.15.1.12 Representative to Quarterly Meetings of the Tennessee Board of Regents

The Faculty Senate president shall be the official faculty representative to the quarterly meetings of the Tennessee Board of Regents. If the current president cannot attend a meeting, the president-elect shall substitute for the president. If the president-elect cannot attend, any other officer of the organization shall substitute for the president.

1.15.2 Article II: Rules of Order

All business of the Faculty Senate shall be conducted in accordance with Robert's Rules of Order, revised edition. A parliamentarian shall be appointed by the Executive Committee and confirmed by the Senate at its second meeting each year. The parliamentarian shall advise the Senate on all matters of parliamentary procedure.

1.15.3 Article III: Amendment Procedure

1.15.3.1 Initiation

The By-Laws may be altered by a procedure begun in either of the following ways:

a. By a petition signed by one-fifth (1/5) of the full-time faculty members; or

b. Through a proposal supported by one-third (1/3) of the Faculty Senate members.

1.15.3.2 Ratification

Any amendments shall be ratified by a majority of faculty senators voting in an official Senate meeting to be held no sooner than one week after the initiatory procedure has been completed.

03/31/89; 3/8/01

1.16 Misconduct in Scholarship and Research

Maintenance of the utmost integrity in scholarship, research, and teaching is fundamental to successful accomplishment of the mission of East Tennessee State University. Furthermore, the privilege of academic freedom intrinsic to scholarship and research can only continue if public trust in the integrity of these activities is maintained. Misconduct in scholarship and research by any member of the University community threatens the University as well as the individual. Therefore, it is a fundamental responsibility of the faculty, staff, students, and administration of East Tennessee State University to assure that misconduct in scholarship and research is dealt with in a timely and effective manner. This policy describes the steps to be taken in response to an allegation of misconduct in scholarship and research. The process includes objective examination of the facts related to the alleged misconduct and protection of the rights of all individuals involved in the case and, if the scholarly activity or research is supported by an external sponsor, the obligation to comply with requirements for reporting allegations and findings to the sponsor.

1.16.1 Definition of Misconduct in Scholarship and Research

Misconduct in scholarship and research or scientific misconduct means fabrication, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly and scientific community for proposing, conducting, or reporting research. It does not include error or honest differences in interpretations or judgments of data.

1.16.2 Examples of Misconduct in Scholarship and Research

1.16.2.1 Dishonesty in reporting the results of research, ranging from fabrication of data, improper adjustment of results, and gross negligence in collecting or analyzing data to selective reporting or omission of conflicting data for deceptive purposes;

1.16.2.2 Plagiarism, including copying the writing of others without proper acknowledgment, stealing the results or methods of others, or otherwise falsely taking credit for the work or ideas of others;

1.16.2.3 Abuse of confidentiality such as taking or releasing information or ideas of others which were shared with the legitimate expectation of confidentiality, e.g. stealing ideas from manuscripts for publication or grant applications that are being reviewed for journals or funding agencies;

1.16.2.4 Deliberate misrepresentation of research, including the progress of research, to a research sponsor;

1.16.2.5 Knowing publication of material that will mislead readers, e.g., misrepresenting data, particularly its originality, or adding the names of authors without permission;

1.16.2.6 Deliberate and repeated violation of Federal, State, local, or University regulations governing conduct of research, including, but not limited to, guidelines for the protection of human subjects; protection of animal subjects; use of recombinant DNA; use and disposal of radioactive material; and use and disposal of hazardous chemicals and/or biological material;

1.16.2.7 Stealing or destroying the property of others, such as research papers, supplies, equipment of the products of research or scholarship.

1.16.2.8 Failing to report or actively covering up major offenses or breaches of research ethics by others when one knows of these offenses and breaches;

1.16.2.9 Retaliating against an individual for having reported an alleged major offense.

1.16.3 Applicability

This policy applies to all faculty, staff and students employed in research and other scholarly activity, including without limitation graduate student assistants, undergraduate students employed in research or other scholarly activity, postdoctoral fellows and research associates, residents, visiting faculty or staff, adjunct and part-time faculty and staff when performing University work, faculty on non-instructional assignment, and faculty or staff on leave without pay.

The policy applies to students only when they are employed by the University or involved in conduct of externally sponsored research even if they are not paid employees of the University. It does not apply to students conducting research and scholarly activity as part of their degree requirements unless the research or scholarly activity is supported by an external sponsor. Allegations of academic misconduct by a student not included in this policy are to be examined using the procedures specified in the University policy concerning Academic Misconduct by students (Faculty Handbook Policy 5.7 and included in the Spectrum). Examination of a student's conduct under the procedures described in this policy does not exclude additional application of the student Academic Misconduct policy to the same student.

The procedures set forth in this policy may be applied even if the subject of the allegations is no longer employed by the University.

1.16.4 Responsibilities of the Scholar or Researcher

To assure the validity of the scholarly and scientific work generated by faculty, staff and students at East Tennessee State University, it shall be the responsibility of the researcher to retain relevant documentary evidence, including raw data, in a manner appropriate to the discipline. This may include data entry into a log and/or data book, a computer, or any other appropriate mechanism. Where possible, the raw data developed under a defined protocol should be included. In scholarly disciplines related particularly to the arts and humanities, raw data shall refer to all scholarly sources, original writing and creative works, and any appropriate sources for corroborating claims of original authorship and creativity. The investigator shall keep the raw data for three (3) years from the publication date, if possible, to permit access, subsequent examination, and evaluation, as appropriate by colleagues, peers, and/or readers of published material which results from the data. In cases where a number of individuals are involved in a research project, the validation and retention of all data collected is the responsibility of the principal investigator, project director, or senior scholar.

1.16.5 Procedures

Reporting suspected misconduct in research and scholarship is a shared and serious responsibility of all members of the East Tennessee State University community. Allegations should not be made capriciously, but indications or evidence of fraud or misconduct must not be ignored. The procedures described in this policy are intended to safeguard the rights of the accused and of the accuser and to recognize the interest of the University community in academic integrity. East Tennessee State University will protect, to the best of its ability, the privacy of those who, in good faith, report apparent misconduct. It is a violation of University policy to retaliate against an individual for reporting in good faith an allegation of misconduct in research and scholarship.

The University will also provide to the accused individual, or individuals, confidential treatment to the best of its ability, an expeditious and thorough investigation, and an opportunity to comment on all allegations during the inquiry stage and, if initiated, during the investigation.

East Tennessee State University may take interim administrative action to protect University, State, or Federal funds at any stage in the process of initial review, inquiry, investigation, and disposition. Need to take action to protect funds will be determined by the Vice President of the unit in which the allegation is made.

The integrity of the process will be maintained by disclosure and evaluation of any prejudicial conflict of interest to the Associate Vice President for Research who will, in consultation with the either the Vice President for Academic Affairs or the Vice President for Health Affairs, depending on the division from which the allegation arises, determine a plan to resolve the conflict of interest. In no circumstances will individuals judged by the Associate Vice President for Research and the Vice President of the involved unit to have a conflict of interest in the case be placed in decision-making roles in the process of inquiry or investigation. If the Associate Vice President for Research is the subject of the allegation, or the allegation involves a conflict of interest for the Associate Vice President for Research as determined by the Vice President of the involved unit, the Vice President will perform all of the functions assigned in this policy to the Associate Vice President for Research. If the Vice President is involved in the allegation the President of the University will perform all the functions assigned in this policy to the Vice President.

1.16.5.1 Definition of Terms

Allegation: any written or oral statement or other indication of possible misconduct in research or scholarship.

Complainant: the person who makes the allegation of scholarly or scientific misconduct.

Good faith allegation: an allegation made with honest belief that scientific and scholarly misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Inquiry: information gathering and initial fact-finding to determine whether the allegation or app agent instance of misconduct warrants a formal investigation. An inquiry is not a formal hearing. It is intended to separate serious allegations deserving further investigation from trivial, frivolous, unjustified, or clearly mistaken allegations, or from situations that clearly do not involve serious academic misconduct and which may be pursued through other administrative channels.

Investigation: the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person(s) and the seriousness of the misconduct.

Respondent: the person against whom an allegation of scholarly or scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

1.16.5.2 Initial Reporting and Review of Allegations of Scientific and Scholarly Misconduct

Any allegation of misconduct in research or scholarship should first be addressed, preferably in writing, to the appropriate department chair, or equivalent supervisor. If the department chair is the subject of the allegation, or is the person making the allegation, or the allegation involves a conflict of interest for the chair, or there are members of multiple departments involved, then the allegation should be made to the Associate Vice President for Research who will conduct the initial review.

The department chair must immediately report, in writing, the nature of the allegation to the Associate Vice President for Research, the appropriate Dean, and the Vice President of the division in which the allegation is made. The chair must also inform the (respondent) of the allegation and other indication of misconduct. The chair will have ten (10) working days from the date the allegation is made to review evidence related to the allegation and attempt to resolve the issue to the satisfaction of the complainant and the respondent. If resolution is obtained by the chair in this time period, the chair will send a report describing the evidence and recommending that the resolution be accepted to the Associate Vice President for Research. If the Associate Vice President concurs with the recommendation she or he will recommend to the Vice President of the division in which the department is located that the case be closed. If the Vice President accepts the recommendation the case will be closed and the chair, complainant and respondent will be informed of the decision in writing. If the Associate Vice President for Research and the Vice President are not satisfied that the investigation by the chair has been adequate or that the resolution has been fairly achieved, the chair, complainant, and respondent will be so notified in writing and the Associate Vice President for Research in consultation with the appropriate Dean and Vice President will appoint a board of inquiry to further investigate the allegation. The Vice President will notify the President that an inquiry will be made and, if appropriate, solicit advice from the University or Tennessee Board of Regents legal counsel. The Associate Vice President and Vice President must respond to the chair's recommendation within fifteen (15) working days of receiving the chair's recommendation.

1.16.5.3 Conduct of the Inquiry

The board of inquiry shall consist of three individuals holding at least the rank of assistant professor and who have expertise in the academic discipline in which the misconduct is alleged, and are impartial. External experts may be recruited if three experts without a conflict of interest in the case cannot be found within East Tennessee State University. One member of the board of inquiry will be appointed by the Associate Vice President for Research to serve as chair of the board. The function of the board of inquiry is to gather information and engage in sufficient initial fact-finding to determine whether the allegation warrants a formal investigation. It shall be the responsibility of the board of inquiry to:

a. Complete the inquiry and submit a written report to the Associate Vice President for Research and appropriate Vice President within thirty (30) days following appointment of the board. The report should contain the allegation, a report of the findings of the inquiry, and a specific recommendation as to whether or not a formal full investigation should be conducted.

b. Provide maximum feasible confidentiality to the complainant.

c. Provide maximum feasible confidentiality to the respondent.

d. Provide the respondent with opportunities to comment in an expeditious manner on the allegation and all findings made by the board of inquiry.

If the board of inquiry finds that there is not sufficient evidence to warrant a formal investigation the appropriate Vice President will inform the respondent, the complainant, the Dean of the involved College, Departmental Chair and the University President of the finding. Additionally, the University will undertake efforts, if necessary and as appropriate and feasible, to ensure that the reputation of the respondent is not damaged as a consequence of the inquiry. The report and all documentation of the inquiry will be retained in secure storage in the office of the Associate Vice President for Research for three (3) years.

1.16.5.4 Conduct of the Investigation

If the inquiry supports a formal investigation the Vice President will notify the President that an investigation will be made and will also advise the University and Tennessee Board of Regents legal counsel of the investigation. The Associate Vice President for Research, the appropriate Dean and the appropriate Vice President will consult and the Vice President will appoint a committee to perform the investigation. The committee shall have five (5) members who hold at least the rank of assistant professor, a minimum of two (2) of which are experts in the academic field in which the allegation has been made. Experts may be recruited who are not faculty at East Tennessee State University. The committee may also solicit additional technical expertise if needed during the course of the investigation. It will be the responsibility of the committee to:

a. Conduct a full investigation of the allegation and maintain complete records of all the proceedings;

b. Carry out the investigation within sixty (60) days of completion of the inquiry, unless mitigating circumstances (e.g. the respondent is no longer employed by the University) prevent conclusion of the investigation within this time period. The investigation phase of the process should have a maximum time limit of one hundred twenty (120) days;

c. Make every reasonable effort to keep confidential the identity of the complainant and of the respondent. However, at this stage the respondent will normally be entitled to know the identity of all witnesses called before the committee.

d. Keep the respondent, the Associate Vice President and appropriate Vice President apprised of any additional allegations or other developments during the investigation. It will be the responsibility of the Vice President to inform other individuals of the course of the inquiry on a need-to-know basis;

e. Present a formal report to the Associate Vice President for Research and appropriate Vice President. The report must include complete documentation supporting the committee's conclusions.

The Vice President will communicate the findings and conclusions of the committee to the President of the University and to the respondent. If the conclusions are that the respondent is guilty of serious misconduct the President and Vice President will decide what actions to take in accordance with University and Tennessee Board of Regents policies. If the conclusions are that no serious misconduct occurred the University will undertake efforts, as appropriate and feasible, to maintain or restore the reputation of the respondent.

If the research is sponsored by the Federal Government, it will be the responsibility of the Associate Vice President for Research to report, in accordance with Federal policy (42 Code of Federal Regulations, Part 50, Subpart A, “Responsibilities of Awardee and Applicant institutions for Dealing With and Reporting Possible Misconduct in Science.”), that a formal investigation of misconduct allegation is to begin, and to report the progress while it is in process and its conclusions.

The committee report and a report of the disposition of the case will be secured in the office of the Associate Vice President for Research for three (3) years. If the research was sponsored by an external agency the University will comply with legal obligations to release information contained in the reports to the funding entity on a need-to-know basis.

1.16.6 Further Administrative Responsibilities

It will be the responsibility of the Vice President to handle necessary communications concerning the inquiry and investigation to the President and the Tennessee Board of Regents and to solicit appropriate legal counsel about matters that arise during an inquiry or an investigation that involve current or potential litigation. It will also be the responsibility of the Vice President to refer evidence of potential criminal violations that may be found during the inquiry or investigation to the Department of Public Safety at East Tennessee State University. The Associate Vice President for Research will be responsible, in accord with Federal policy (42 Code of Federal Regulations, Part 50, Subpart A, “Responsibilities of Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science.”), to notify the chair of the University Committee on Animal Care if the investigation involves issues concerning the care and use of animal subjects; the chair of the Institutional Review Board if the investigation involves issues concerning the use of human subjects; and the Safety Committee of the University if the investigation contains issues that involve the use of radioisotopes or recombinant DNA.

1.16.6.1 Responsibility for Dissemination of the Policy

The Associate Vice President for Research has the responsibility to ensure that all faculty and staff of East Tennessee State University, and students to whom this policy applies, as defined in Section 2.0, understand the policy. This will be done by direct contact with individuals receiving federal funding, presentation of annual workshops, and distribution of the policy and related materials through campus mail and E-mail.

12/04/97

1.17 Policy on Conflict of Interest

1.17.1 Introduction

This document defines East Tennessee State University (ETSU) policy and procedures regarding conflicts of interest in relationship to sponsored programs involving teaching, research, administrative activities and service. This policy applies to all persons employed (either as full-time, part-time, or temporary employees) by ETSU.

It is not the intent of this policy to eliminate all situations of conflict of interest, but rather to enable faculty and staff members to recognize situations that may be subject to question and ensure that such situations are properly reviewed and, if necessary, supervised or monitored. Further, the procedures included in this policy are intended to maintain the professional autonomy of faculty and staff as appropriate to their respective disciplines and professional activities while providing assurance to the University community, the State and Federal governments and most importantly the public, that potential conflicts of interest have been examined and will be conducted in a manner consistent with institutional and public values. Therefore, in accordance with Federal regulations ETSU has a responsibility to manage, reduce, or eliminate any actual or potential conflicts of interest that may be presented by a financial interest of an investigator. Thus, the University requires that investigators disclose any significant financial interest, as defined in section 2B below, that would reasonably appear to be affected by sponsored research.

This policy and the procedures it contains should be viewed as complementing and elaborating Directive No. FP-4, Section XXXIV C of ETSU policy concerning conflict of interest in purchasing and Tennessee Board of Regents (TBR) Policy 1:02:03:10 concerning conflict of interest and TBR Policy 5:01:05:00 concerning outside employment including consulting.

1.17.2 Definitions

1.17.2.1 Conflict of Interest

A potential conflict of interest occurs when there is a convergence between a faculty or staff member’s personal financial, relational, or other interests and his/her professional obligations to East Tennessee State University (ETSU) such that an independent observer might reasonably question whether the individual's professional obligations, actions, or decisions related to the University are determined by considerations of personal gain, financial or otherwise.

1.17.2.2 Perceived Conflict of Interest

A perceived conflict of interest means any potential situation where an independent observer might reasonably question whether the Covered Individual has a convergence between personal financial, relational, or other interests that might directly and significantly affect or compromise, or appear to affect or compromise, the design, conduct, reporting or management of research. The effect or compromise contemplated might relate to the collection, analysis, and interpretation of data, the hiring of staff, the procurement of materials, the sharing of results, the choice of protocol, the involvement or consenting of human participants, and the use of statistical methods.

1.17.2.3 Actual Conflict of Interest

An actual conflict of interest depends on the situation and not on the character or actions of the individual. For purposes of this policy, a conflict of interest exists when the University, through procedures described herein, reasonably determines that a significant financial interest could directly and significantly affect the design, conduct, or reporting of sponsored projects.

1.17.2.4 Covered Individual

Covered Individual includes any faculty or staff member (whether fully-, partially-, or non-salaried), student worker or graduate assistant, fellow, trainee, administrator or other employee who is involved in research for which ETSU provides facilities, personnel, financial support or is referenced in any way. Covered Individuals for a particular research project who must report potential conflict of financial interest under this policy include the principal investigator/project director, co-principal investigators, and any other person who is responsible for the design, conduct, or reporting of research, educational, or services activities funded, or proposed for funding, by an external sponsor. In this context, the responsibilities for disclosure extend to the Covered Individual's immediate family members.

1.17.2.5 Immediate Family Member

Immediate family member means spouse, dependent children or stepchildren, or relatives related by blood or marriage or other persons living together in the same household.

1.17.2.6 Significant Financial Interest

Significant financial interest means anything of economic or monetary value, with inclusions and exclusions as set forth below. Note that "included" significant financial interests must be disclosed to the University, while "excluded" significant financial interests need not be.

The following inclusions are examples of potential significant <u>conflicts of financial interest</u> that Covered Individuals or Consultants must disclose to the University, prior to initiation of a research project.

1. Inclusions. Significant financial interest includes, but is not limited to, any economic or monetary interest of the types listed in "(a)" through "(e)" below, that is held by a covered individual (or by his/her immediate family member), and that to an independent observer would reasonably appear to affect or be affected by research in which the individual is involved, or that is held by any entity in which a covered individual (or his/her immediate family member) has a financial or fiduciary interest the financial interests of which entity would reasonably appear to an independent observer to affect or be affected by the research (e.g. stock values, etc). (Such an entity may be a financially interested entity):

a. "Compensation interest," meaning salary, consulting fees, wages, retainers, honoraria (including honoraria from a third party, if the original source is a financially interested company), gifts or other emoluments, "in kind" compensation from a financially interested company (or entitlement to the same), or any other thing of economic or monetary value whether for consulting, lecturing, travel, service on an advisory board, or for any other purpose not directly related to the reasonable costs of conducting the research (as specified in the research agreement), that in the aggregate have in the past 12 (twelve) months exceeded $10,000, or are expected to exceed that amount in the next twelve months;

b. "Equity interest," meaning i) any equity interest (or entitlement to the same), in a publicly-traded financially interested entity that exceeds $10,000 in value or represents more than 5% ownership interest in any single entity (see exclusions below), or ii) equity interests, including stock options, warrants, or other convertible securities, of any amount in a non-publicly-traded financially interested entity (or entitlement to the same) whether or not financial value can be determined through reference to public prices;

c. "Intellectual property interest" meaning i) royalty income or the right to receive future royalties under a patent license or copyright, where the research is directly related to the licensed technology or work; or ii) any other direct or indirect interest in a patent, trademark, copyright, trade secret, know-how or other intellectual property right where the research is directly related to the interest;

d. "Extraneous research payments," meaning any non-royalty payments or entitlements to payments in connection with the research that are not directly related to the reasonable costs of the research (as specified in the research agreement between the sponsor and the institution), including any bonus or milestone payments to the investigators in excess of reasonable costs incurred, whether such payments are received from a financially interested entity or from the institution;

e. "Fiduciary relationship," meaning service as an officer, director, or in any other fiduciary role for a financially interested entity, whether or not remuneration is received for such service.

The following are financial interests specifically excluded from the need for disclosure.

1. Exclusions. Significant financial interest excludes, and therefore is not mean to refer to, the following types or categories of economic or monetary interest:

   a. "Mutual fund interests," meaning interests of any amount in publicly traded, diversified mutual funds;

   b. "*De minimis* equity interests," meaning stock or stock options in a publicly traded company that, when aggregated for the covered individual (and/or his or her immediate family members) meets both the following tests: it does not exceed $10,000 in value (as measured in reference to public prices or other reasonable measure of fair market value) and does not represent more than a 5% ownership interest in any single entity;

c. "Outside payments," meaning salary, royalties, and other payments from entities other than the University, or via the University to the individual, that when aggregated for the covered individual (and/or his or her immediate family members), over the next 12 months, are not expected to exceed $10,000;

d. "Regular research payments," meaning payments to the University, or via the University to the individual, that are directly related to reasonable costs incurred in the conduct of research as specified in the research agreement between the sponsor and the University;

e. "University compensation," meaning salary, royalties, and other remuneration for services from the University;

f. "Public or non-profit income," meaning income for service on advisory committees or review panels for public or non-profit entities, or from seminars, lectures, or teaching engagements sponsored by public or non-profit entities.

1.17.3 Guidelines

1.17.3.1 Each Investigator is required to disclose the following Significant Financial Interests:

a. Any Significant Financial Interest of the Investigator that would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by an external sponsor; or

b. Any Significant Financial Interest of the Investigator in an entity whose financial interest would reasonably appear to be affected by the research or educational activities funded, or proposed for funding, by an external sponsor.

Regardless of the above minimum requirements, a Covered Individual, in his or her own best interest, may choose to disclose any other financial or related interest that could present an actual conflict of interest or be perceived to present a conflict of interest. Disclosure is a key factor in protecting one's reputation and career from potentially embarrassing or harmful allegations of misconduct.

1.17.3.2 The ETSU Internal Routing Sheet for Grants and Contracts, under the section Specific Approvals/Requirements, contains a line to indicate whether or not a conflict of interest might arise if the project is funded. Each Covered Individual associated with the proposal must determine whether or not such a conflict could exit. If there is potential for a Significant Financial Interest requiring disclosure each Covered Individual with such a potential conflict shall complete a Significant Financial Interests Disclosure Form and attach all required supporting documentation. The completed Disclosure Form must be submitted with the proposal and ETSU Internal Routing Sheet to the Office of Research and Sponsored Programs Administration. Supporting documentation that identifies the business enterprise or entity involved and the nature and amount of the interest should be submitted in a sealed envelope marked confidential and accompany the Disclosure Form and Routing Sheet.

1.17.3.4 As required by Federal regulation, all Significant Financial Interests must be disclosed prior to the time a proposal is submitted. All financial disclosures must be updated by Investigators during the period of the award as new reportable Significant Financial Interests are obtained.

1.17.3.5 The Vice Provost for Research and Sponsored Programs shall conduct an initial review of all financial disclosures. If the initial determination is made that there may be a potential for conflict of interest covered by this policy, than the disclosure information submitted by the Investigator will be referred to the University standing committee on Academic Freedom and Faculty Ethics (AFFE) and will be reviewed by a subcommittee of the AFFE specifically designated by the chair of the AFFE for the purpose of reviewing potential conflicts of interest.

The subcommittee shall be composed of at least 4 faculty members and the Vice Provost for Research shall be an *ex officio* member of this subcommittee. The University Assistant to the President for Legal Affairs may be consulted if the subcommittee believes that this is necessary. A conflict of interest will exist when the AFFE subcommittee reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the proposed sponsored project. The subcommittee shall then determine what conditions or restrictions, if any, should be imposed by the University to manage actual or potential conflicts of interest arising from disclosed Significant Financial Interests.

1.17.3.6 If conflict of interest is determined to exist, the Covered Individual, in cooperation with the academic unit or College, shall develop and present the AFFE subcommittee a Conflict of Interest Resolution Plan that details proposed steps that will be taken to manage, reduce, or eliminate any actual or potential conflict of interest presented by a Significant Financial Interest. At a minimum the Resolution Plan shall include such procedures as:

1. Public disclosure of significant financial interests. In the case of research involving human subjects disclosure alone cannot be used to manage a conflict of interest that might affect participants rights and welfare;

2. Review of research protocol by independent reviewers; and

3. Monitoring of research by independent reviewers.

The AFFE subcommittee shall review the Resolution Plan and, if it deems necessary, add conditions or restrictions, including the following:

1. Ensure that the Conflict Resolution plan includes procedures that ensure that the rights and welfare of human research subjects are not affected by the conflict.

2. Modification of the research plan;

3. Disqualification of the Covered Individual from participation in all or a portion of the research funded;

4. Divestiture of significant financial interests;

5. More frequent continuing review;

6. Severance of relationships that create actual or potential conflicts of interest; or

7. Discontinuance of the research.

With the exception of research involving human subject in which case the Resolution Plan must be reviewed by the IRB, when the Resolution Plan is approved by the AFFE subcommittee following review and any changes made by the subcommittee are acceptable to the Covered Individual the research may be conducted.

If the Covered Individual contests the conditions and restrictions imposed by the AFFE subcommittee, the Covered Individual may appeal the decision of the AFFE subcommittee to the Vice President to which his or her unit reports. The appeal should include reasons why the conditions or restrictions imposed by the subcommittee would be either ineffective or inequitable, and that the potential negative impacts that may arise from a significant financial interest are outweighed by interests of scientific progress, technology transfer, or the public health and welfare. The Vice President may, upon review of the AFFE subcommittee's recommended Resolution Plan and the Covered Individual's appeal, approve that, to the extent permitted by Federal regulations, the research go forward without the conditions and restrictions imposed by the AFFE subcommittee. In cases that do not involve human research subjects the Vice President shall make the final decision regarding resolution of the conflict or potential conflict. If the research involves human subjects the IRB's determination shall be final (refer to IRB Policies 17A and 17B).

1.17.3.7 The approved Resolution Plan shall be incorporated into a Memorandum of Understanding between East Tennessee State University and the Investigator that details the conditions and restrictions imposed upon the Investigator in the conduct of the project or in the relationship with the Business Enterprise or Entity.

The Memorandum of Understanding shall be signed by the Investigator, the Covered Individual's Departmental Chair or Unit Head, and on behalf of the University, by the Vice Provost for Research and Sponsored Programs and if the research involves human subjects by the chair of the IRB.

Actual or potential conflicts of interest will be satisfactorily managed, reduced, or eliminated in accordance with the Resolution Plan and all required reports regarding conflict of interest submitted to the sponsor prior to expenditure of any funds under an award. For example, the Public Health Service requires the University to report to the PHS Awarding Component the existence of a conflicting interest (but not the nature of the interest or other details) found by the University and assure that the interest has been managed, reduced, or eliminated. NSF only requires the University to report conflicts which cannot be satisfactorily managed, reduced, or eliminated. The Vice Provost for Research shall be responsible for monitoring compliance with the Resolution Plan on behalf of the AFFE and shall report any deviations from the Resolution Plan to the AFFE within 10 working days of discovering the deviation. The AFFE will then determine whether the deviation is sufficient to constitute a violation of the Resolution Plan. If the research involves human subjects the chair of the IRB will be informed of the deviation and will report it to the IRB for review.

1.17.3.8 Records of Covered Individual's financial disclosures and of actions taken to manage actual or potential conflicts of interest, shall be confidentially retained by the Office of Research and Sponsored Programs until 3 years after the termination of the award to which they relate, or the resolution of any government action involving those records, at which time they shall be destroyed.

1.17.3.9 Whenever a Covered Individual has violated this policy or the terms of the Memorandum of Understanding, the AFFE shall recommend sanctions which may include disciplinary action ranging from a public letter of reprimand to dismissal and termination of employment. **If the violation involves research using human subjects the IRB will make an independent determination and recommendation for sanctions based on protection of human subjects in research**. If the violation results in a collateral proceeding under University policies regarding misconduct in science, then the AFFE shall defer a decision on sanctions until the misconduct in science process is completed. The AFFE's recommendations on sanctions shall be presented to the Investigator's Vice President and to the President of the University who shall make final determination regarding disciplinary action. The President shall enforce the disciplinary action.

In addition, the University shall follow Federal regulations regarding the notification of the sponsoring agency in the event an Investigator has failed to comply with this policy. The Vice Provost for Research, as Institutional Offiicial, is responsible for such notification. The sponsor may take its own action as it deems appropriate, including the suspension of funds for the Investigator until the matter is resolved.

1.17.3.10 Collaborators/subrecipients/subcontractors from other academic or not-for-profit institutions must either comply with this policy or provide a certification from their institutions that they are in compliance with Federal policies regarding investigator significant financial interest disclosure and that their portion of the project is in compliance with their institutional policies. Subcontractors from commercial firms need not make a certification, except when the prime award is from the Public Health Service. The PHS requires a certification from any subcontractor, including commercial firms, stating that it is in compliance with Federal policies regarding investigator significant financial interest disclosure and that its portion of the project is in compliance with company policies.

1.17.3.11 Independent contractors acting as consultants to ETSU for research and sponsored programs activities to which this policy applies must declare any potential conflict of interest in accord with this policy.

1.17.3.12 If the conflict of interest is found for a sponsored study involving human research subjects the Office of Human Research Protection shall be informed upon receipt of the conflict of interest disclosure by the Vice Provost for Research and shall receive the Conflict of Interest Resolution Plan for review as part of the review of the research protocol. Institutional Review Board (IRB) Policies 17A and 17B shall be followed in these cases. The research may not begin until the IRB has accepted the Resolution Plan.

1.17.3.13 In the event that the Covered Individual must also declare a conflict of interest to the James H. Quillen Veterans Affairs Medical Center the Vice Provost for Research of East Tennessee State University and the Associate Chief of Staff for Research at the Veterans Affairs Medical Center shall work with the respective applicable committees to develop a common Conflict of Resolution Plan.

10/25/95; 02/01; 03/06/08

1.18 Nepotism Policy

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-29.htm

Effective 03/06, policy changes will appear on the webpage cited

1.19 Academic Chair (Non COM) Appointment and Stipend Policy

1.19.1 Notice of Vacancy, Selection Protocol, and Periodic Review of Department Chairs

Provisions for providing notice of a vacancy in the position of Academic Chair and the selection protocol to be employed for a search are described in section 1.10.1.1 of this *Handbook*. Provisions for Periodic Review of Department Chairs are described in sections 1.10.2.1 & 2.

1.19.2 Initial Appointments of Department Chairs

1.19.2.1 For externally hired chairs, an initial faculty salary level should be established based on the range of traditional considerations used to determine salary levels.

1.19.2.2 For internally hired chairs, the base salary may be subject to adjustment based on the range of traditional considerations used to determine salary levels.

1.19.2.3 When some faculty members in the department are on AY contracts, the base salary for initial appointment of a chair should be established for the academic year.

1.19.2.4 For AY appointed chairs, the designated summer stipend should also be established.

1.19.2.5 When an AY base salary is to be converted to a fiscal year appointment, the AY salary is increased by 25% to establish the FY salary.

1.19.2.6 The designated administrative stipend is added to either the AY or FY salary.

1.19.2.7 The appointment letter and contract for a department chair should clearly indicate the base faculty salary, term of_appointment (FY or AY), summer stipend if appropriate, and administrative stipend to be received as department chair.

1.19.2.8 Stipends receive any across-the-board increases that apply to base salary, thus constantly indexing their value for current chairs. Stipend levels for new appointees should be indexed annually, thus making them consistent with actual increases for existing chairs.

1.19.2.9 When economically feasible and warranted by the size and complexity of the department, chairs should be appointed on a fiscal year basis. When a FY appointment is not appropriate or acceptable to the chair or college, a separate summer administrative stipend should be established for the department by the college dean. This summer stipend is established in credit hours and is paid at the same rate as summer instruction from the Summer budget.

1.19.2.10 Chairs on fiscal year contracts are expected to fulfill all employment obligations and receive all benefits stipulated in Board of Regents Policy for fiscal year employees.

1.19.2.11 Transitions to fiscal year appointments and stipend adjustments will not be employed to decrease the current administrative stipend of any department.

1.19.3 Determination and Implementation of Administrative Stipend and Teaching Load for Academic Chair

1.19.3.1 Administrative stipends for departmental chairs are set at three dollar levels that reflect differing levels of administrative workload. The system is based on the following three factors: Total FTE *Faculty* based on the average of Fall/Spring figures to address faculty size, graduate teaching assistants, part-time instructors; Total *Student* Credit Hour Production to address service components, majors, and graduate students; and *Complexity* based on number of academic concentrations, laboratory/studio/clinical components, grants, off-campus program, specialized accreditation/licensure/regulatory, equipment and support personnel, and extensive community service requirements. The formula will weight *Faculty, Students,* and *Complexity* as follows: Faculty at one-third, Students at one-third, and Complexity at one-third. Each of the three factors will be assigned a number between 1 (low) and 5 (high), based on a subjective assignment by the academic dean in consultation with the office of the Vice President for Academic Affairs and the Vice President of Health Affairs.

1.19.3.2 The administrative stipend for each department chair is set to reflect an assessment of workload that is classified as High, Moderate, or Low. Documentation of which departments are assessed in each workload level and the associated stipend received by the chair is available in the Provost's Data Warehouse and is communicated periodically to the Deans Council and the Chair of the Council of Chairs. Determination of whether departments are assessed in appropriate categories will be reviewed periodically to respond to significant departmental changes in size and complexity.

1.19.3.3 The number of courses to be taught by a chair is determined by the chair and college dean. It is based upon the anticipated administrative workload. As a guideline, but intended only as a guideline, chairs of low complexity departments would be expected to teach a minimum of five courses per fiscal year; chairs of medium complexity departments would teach a minimum of four courses; and chairs of high complexity departments would teach a minimum of three courses per fiscal year. Generally, summer teaching is expected, but would be a function of the individual department's complexity summer programs, and summer administrative responsibilities. This decision would be made jointly, on an annual basis, by the department chair and dean.

1.19.4 Provision for Retaining of Stipend when Relinquishing Position of Academic Chair

1.19.4.1 Except as provided for in this policy, AY chairs return to faculty status at their AY base salary. When FY chairs return to faculty status, the administrative stipend is removed and the AY base salary is set at 80% of the remaining FY salary unless it is determined to be appropriate for the appointment to continue on a fiscal year basis.

1.19.4.2 Upon positive recommendation by the dean and concurrence of the appropriate Vice President, a portion of the current chair stipend *may* be retained in the faculty member's base salary if he or she relinquishes chair duties after having served a_minimum of five or more years as chair. The following calculation should be made to determine the portion to be retained:

i.	Years served as chair	Portion of stipend *that may be retained* based upon resuming faculty ranks
ii.	5 Years	50%
	6 Years	60%
	7 Years	70%
	8 Years	80%
	9 Years	90%
	10 or more Years	100%

This provision which would permit retaining a portion of the_stipend will be phased in, and no chair in the initial 2002-03 year of implementation will receive more than five years of credit for prior service in the position of chair that would be creditable toward determining portion of stipend to be retained.

9/17/02

1.20 Campus Sex Crimes Prevention Policy

Refer to *ETSU Personnel Policies and Procedures Manual* at

http://www.etsu.edu/humanres/ppp/PPP-62.htm

Effective 03/06, policy changes will appear on the webpage cited