

**Faculty and Institutional Affairs Committee**  
**Minutes**  
**Thursday February 16, 2006**  
**3:30 pm**  
**251 Chavis University Center**

Members present: Andy Ash, Charles Beem, Betty Brown, Libby Denny (Chair), Ann Horton-Lopez, Elizabeth Normandy, Jean Sexton, Rick Crandall (Chair of Faculty Evaluation Review), David Nikkel (Chair of Faculty Development and Welfare Subcommittee)

Members absent: Sandy Waterkotte (Vice Chancellor for Advancement), Bill Gash (Associate Vice Chancellor for Academic Affairs), Neil Hawk (Vice Chancellor for Business Affairs)

- I. Call to Order: The meeting was called to order at 3:31.
- II. Approval of the Agenda: The agenda was approved as distributed.
- III. Approval of the Minutes of the November 17, 2005 meetings: The minutes were approved.
- IV. Reports from Administrators
  - A. Associate Vice Chancellor for Academic Affairs: There was no report.
  - B. Vice Chancellor for Business Affairs: There was no report.
  - C. Vice Chancellor for Advancement: There was no report.
- V. Reports from Subcommittees
  - A. Faculty Development and Welfare:
    1. The parking situation has improved.
    2. The debate about evolution versus creation science sparked discussion about how to continue this intellectual exchange. The FDW subcommittee is planning on trying to organize faculty discussion around other challenging debates twice a semester.
  - B. Faculty Evaluation Review: Debate about including a letter that described the materials included with a major review ended with the general sense of the committee being against such a letter. Perhaps a dialogue on what the Faculty Evaluation Model should be would prove more useful.
- VI. Old Business
  - A. Proposed Policy re Online Course Management: Passed with typographical corrections. (Attachment #1)
  - B. Copyright Policy: Passed. (Attachment #2)
  - C. EPA Faculty Hiring Policy: Currently stalled between the Office of University Counsel and Human Resources.

- VII. New Business:
  - A. Criminal Background Check Policy: Passed (Attachment #3)
- VIII. Announcements: The Senate will meet on February 17, 2006 at 1:30 to discuss the ad hoc committee's promotion and tenure draft report.
- IX. Adjournment: The meeting was adjourned at 5:01 p.m.

Respectfully submitted,

Jean Sexton  
Secretary

## Attachment #1

### Policies and Procedures Related to Use of Online Course Management Environments

#### Introduction

This document is intended to serve as a set of guidelines for decision-making related to the use of the online course management environments by the University of North Carolina at Pembroke. These policies apply to all UNCP courses that are presented whole or in part in an online course/learning/content management system, whether they reside on UNCP servers or offsite servers.

Included are statements related to Access, Course Management, Information Security, Copyright, and Intellectual Property Rights. These policy statements have been reviewed and approved by the Provost and the Associate Vice Chancellor for Information Resources. For further information or clarification, contact University Computing and Information Services at <http://www.uncp.edu/ucis/>.

This document is intended to reside solely online for ease in usability and access, as well as to ensure its currency. Do not rely on printed copies of this document without first verifying their accuracy against subsequent updates. Changes to these policies will be reflected in the "Last Updated" date listed at the end of the document.

- 1) **Access** – Access to online course management software, materials, and affiliated online tools will be granted as follows:
  - a. *One User Account* -- All UNCP students, faculty, and staff are entitled, subject to compliance with UNCP policies, to one online account each that will be used for all of their online activities. Access to the online software will be attained using the UNCP Online ID (username and password).
  - b. *Exceptions* -- A limited number of users who are not officially affiliated with UNCP (guest discussants or mentors, for example) may each be provided an account that is an online course management environments-only username and password, at the request of a "sponsor" (faculty or staff member). These accounts (referred to as "exceptions") are considered temporary, but are renewable on an annual basis, with the approval of the UNCP sponsor. Such accounts are assigned only to individuals who are working with UNCP faculty/staff on officially recognized activities on the online system (i.e., those included under the institution's license).
  - c. *Guests* – The online system will allow an individual without an account (known as a "guest" in online terminology) to gain access to specific areas of course sites, not including course rosters, user tools (e.g., user directory), or communication tools. Course sites may, at the discretion of the instructor, be made entirely or partially available to guests. The default setting (determined by local system administrators) for access to course sites locks each site entirely, to facilitate Fair Use posting of course materials and may only be made accessible to guests by the instructor or system administrator at instructor's request.
  - d. *Academic Review* -- Being instructor-of-record for a course comes with the institutional policy that an immediate academic chair can "sit-in" on a course for the purposes of performance reviews. In the event of a course review, the instructor should be notified of the anticipated timeframe for the review.

Deans, chairs, program directors, program coordinators, and members of committees evaluating the work of faculty teaching on-line courses have the automatic, on-going right of access to all on-line course materials used in on-line courses offered under their supervision.

Other faculty and administrators conducting university-approved inquiries involving grade appeals and/or other officially approved reviews of specific courses may request permission from the supervising dean or chair for more limited access.

Since the online course falls under the University's Appropriate Use Policy (AUP)[<http://www.uncp.edu/ucis/policies/AUP.htm>], only the Chancellor or appropriate Vice

Chancellor can authorize persons other than those named above to have access to the online course.

*Student Access* -- Students who are registered for classes (and have paid their fees) with online components will be given full access to those course sites not later than the first official day of classes for each term based upon the availability of staff resources. As students add courses to their schedule, after classes begin, they will be automatically added to the appropriate online rosters ("enrolled"), typically within 48 hours.

*f. Length of Access to Course Site* – At the end of a given term, course sites will remain available to the instructor and to the students for not less than ten calendar days after the last day of final exams. Faculty members may request that individual students continue to have to a course site beyond these dates. Reasons for extending course access might include providing access for students who are finishing "Incompletes" or the continuation of an online discussion. A student who is finishing an "Incomplete" but who is not currently enrolled may be subject to loss of his/her UNCP Online ID. In this case, an exception account may be established for that student at the request of the instructor, with access not to extend beyond the University's deadline for completion of work required to receive a course grade. In general, retaining courses beyond the usual cut-off will be discouraged, however, due to the potential confusion for students, increased work created for UCIS staff, and possible copyright concerns.

2) **Course Management** – Sites on the online servers are managed with the goals of reducing faculty time and effort needed to utilize online tools and materials, and improving server performance by eliminating redundant or unnecessary demands on the database.

- a. *Courses Kept on the Online Server* -- To meet the goal of using server space efficiently, the only course sites that will be maintained on the online server are those in use during the current term, and course sites that will be used in a future term. These could include previously used course sites that will be "recycled" for use with another group of students, or course sites that are in development.
- b. *Course Size Limitations* – At this time, there is no limitation on the size of course sites. UCIS will work with faculty whose online sites contain extremely large files (video clips, for example) to provide advice and assistance to help them compress files in order to utilize space as efficiently as possible. In the event that a content management system is available for faculty instructional use, faculty will be advised to store their course content on that system so that it can be efficiently called from any course site.
- c. *End of Term Notification* -- At the end of each term, all online faculty will receive an e-mail message detailing their options for re-using or deleting course sites. Based upon system resource requirements, courses not recycled for re-use (see section d below) will be deleted no sooner than ten calendar days after the last day of final exams.
- d. *Course Archives* – Instructors have the option of creating an archive copy of their course offering(s). These copies can be retained for later retrieval, if this becomes necessary, but instructors will be reminded to print out the gradebook and any other documentation of student work in the event of a future grade dispute. Retrieving these records from the archive is a time-consuming and imperfect process, and should be considered a last resort for retroactive grade information. Once a course site has been archived, it will only be retrieved upon request of the original instructor who created/offered it (usually the instructor of record), when directed by the Chancellor or Provost, or when required by law or UNCP policy. The exception to this would be if UCIS received permission, if such permission is required by law or UNCP policy, from the original instructor to make the archived course materials available to another instructor/staff member.
- e. *Recycling Courses for Future Use* – Each term, instructors will be given the option to retain their online course sites for re-use in a later term. UCIS staff will copy these course sites, rename them with [GENERIC] in the course title. For example, Adolescent Development EDN-308-01-So4 would become [GENERIC] Adolescent Development-EDN-308-(instructor). The roster will be emptied, the gradebook cleared of names and scores, and the messages and replies in the discussion boards deleted. Until the term when the course returns to active use, the instructor(s) and/or their designee will be the only individual(s) with continued access to the site.
- f. *Transferring Course Sites* – Instructors may elect to transfer their course site and its materials to

another faculty member, or give other faculty members access to their course site. Course sites will not be re-assigned to a new instructor for re-use, however, without written permission from the original instructor to the extent such permission is required by law or UNCP policy. If faculty members leave UNCP for other employment, they may request a copy of their course site(s) to take along or request that a copy of their site be transferred electronically to their new institution, where it may be usable (within technological limits).

- g. *Requesting an Online Course Site* – Any faculty or instructional staff member may request that an online course site be established for their use by submitting the form found at [http://www.uncp.edu/blackboard/forms/request\\_site.htm](http://www.uncp.edu/blackboard/forms/request_site.htm). Course name and number, instructor name, and course line number are required to set up a course site. Before the site will be made available, however, the instructor must attend an orientation workshop to become familiar with the online software. This is done to reduce the number of support calls made to UCIS and IDS, as well as to provide constructive teaching ideas for using Internet resources and instructional development advice for online teaching. Individuals who have experience working with online systems at other institutions may have this prerequisite waived, although it is recommended that they meet with a UCIS staff member to discuss the course management protocols that are specific to UNCP.
  - h. *Non-instructional Uses* -- The online system is maintained for instructional use (i.e., to support courses offered by UNCP). Questions regarding the establishment of non-instructional Websites may be directed to UCIS client Services.
  - i. *Gradebook Information* – The online grade book is a tool designed for the convenience of students and faculty. Thus, it is not an official record of student grades, nor should it be considered a legally binding record of student scores. Faculty are strongly encouraged to periodically print out a copy of the Online Gradebook, and to print a final copy for their records after the term ends. The Gradebook can also be downloaded as a comma separated value file (.csv) and opened in Excel or another program.
- 3) **Information Security** – The online user database is fed directly from the UNCP online ID system, thus allowing users to login with an already-familiar username and password. The security of these systems is of paramount importance in maintaining a reliable and trusted resource for virtually available instructional materials and tools.
- a. *Controlling Access to Student Information* – As with other university records, faculty are cautioned to take care that student information (including, but not limited to, grades, test scores, usernames, or ID numbers) is closely guarded. As noted in the Gradebook Information section above, grades should not be posted so that students may see scores belonging to anyone but themselves (for example, in a spreadsheet uploaded to the course site).
  - b. *E-mail Address Display* – All online users have the option to disable the display of their e-mail address within our online system. (Due to system design, the one exception to this is the Discussion Forum areas, where the user’s e-mail address will appear unless messages are posted anonymously. It is anticipated that this disparity will be rectified in later software releases.) Instructions for disabling this, or for enabling the display of other directory information within the online system are included in the ”Tools” section, ”Personal Information,” of each course site.
- 4) **Copyright Issues** -- Faculty are strongly encouraged to respect the property of others by obeying copyright law and requesting permission, when appropriate, before using the work of others.
- a. *Posting Copyrighted Materials* – Copyright law and Fair Use Guidelines allow faculty to provide access to copyrighted materials using the online system under certain circumstances. Instructors are advised to consider the use of online reserves through Sampson-Livermore Library, or online course packs to avoid infringement.
  - b. *Linking to External Sites from the online system* – The online software provides an easy-to-use interface for integrating links to other Websites into course materials. Instructors are encouraged to link to other sites, rather than attempting to integrate the desired materials directly into the online course site. This alleviates copyright concerns and also retains the integrity of the materials (and associated links) in their original environment. It is the responsibility of the instructor to confirm that links from online to external sites are viable.
  - c. *Linking to the Online System from External Sites* – It is possible to link to an online course site

directly from Websites external to the online system. Users will, however, be prompted to log in with their recognized UNCP online ID to prevent unauthorized access to materials.

- 5) **Intellectual Property** – The University of North Carolina at Pembroke recognizes the intellectual property rights of faculty, staff, and students. The following sections are in force unless superseded by overriding institutional policy.
  - a. **Ownership of Course Sites** – Ownership of on-line course materials, including the University’s retention of a perpetual, non-exclusive, non-transferable, royalty-free license (“shop right”) to use the work for the University’s own non-commercial educational or research use, shall be governed by the provisions of the UNC Pembroke Copyright Policy, which is based on a determination of whether the materials at issue meets the definition of Traditional Works or Non-Directed Works; Traditional Works or Non-Directed Works Involving Exceptional Use of University Resources; Directed Works; Sponsored or Externally Contracted Works; Works Made for Hire; Works by Independent Contractors; or Student Works. Instructors who create online courses shall have the right to request and receive an archived copy of the site in digital format. During the semester a course is taught, use of the site and access to its materials and tools are determined by the instructor assigned responsibility for teaching the course, and these rights may be reassigned by that individual; provided, however, the Chancellor or his designee may access, alter, or limit use of the site and access to it when required by law or whenever the Chancellor determines such action to be in the best interest of the University.
  - b. *Student-created Materials on the online system* – Instructors may require students to post their own work or, with the student’s permission, may post a student’s work on the online course site. Students must be informed of this (in the syllabus or in some other written format) at the beginning of the course. They must also be told if their work will be retained in the course site beyond the duration of the term and whether others will have access to it. No evaluative commentary or grade information from the instructor may be included with student work if the work includes information identifying its creator. Students’ copyrights in their work shall be governed by the UNC Pembroke Copyright Policy. This policy also applies to student-posted messages in a Discussion Forum.
  - c. *System Management Data* – Information regarding online system performance or usage is considered the property of the University of North Carolina at Pembroke. To the extent allowed by law, information regarding specific online sites or individual accounts will be held in confidence, although data may be gathered and presented in aggregated form by university staff members (e.g., UCIS, IDS, Library, etc.) so that personally identifiable information is not disclosed, for professional development activities, such as conference presentations and/or scholarly/industry publication.

**Acknowledgement:**

Parts of this document are taken from “Policies and Procedures Related to Use of Blackboard”, University of Kansas, and used with permission.

**Last Updated:** 2/19/06

## UNCP Copyright Policy

### **I. Introduction.**

The University of North Carolina at Pembroke is dedicated to its mission of instruction, research, and service. It is the policy of this University that its faculty, staff, and students carry out their scholarly work in an open and free atmosphere, and that consistent with applicable laws and policy they publish the results of such work without restraint. To those ends, and in order to effectuate provisions of the *Copyright Use and Ownership Policy* of the University of North Carolina, this Copyright Policy is adopted.

### **II. Scope and Coverage.**

This Policy applies to the faculty, staff, and students of the University. Compliance with the terms of this Policy is a condition of employment for University faculty and staff, and of enrollment for University students. This Policy is supplemental to the *Copyright Use and Ownership Policy* of the University of North Carolina, and is subject to any applicable laws and regulations and to specific provisions in grants or contracts that govern rights in copyrighted works created in connection with sponsored research.

### **III. Creation and Duties of the Faculty Copyright Education and Policy Committee and the University Copyright Dispute Resolution Panels; Consultation to the Chancellor.**

#### **A. Faculty Copyright Education and Policy Committee.**

##### **(1) Composition.**

The Chancellor and the Chair of the Faculty shall jointly appoint a standing committee of the faculty, designated as the Faculty Copyright Education and Policy Committee, to serve as the faculty's consultative committee to the Chancellor on copyright education and policy and to carry out the duties in Section III(A)(2) below.

##### **(2) Duties.**

The Faculty Copyright Education and Policy Committee shall have such responsibilities as the Chancellor may specify, including but not limited to the following duties:

- (a) Assistance in the provision of resources to and education of faculty, staff and students about the Fair Use Doctrine and other copyright matters.
- (b) Advising the Chancellor regarding implementation of the *Copyright Use and Ownership Policy* of the University of North Carolina and this Policy, including proposal of such amendments to this Policy as the Committee may consider necessary.

## **B. University Copyright Dispute Resolution Panels**

### **(1) Composition.**

The University Copyright Dispute Resolution Panels shall be authorized by the Chancellor on an ad hoc, case-by-case basis, and shall be composed of current full-time members of the UNC Pembroke faculty or staff as follows:

- (a) One member of the Panel shall be selected by each party involved in the copyright dispute.
- (b) An additional member of the Panel shall be selected by the members of the Panel selected under III(B)(1)(a) above and shall be deemed the Chair of the Panel.

### **(2) Duties.**

Under procedures specified in Section VII below, the University Copyright Dispute Resolution Panels shall have the duties of hearing and resolving:

- (a) Disputes between or among members of the faculty or staff involving copyright ownership;
- (b) Disputes between or among members of the faculty or staff and a department chair or director of an administrative unit involving determinations of exceptional use of University resources or Directed Works (as defined in Section V(A)(3)(a) below); and
- (c) Such other disputes related to copyright matters as may be authorized by the Chancellor.

## **C. Consultation to the Chancellor.**

In addition to the Faculty Copyright Education and Policy Committee serving as the consultative committee to the Chancellor as set forth in Section III(A) above, the UNC Pembroke Staff Council shall serve as the consultative group to the Chancellor on copyright education and policy as they relate to SPA staff and EPA non-faculty employees.

## **IV. Use of Copyrighted Works by Faculty, Staff and Students**

### **A. Infringement.**

Except as allowed by law, it is a violation of this Policy and law for University faculty, staff, or students to reproduce, distribute, display publicly, perform, digitally transmit, or prepare derivative works based upon a copyrighted work without permission of the copyright owner.

### **B. Fair Use.**

#### **(1) Permissible Use.**

Under United States Copyright law, the “fair use doctrine” allows certain specified uses of a copyrighted work without requiring prior permission of the copyright owner under certain circumstances. As stated in the *Copyright Use and Ownership Policy* of the University of North Carolina, the University supports “the responsible, good faith exercise of full fair use rights, as codified in 17 U.S.C. § 107, by faculty, librarians, and staff in furtherance of their teaching, research and service activities.”

**(2) Elements of Fair Use; Good Faith Consideration Required.**

University faculty or staff who propose to make fair use of a copyrighted work must consider in advance the applicability of four statutory factors to be weighed in making a fair use analysis. These factors are:

- (a) The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
- (b) The nature of the copyrighted work;
- (c) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (d) The effect of the use upon the potential market for or value of the copyrighted work.

University faculty and staff must apply these four factors and make a good faith reasonable fair use determination before using a copyrighted work without permission.

**(3) Assistance in Making Fair Use Determinations.**

The Faculty Copyright Education and Policy Committee, together with the Office of the University Counsel, shall issue and as necessary revise guidelines to assist University faculty, staff, and students in making fair use evaluations. Faculty, staff or students who require assistance with fair use questions related to their University work should consult the Office of the University Counsel. Upon request, the Office of the University Counsel will make a determination whether a specific proposed use constitutes fair use, and the University will defend such determinations to the extent allowed by North Carolina.

**V. Copyright Ownership.**

Ownership of copyright in copyrighted works by faculty, staff, or students shall depend on the category of the work in question and on the status of its creator(s). Categories of work defined under this policy include:

- 1. Traditional Works or Non-Directed Works;
- 2. Traditional Works or Non-Directed Works Involving Exceptional Use of University Resources;
- 3. Directed Works;
- 4. Sponsored or Externally Contracted Works;
- 5. Works Made for Hire;
- 6. Works by Independent Contractors; and
- 7. Student Works.

**A. Works Created by Faculty or EPA Non-Faculty Employees.**

**(1) Traditional Works or Non-Directed Works.**

**(a) Definition.**

Traditional Works or Non-Directed Works are pedagogical, scholarly, literary, or aesthetic works by faculty or EPA non-faculty employees resulting from non-directed effort.

(b) Ownership.

- (i) The creator of such a work shall own the work unless it is a Traditional Work or Non-Directed Work Involving Exceptional Use of University Resources, a Directed Work, a Sponsored or Externally Contracted Work requiring University ownership of copyright, or a Work for Hire (as those terms are defined below). As a condition of employment, faculty and EPA non-faculty creators of a Traditional or Non-Directed Work shall be deemed to have granted the University a perpetual, non-exclusive, non-transferable, royalty-free license (“shop right”) to use the work for the University’s own non-commercial educational or research use, unless the deemed granting of such a license will impede scholarly publication or similar activities *and the creator has given the Vice Chancellor for Academic Affairs written notice of such proposed or actual scholarly publication or similar activity*. For the purposes of this Policy, “educational” use means use for the purpose of offering regular academic course credit through a UNC Pembroke academic department. Such license includes the right to make derivative works. The original or a derivative work will credit the creator as author unless the creator requests that he or she not be credited upon timely written notice to the Chancellor.
- (ii) Traditional Works or Non-Directed Works for which authorship cannot be attributed to one or a discrete number of authors but instead result from simultaneous/sequential contributions over time by multiple authors who are faculty or EPA non-faculty employees shall be owned by the University.

(c) Commercialization; assignment to University.

The University may, at the discretion of the Chancellor, agree to accept a Traditional or Non-Directed Work for commercialization. If the University is to be involved in commercializing a Traditional or Non-Directed Work, the creator shall assign the work to the University under an Assignment Agreement, which shall include provisions outlining the commercialization responsibilities of the University and a mechanism for the sharing of commercial proceeds with the creator.

(d) Allocation of Commercialization proceeds.

Where the University agrees to accept the work for commercialization, the creator’s share of proceeds shall be negotiated between the creator and the University on a case-by-case basis, taking into account the nature of the work and the creator’s contribution, the prospective market conditions for the work, the anticipated level of effort and resources required for commercialization, and other commercially reasonable factors. Unless otherwise directed by the Chancellor or his or her designee, two-thirds of the University’s share of the proceeds from commercialization of the work shall be allocated to the creator’s department, and one-third to the University.

**(2) Traditional Works or Non-Directed Works Involving Exceptional Use of University Resources.**

(a) Definition

Exceptional use of University resources occurs when the University provides support for the creation of the work with resources of a degree or nature not routinely made available to faculty or EPA non-faculty employees in a given academic department or administrative unit. Examples of exceptional use may include but are not limited to: (i) Waiver of fees normally required to use specialized facilities such as equipment, production facilities, service laboratories, specialized computing resources, and studios; (ii) Institutional funding or gifts in support of the work's creation; and (iii) Reduction in levels of teaching, service or other typical university activities (e.g., course load, student advising responsibilities division/departmental meetings, office hours, administrative responsibilities) specifically to facilitate creation of the work. Ordinary or limited use of computers, laboratory space, libraries, office space or equipment, routine secretarial services at routine levels, telephones, and other informational resources shall not be considered exceptional use of University resources.

Use of University resources is presumed **not** to be exceptional unless a department chair or director of an administrative unit informs the faculty member in writing before such resources are allocated that such use is exceptional. If the creator of the work disagrees with the determination that the use of University resources is exceptional, he or she may submit a request to the Chancellor that the matter be referred to a Copyright Dispute Resolution Panel as set forth in Section VII below. It shall be the obligation of the department chair or head of an administrative unit to establish that a proposed use of resources is exceptional by reference to the practices of the department or unit.

(b) Ownership.

Traditional Works or Non-Directed Works Involving Exceptional Use of University Resources shall be owned by the University.

(c) Release to Creator.

With agreement of the department chair or director of the administrative unit as defined above, the University may release or transfer the University's rights in a Traditional Work or Non-Directed Work created through exceptional use of University resources to the work's creator through an appropriate written agreement.

(d) Release Agreement.

Any agreement for release to a creator of a Traditional Work or Non-Directed Work created through exceptional use of University resources shall include provisions that:

- (i) The University shall have a perpetual, non-exclusive, non-transferable, royalty-free license to use the work for the University's own non-commercial educational or research use, including the right to make derivative works, provided that "educational" use means use for the purpose of offering regular academic course credit through a UNC Pembroke academic department, and that the original or a derivative work will credit the creator as author unless the creator requests that he or she not be credited upon timely written notice to the Chancellor; and

(ii) Upon commercialization of the work either (a) the creator shall reimburse the University for the exceptional resources provided the creator, or (b) the creator shall share income from such commercialization with the University, in an amount to be negotiated between the creator and the University. Proceeds from commercialization shall be allocated as provided in Section V(A)(1)(d) above.

(e) Selection of release options; appeal.

The Vice Chancellor for Academic Affairs, in consultation with the creator's department chair or unit head and the University Counsel, shall determine which of the options available under Section V(A)(2)(d)(ii) above to be selected in conjunction with the release of such a work to its creator. Disputes regarding whether a work has been created through exceptional use of University resources shall constitute disputes regarding ownership to be resolved under the dispute resolution procedures specified below. However, decisions regarding financial terms made under Section V(A)(2)(d)(ii) above shall not be subject to appeal under this Policy. In the event that the creator and the University are unable to reach agreement regarding such financial terms, ownership of the work at issue shall remain with the University.

(f) Joint ownership.

In addition to the foregoing provisions for release to the creator of a Traditional or Non-Directed Work involving exceptional use of University resources, the University through the Vice Chancellor for Academic Affairs in consultation with the creator's chair, and the creator may alternatively negotiate for joint ownership of the work. In such case either party will be allowed to use and exploit the work without accounting to the other, unless otherwise agreed in writing.

### **(3) Directed Works.**

(a) Definition.

Directed Works are works that are specifically funded or created at the direction of the University. For a work to be considered a Directed Work under this Policy, a department chair or head of an administrative unit must inform the faculty or staff member in writing in advance of its creation that the work is a "Directed Work." Such funding need not constitute exceptional use of University resources in order for the work to be considered a Directed Work. Directed Works shall also include works created by faculty, staff, or students in an institute, center, department, or other unit that, with approval of the Chancellor, has adopted rules providing that copyright in materials prepared by such faculty, staff, or students in the course of their professional work or in the course of study with that unit vests in the University and not in its creator.

(b) Ownership.

The University shall own Directed Works. Where practicable in the estimation of the creator's chair in consultation with the Vice Chancellor for Academic Affairs, and subject to any additional terms or limitations made necessary by University licensing agreements, the creator shall be granted a perpetual, non-exclusive, non-transferable, royalty-free license to the work for the creator's own non-commercial educational or research use.

(c) Release.

The University may release or transfer ownership in a Directed Work to the creator.

(d) Release Agreement.

Any agreement for release to a creator of a Directed Work shall include provisions that:

- (i) The University shall have a perpetual, non-exclusive, non-transferable, royalty-free license to use the work for the University's own non-commercial educational or research use, including the right to make derivative works, provided that "educational" use means use for the purpose of offering regular academic course credit through a UNC Pembroke academic department, and that the original or a derivative work will credit the creator as author unless the creator requests that he or she not be credited upon timely written notice to the Chancellor; and/or
- (ii) Upon commercialization of the work either (a) the creator shall reimburse the University for the resources provided the creator in conjunction with creation of the work, or (b) the creator shall share income from such commercialization with the University, in an amount to be negotiated between the creator and the Vice Chancellor for Academic Affairs. Unless otherwise directed by the Chancellor or his designee, two-thirds of the University's proceeds from commercialization of the work shall be allocated to the creator's department, and one-third to the University.

(e) Selection of release options; appeal.

The Vice Chancellor for Academic Affairs, in consultation with the creator's chair, shall determine which of the options available under Section V(A)(3)(d)(ii) above will be selected in conjunction with the release of such a work to its creator. Disputes regarding whether a work is a Directed Work shall constitute disputes regarding ownership to be resolved under the dispute resolution procedures specified below. However, decisions regarding financial terms made under Section V(A)(3)(d)(ii) above shall not be subject to appeal under this Policy. In the event that the creator and the University are unable to reach agreement regarding such financial terms, ownership of the work at issue shall remain with the University.

(f) Joint Ownership.

In addition to the foregoing provisions for release to the creator of a Directed Work, the University through the Vice Chancellor for Academic Affairs in consultation with the creator's chair and the creator may alternatively negotiate for joint ownership of the work under the terms of a written agreement. In such case either party will be allowed to use and exploit the work without accounting to the other, unless otherwise agreed in writing.

**(4) Sponsored or Externally Contracted Works.**

(a) Definition.

A Sponsored or Externally Contracted Work shall be any copyrighted work developed using funds supplied under a contract, grant, or other arrangement

between the University and a third party, including a sponsored research agreement.

(b) Ownership.

(i) Unless the agreement (i.e., the contract, grant, or sponsored research agreement) expressly requires copyright ownership by the University or conveyance of rights to a third party, the creator of a Sponsored or Externally Contracted Work shall own the work. As a condition of employment, faculty and EPA non-faculty creator-owners of a Sponsored or Externally Contracted work shall be deemed to have granted the University a perpetual, non-exclusive, non-transferable, royalty-free license to use the work for the University's own non-commercial educational or research use. For the purposes of this Policy, "educational" use means use for the purpose of offering regular academic course credit through a UNC Pembroke academic department. Such license includes the right to make derivative works. The original or a derivative work will credit the creator as author unless the creator requests that he or she not be credited upon timely written notice to the Chancellor.

(ii) The University will own a Sponsored or Externally Contracted Work where the relevant agreement requires copyright ownership by the University or conveyance of rights to a third party, in which case the University will convey rights to the third party as required. In such cases the creator of the copyrighted work shall be required to report the work to the Vice Chancellor for Academic Affairs, using such forms and procedures as that Office develops. Where a proposed sponsored research agreement or research grant will require that copyrighted works be owned by the University or a third party, the Vice Chancellor for Academic Affairs should inform the relevant Principal Investigator of the copyright provisions and secure his or her consent to such provisions before the agreement is signed or the grant accepted.

(c) Release.

Sponsored or Externally Contracted Works owned by the University may be released to the creator or jointly assigned to the creator and the University, through the procedures mandated for Directed Works, where the University has ascertained that such release will not conflict with the terms of the relevant agreement or grant, or with written consent of the other party to the agreement or grant.

(d) Disclosure.

If an agreement under which a Sponsored or Externally Contracted Work is created addresses copyright ownership, then the disclosure terms of that agreement control. If an agreement under which a Sponsored or Externally Contracted Work is created is silent on copyright ownership, then the creator must disclose the existence of the work prior to any commercialization of that work. Disclosure shall be made in writing to the creator's department head and dean (or other supervisor, if applicable). Any questions on commercialization may be addressed to the Vice Chancellor for Academic Affairs.

## **B. Works Created by SPA Staff Employees Considered Works Made for Hire.**

### **(1) Definition.**

For purposes of this Policy, a “work made for hire” is:

- (a) A work prepared by an employee within the scope of his or her employment; or
- (b) A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

### **(2) Ownership.**

Works made for hire by SPA staff shall be owned by the University. Exceptions to University ownership may occur where

- (a) The University with written approval of the Chancellor or his or her designee enters into an agreement with an SPA employee in advance of creation of the copyrighted work specifying that the work shall be owned in whole or in part by the employee;
- (b) University ownership is waived in writing by the Chancellor or his or her designee; or
- (c) The SPA Staff creator is an author or co-author of a Traditional or Non-Directed Work, but only to the extent necessary to allow the SPA Staff creator to assign rights to academic publishers for publication made with no more than nominal consideration to the creators.

## **C. Works by Independent Contractors.**

Each University unit or department entering into arrangements for work to be produced by an independent contractor must execute a written contract, signed by an authorized University official, which includes a provision that the University shall own copyrighted works produced by the independent contractor. Any exceptions must be approved by the vice chancellor with supervisory responsibility over the unit or department or his or her designee.

## **D. Student Works.**

### **(1) Definition.**

Student Works are papers, computer programs, theses, dissertations, artistic and musical works, and other creative works made by University students.

### **(2) Ownership and Use.**

- (a) Students retain ownership of copyright in their Student Works; provided however, that as a condition of enrollment the student shall be deemed to have granted the University a non-exclusive, perpetual, world-wide, royalty-free right and license to reproduce and publicly or privately display, distribute or perform each Student Work for the University's own non-commercial educational purposes. The University's right and license in this paragraph is subject to the student's privacy rights under federal law. Other exceptions may be granted when the student offers the work to the University for commercialization.

- (b) Student Works created in the course of the student's employment by the University shall be considered Works Made for Hire, and ownership and use of such works shall be as specified in Section V(B) above.
- (c) As a condition of enrollment at UNC Pembroke, Student Works that constitute notes of classroom and laboratory lectures and exercises shall not be used for commercial purposes by the student generating such notes, the student's assignees, heirs, or successors in interest.

**VI. Works Subject to Both Copyright and Patent Protection.**

Where an invention is subject to protection under both patent law and copyright law, if the University through the Vice Chancellor for Academic Affairs determines to retain title to its patent rights, the inventor/creator shall assign copyright to the University. On commercialization of such works, the inventor/creator shall be compensated only in accordance with the provisions of the University of North Carolina Patent Policy and the UNC Pembroke Patent Policy and such procedures as may be developed thereunder. The Vice Chancellor for Academic Affairs may on his or her own initiative investigate whether a copyrighted work reported to it may also be subject to patent protection.

**VII. Dispute Resolution.**

**A. Jurisdiction.**

Any University faculty or staff employee or student may seek resolution of a dispute regarding ownership of a copyrighted work governed by this Policy, including a dispute over whether use of University resources is an exceptional use, by filing a written request with the Chancellor. Upon receipt of such a request, the Chancellor shall authorize the creation of an ad hoc Copyright Dispute Resolution Panel, composed pursuant to Section III(B)(1) above.

**B. Conduct of Hearing.**

The Copyright Dispute Resolution Panel shall conduct a hearing into the matter or may make a decision based upon the written record, provided that all parties to the dispute are given an opportunity to present evidence and arguments in support of their respective positions. Each party shall provide the other party with a copy of any written materials submitted to the Panel simultaneously with submission of such materials to the Panel. Any hearing will be conducted following procedures set forth by the Panel or promulgated by the Faculty Copyright Education and Policy Committee. No party shall have the right to be represented by counsel before the Panel, but any party may be accompanied at a Panel hearing by an adviser of his or her choosing, who shall not participate in the hearing, but who may provide advice and assistance to the party he or she accompanies.

The decision of the Copyright Dispute Resolution Panel may be reviewed and amended by the Chancellor on appeal from a party to the dispute or on the Chancellor's own motion, pursuant to procedures promulgated by the Faculty Copyright Education and Policy Committee. The Chancellor's decision shall be final.

SOURCES: Nearly this entire policy was copied with permission from the policy of the University of North Carolina at Charlotte. Additions have been included from the policy of the

University of North Carolina at Chapel Hill.

**Draft Policy re: Criminal Background Checks  
Revised 2/16/06**

**I.**

**A. Purpose**

The purpose of this policy is to further the University's commitment to providing a safe learning and workplace environment for our students, staff and faculty. In implementing this policy, the University is guided by the Federal Occupational Safety and Health Act of 1970 that requires employers to provide their employees with a safe and healthy work environment. Section I of this policy provides definitions that are helpful in gaining a better understanding of this policy.

**B. Scope**

A Criminal Background Check is required for any final candidate for employment, including UNCP employees changing jobs, at the University in a "security sensitive" position or in any position for which a check is required by law.

**C. Policy**

It is the policy of The University of North Carolina at Pembroke (UNCP) to conduct criminal background checks on final candidates who are selected for employment into any position designated as "security sensitive."

**D. Responsibilities**

The **Chancellor and Vice Chancellors** are responsible for ensuring a safe learning and workplace environment for our students, staff and faculty by evaluating criminal conviction reports when issues arise and making the final hiring decisions.

**Financial Managers (FM)** are responsible for submitting the Criminal Background Check Authorization form of the final candidate to Human Resources prior to making a verbal conditional offer of employment. A conditional offer of employment may be extended to a final candidate prior to Human Resources' completion of the check. However, the FM is responsible for ensuring the candidate's first day of work in the position is not prior to the satisfactory completion of the check. Every job offer extended for a position subject to this policy will be conditional until the appropriate University official reviews the criminal background check report and determines how to proceed based upon information contained in that report.

**Candidates** are responsible to submit the Criminal Background Check Authorization form at the time of interview to the FM or to the Search Committee Chair.

The **Human Resources Director or designee** is responsible for ensuring that the policy is administered on a non-discriminatory basis and that all necessary components are in place for conducting an effective criminal background check program.

**Human Resources** will ensure that all employment materials, including job postings (advertisements, website and bulletin board) advise applicants that a criminal background check will be completed on any individual who is selected as the final candidate for "security sensitive" positions. Human Resources will maintain records and periodically will report to the Chancellor on the operation of this policy.

## **E. Employment Eligibility**

A previous conviction does not automatically disqualify a candidate from consideration from employment with the University. The candidate may still be eligible for employment with the University depending on a variety of factors (for example, the relevance of the conviction to the duties and responsibilities that would be assigned to the candidate if hired, the date(s) of the convictions, and the candidate's record since the date(s) of the convictions(s)). However, if a candidate fails to reveal any previous conviction on the Criminal Background Check Authorization form or employment application, he/she will be disqualified from employment in that or any other position at the University for a period of one year because of falsification of his or her application. The conviction(s) may remain relevant to and be considered in any hiring, promotion, or transfer decision made subsequent to such a year of disqualification from employment. If a candidate is hired after failing to disclose a conviction, falsification of an employment application will be grounds for dismissal from employment. Additional penalties for falsification of an application may apply if required by law.

## **F. Procedure**

1. The FM or Search Committee Chair will have candidates complete the Criminal Background Check Authorization form during the interview process.
2. Once the interview process is completed and a final candidate is recommended, the FM or Search Committee Chair is to forward the completed Criminal Background Check Authorization form for the final candidate to Human Resources.
3. Human Resources will be responsible for coordinating the criminal background check process. It is expected that the investigation of an applicant will not take longer than five business days to complete.

Note: Applicant information is confidential personnel information, and all parties having access to this information will maintain it as confidential.

## **G. Cost**

Hiring departments are responsible for the service fee per form submitted requesting a criminal background check. Human Resources will process the forms for payment. (Pending identification of a vendor and procedure development, it may be that it can be billed directly to the department.)

## **H. Candidates for Employment**

- a. When a hiring department reaches the final selection stage in the hiring process for EPA Faculty, Non-Faculty, SPA and Temporary (Personal Service and Certified Services Contracts), in positions covered under this policy the department must forward a copy of the selected candidate's employment application and the completed Criminal Background Check Authorization form to Human Resources (HR).

HR will contact a vendor to conduct an investigation in all North Carolina counties in which the applicant has lived and/or worked to the extent known to the University to determine whether there is any criminal conviction that may affect the hiring decision. Criminal background checks will also be made for other states as listed on the form.

When the investigation is complete, HR will request the vendor to complete a report on the candidate. In the event that a criminal conviction record is discovered, HR will review it further with the hiring FM. The FM will discuss the record with the candidate and will allow for a written explanation.

As appropriate, concerns will be elevated to the appropriate Vice Chancellor or Chancellor. Convictions not shown on the application but discovered during the investigation will be considered as indicated in this policy. Employment into positions covered under this policy cannot begin until HR completes the criminal background check and provides written verification to the department.

## **II. Definitions**

**Criminal Background Check** means verifying that the final candidate for a position or contract does not have any undisclosed criminal history in any jurisdiction where the candidate and/or employee discloses he or she currently resides or has resided during the previous seven (7) years.

**Employee** is defined as any person currently employed by UNC Pembroke, whether full or part time.

**Financial Manager (FM)** is defined as any person currently employed by UNC Pembroke who as part of his or her position has budgetary responsibilities for hiring recommendations or decisions for permanent hires or temporary contract employees.

**Security Sensitive Positions** include, but are not limited to: positions within the police department, athletic coaching positions, positions requiring work directly with children under the age of 13 years on campus or within the University's custody or control, positions identified by a Vice Chancellor or Chancellor as being security sensitive, and any positions for which a criminal background check is required by law.

## CRIMINAL BACKGROUND CHECK AUTHORIZATION

TO BE COMPLETED BY THE APPLICANT FOR EMPLOYMENT:

DATE: \_\_\_\_\_

FIRST	GIVEN MIDDLE	MAIDEN	LAST
All other name(s) by which you have been known:			

SOCIAL SECURITY #	DATE OF BIRTH	SEX	RACE

CURRENT RESIDENCE (street, city, state, zip):	
PERMANENT RESIDENCE (street, city, state, zip):	

Have you ever been convicted of any unlawful offense, other than a minor traffic violation?

YES  NO

If yes, list below the county, state, and date of the conviction and crime for which you were convicted. Prayers for Judgment Continued (PJC) and non-contested charges must be included, unless you have acted to expunge your record. **If more space is needed, check here  and attach additional pages.**

DATE	LOCATION (county and state)	CRIME

I hereby certify that all information I have provided on this Authorization is true and complete to the best of my knowledge and belief. I hereby consent to the University's verification of any information contained in this Authorization, understanding that under University policy verification will be made only if I am selected as the final candidate for the position for which I am applying. I understand that by admitting to a conviction for any unlawful offense, I will not be disqualified automatically from consideration for employment, but I also understand the date and nature of the crimes for which I have been convicted will be taken into consideration in the hiring process to the extent allowed by law if relevant to the position. I understand that false or misleading information or documentation, or an omission or failure to include all relevant information, may result in rejection of my application for this position and may disqualify me from any other position at the University for a period of one year. I may also be subject to termination if employed by the University, and/or criminal prosecution. If hired, I understand the University complies with State law and will terminate me if false or misleading information is given in order to meet the requirements for the position involved.

(a)

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**(d) Candidate's  
Signature**

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