



Date: February 22, 2024

To: Xiaoxia Newton, Faculty President

Cc: Matt Wyse, Faculty Governance Assistant

From: Jennifer Troyer, Provost and Vice Chancellor for Academic Affairs

A handwritten signature in black ink, appearing to read 'Jennifer Troyer'.

Re: Proposed Revisions to the [Procedures for Resolving Faculty Grievances \(arising under Section 607\(3\) of The Code of The University of North Carolina\)](#)

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The newly established [UNC System Policy 101.3.1.3\[R\] “Regulation on Grievances Filed Pursuant to Section 607 of the Code”](#) (replacing the repealed Policy 101.3.2) and revisions to [Code Section 607](#) require revisions to Faculty Grievance Procedures. (See UNC System Policy and Code References below.) I ask that the proposed changes be reviewed by the FEC and Faculty Council at an upcoming meeting for feedback.

Key highlights of these proposed revisions include:

1. **Narrowing and refining the scope of the grievance procedure** (Revised Grievance Procedures, Section I)
  - a. Must be based upon a decision made by an administrator in a supervisory role over the faculty member.
  - b. Must allege that the decision was in violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy, and that the faculty member was negatively affected by such decision.
  - c. Does not include matters that are subject to the jurisdiction of another standing committee of the faculty, or subject to another institutional process as may be required under applicable law (e.g., issues involving illegal discrimination or research misconduct investigations). See [Code Section 607\(3\)](#).
  - d. *Former grounds for a grievance:* The faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment.
2. **Making the standard for prevailing on a grievance less specific** (Revised Grievance Procedures, Section II)

- a. Faculty member must establish, by a preponderance of the evidence, the allegations in the grievance and that the faculty member is entitled to relief. See [Regulation 101.3.1.3\[R\], Section IV.D.](#)
  - b. Contrasts with prior language: “A faculty member must establish, by a preponderance of the evidence, that the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment.”)
3. **Adding mediation as a voluntary option** (Revised Grievance Procedures, Section V and Appendix A)
- a. Currently our Grievance Procedures provide for informal resolution but do not provide a mediation option. Both prior (now repealed) UNC System Policy 101.3.2 and current Regulation 101.3.1.3[R] require that System institutions have a policy that either requires or permits voluntary mediation; our Procedures have not been in compliance with prior System policy or current Regulation 101.3.1.3[R]. See [Regulation 101.3.1.3\[R\], Section III.](#)
  - b. Voluntary (rather than mandatory) mediation is proposed in the revised Grievance Procedures.
4. **Changing the administrative decision maker from the Grievance Committee to the Chancellor** (Revised Grievance Procedures, Section 7.D and 7.E)
- a. Previously the Grievance Committee would make a decision and issue an adjustment if finding in favor of the grievant; the new Regulation provides that the Grievance Committee make a report to the Chancellor, who makes a decision and issues an adjustment, if appropriate. See [Regulation 101.3.1.3\[R\], Section IV.E.](#)
5. **Revising the appeal (to the BOT) provisions** (Revised Grievance Procedures, Section VIII)
- a. The appeal eligibility flipped from the now repealed Policy 101.3.2; that Policy provided that the faculty member could NOT appeal if the decision was not favorable. The new Regulation provides that a favorable decision cannot be appealed but an unfavorable one can be appealed. [Regulation 101.3.1.3\[R\], Section V.A.](#)
  - b. Appeal timeline now requires that appeals from the Chancellor’s decision be filed within 14 days. [Regulation 101.3.1.3\[R\], Section V.B.](#)

## UNC System Policy and Code References

### Repealed, April 19, 2023:

- [Policy on Grievances Filed Pursuant to Section 607 of The Code \(101.3.2\)](#)

### Adopted, July 28, 2023:

- [Regulation on Grievances Filed Pursuant to Section 607 of The Code \(101.3.1.3\[R\]\)](#)

### Amended, May 25, 2023:

- [Regulation on Non-Reappointment, Denial of Tenure, and Denial of Promotion Under Section 604 of The Code \(101.3.1.2\[R\]\)](#)
- [Regulation on Disciplinary Discharge, Suspension, or Demotion Under Section 603 of The Code \(101.3.1.1\[R\]\)](#)
- [Code Section 607](#)

## Procedures for Resolving Faculty Grievances (arising under Section 607(3) of The Code of The University of North Carolina)

Applicable to all Section 607(3) grievances filed on or after April 13, 2022

### Executive Summary

These grievance procedures are established to implement Section 607 of The Code of The University of North Carolina (“the Code”) and Board of Governors UNC Policy 101.3.1.3[R] “Regulation on Grievances Filed Pursuant to Section 607 of the Code.” Policy 101.3.2 “Grievances filed Pursuant to Section 607 of The Code.” To the extent that these procedures are determined to conflict with either of the foregoing policies, the foregoing shall prevail.

### I. The Purpose and Scope of the Grievance Procedure

Section 607 of the Code provides a process for faculty members to seek redress concerning employment related grievances matters directly related to the terms and conditions of employment, other than those involving decisions about reappointment or non-reappointment; promotion; and the conferral of tenure; disciplinary discharge, suspension or demotion; termination; or such matters that otherwise do not constitute a grievance under not grievable as defined in UNC Policy 101.3.2[R] UNC Policy 101.3.1.3[R] those within the jurisdiction of another standing committee or University policy and review process, including but not limited to University Policy 102.13, Tenure Policies, Regulations, and Procedures.

Grievances must be based upon a decision made by an administrator in a supervisory role over the faculty member. The grievance must allege that the decision was in violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy, and that the faculty member was negatively affected by such decision. Grievances do not include matters that are subject to the jurisdiction of another standing committee of the faculty, or subject to another institutional process as may be required under applicable law (e.g., issues involving illegal discrimination or research misconduct investigations).

Faculty are encouraged to consult with the University Ombuds, a confidential, informal, impartial, and independent resource to University employees, for guidance regarding the issue or issues of concern or for more information regarding these procedures.

### II. Standard for Determining Contested Grievances

In order to prevail in the formal grievance process, a faculty member must establish, by a preponderance of the evidence, the allegations in the grievance and that the faculty member is entitled to relief that the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment.

### III. Initiation of a Formal Grievance

#### A. Preparing a Petition

Any current faculty member with a ~~has a covered~~ grievance, as set forth in Sections I and II

above, may file a petition for redress in accordance with the procedures explained in this document. The petition is a written document that describes:

1. the nature of the grievance (within the scope described in Section I);
2. the party or parties against whom the grievance is directed;
3. the relief sought;
4. the steps, if any, previously taken to reach informal resolution of the grievance; and
5. any relevant additional information necessary to establish the validity of the grievance.

Faculty members may obtain additional guidance on preparing the petition by consulting "Guidelines for Preparing a Grievance Petition." A petition must be filed within twelve months after the faculty member first becomes aware of the facts upon which the petition is based. The Grievance Committee may waive that time limit for good cause shown.

## **B. Filing the Petition**

The faculty member must file the petition with the Faculty Grievance Advisor (see Section IV below). The Faculty Grievance Advisor (hereinafter "FGA") will review the petition to determine if it meets the criteria set forth in Section III.A. The Faculty Grievance Advisor will review the petition in collaboration with the Division of Institutional Integrity/Office of Legal Affairs to determine whether the petition should be referred to a Lead Investigator/the Office of Civil Rights and Title IX (hereinafter "CRTIX") for further review, as set forth in Section IV.B.2 below. ~~Prior to sharing the petition with the Lead Investigator, the FGA will identify the Lead Investigator for to the petitioner and provide the petitioner an opportunity to share concerns regarding any actual or potential conflicts of interests with the Lead Investigator.~~

## **C. Confidentiality**

The Faculty Grievance Advisor, Grievance Committee, mediator (if engaged), and all individuals named in and involved in the resolution of a grievance shall treat all documents submitted or created in connection with the process of review of a grievance, and the information contained therein, as confidential personnel information. Such confidential records, information, and verbal information derived from any discussions that are part of the formal review process shall not be disclosed to or discussed with any person except those participating in the review of the grievance as provided in these policies, those persons required or permitted to be consulted in accord with decisions of the Grievance Committee, those persons permitted access to such documents by law, or for purposes of providing legal counsel for the parties. Violation of this section may expose a faculty member, including an administrator, to disciplinary action.

## **IV. The Faculty Grievance Advisor**

### **A. Selection of the Faculty Grievance Advisor**

The Faculty Grievance Advisor is a senior faculty member with permanent tenure with knowledge of the University's grievance process. The Faculty Grievance Advisor shall be appointed by the Faculty President in accordance with appointment procedures approved by the Faculty. The Faculty Grievance Advisor shall serve a three-year term, which is renewable, for a maximum of six consecutive years. The Faculty Grievance Advisor shall not serve on any departmental or college reappointment, promotion, or tenure committee, or on either the Faculty Hearing or Faculty Grievance Committees concurrent with appointment as the Faculty Grievance Advisor, and shall not be an active participant or advisor on behalf of any party in any grievance during their term(s) as Faculty Grievance Advisor.

### **B. Responsibilities of the Faculty Grievance Advisor and /-Petition Review Process**

1. The Faculty Grievance Advisor shall review each petition and to determine whether:

- a. the petition contains all of the required elements described in [Section III.A](#) of this procedure;
- b. the facts described in the petition, if true, would be sufficient to establish that [the decision by an administrator in a supervisory role over the faculty member was in violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy, and that the faculty member was negatively affected by such decision](#)~~the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment;~~ and
- c. the petition has been filed within the twelve-month period described in [Section III.A](#) above, or that the Faculty Grievance Advisor or Grievance Committee has waived that [time](#) limit for good cause shown.

The Faculty Grievance Advisor ~~may~~[will](#) consult with the Office of Legal Affairs on legal determinations, such as whether the facts described in the petition would violate an applicable right or privilege based on federal or state law, [UNC Policy or Regulation, or UNC Charlotte policy](#). If the Faculty Grievance Advisor determines that the petition is incomplete in any respect, the Faculty Grievance Advisor shall require the petitioning faculty member (“petitioner”) to correct the deficiency before the petition is further considered.

If the petition was not timely filed, the Faculty Grievance Advisor may dismiss the petition or waive the time requirement for good cause shown. Petitions dismissed for untimeliness by the Faculty Grievance Advisor may be appealed to the Grievance Committee. The Grievance Committee’s decision regarding whether to extend the time period for filing is final and not subject to further appeal.

2. ~~If the Faculty Grievance Advisor refers the petition to CRTIX for further review pursuant to Section III.B, The Lead Investigator shall~~[CRTIX shall](#) determine whether the petition contains allegations of discrimination based on protected status, in violation of [University Policy 501, Nondiscrimination and Procedures for Addressing Reports of Discrimination](#) ~~or allegations of sexual misconduct or interpersonal violence in violation of University Policy 502 or University Policy 504.~~ If so, ~~the petition will be addressed consistent with the applicable policy rather than this grievance procedure.,~~[allegations to determine whether informal resolution or investigation is appropriate. The Lead Investigator shall make that determination applying the Procedures for Review of Discrimination Complaints. If the Lead Investigator conducts an investigation, the results of the investigation will be reported to the Grievance Committee, along with a recommendation regarding whether the Lead Investigator determines that there is sufficient evidence in support of the petitioner’s allegation to warrant a hearing. If the Grievance Committee determines that a hearing shall be held, it will follow the process described in Procedures for Review of Discrimination Complaints.](#)
3. The Faculty Grievance Advisor shall provide notice to the respondent of petitions that warrant further review ~~and are not otherwise subject to the Lead Investigator’s review.~~ Hereinafter, the term “respondent” is used to refer to one or more administrators named in the grievance.

4. The University recognizes the importance of resolving employment related problems and concerns efficiently. Although not required, the Faculty Grievance Advisor may, if deemed appropriate in the relevant circumstances, encourage ~~faculty member~~the petitioner and respondent to seek informal resolution through ~~an informally mediated discussion of any employment-related grievances with the relevant administrator, and, if appropriate, with that administrator's supervisor~~mediation, as described in Section IV.D below. ~~Where informal resolution is used to resolve the grievance, the proposed resolution of the grievance must be based on any terms that are mutually acceptable to the faculty member and to the appropriate administrator(s) and be shared with the Faculty Grievance Advisor for final review and approval. Approval will be contingent on a determination that the proposed resolution is consistent with applicable law and University policies and procedures.~~
5. In addition to processing responses to petitions consistent with the foregoing provisions, the Faculty Grievance Advisor shall provide appropriate assistance in training members of the Grievance Committee, obtain and maintain, consistent with the University's Records Retention Schedule all documents relating to the processing and hearing of each filed grievance, and maintain an accurate statistical record of all grievance activity related to Section 607(3) of the Code as required by the Board of Governors.

### **C. Appeal of the Faculty Grievance Advisor's Decision**

The petitioner may appeal the Faculty Grievance Advisor's determination that the petition does not meet one or more of the requirements set forth in Section IV.B.1 above to the Chair of the Grievance Committee. If the Grievance Committee concurs with the judgment of the Faculty Grievance Advisor that the petition is insufficient or incomplete, it will so notify the petitioner, and no further action will be taken on the grievance until the Faculty Grievance Advisor or Grievance Committee determines that the petitioner has submitted a revised petition that corrects any deficiency or insufficiency.

If the Grievance Committee disagrees with the Faculty Grievance Advisor's determination that the petition was not timely filed, or waives the time limit, it will so notify the petitioner and the Faculty Grievance Advisor. If the Grievance Committee has resolved all matters appealed to it by the petitioner pursuant to this section favorably to the petitioner, it shall instruct the Faculty Grievance Advisor to advise the parties of the option to proceed with either a formal grievance hearing or ~~informal resolution~~mediation, as appropriate.

### **V. Mediation**

Mediation is a procedure in which the petitioner and respondent engage the assistance of a neutral party (the University Ombuds or another trained mediator assigned by the Faculty Grievance Advisor) to help them in achieving a voluntary, bilateral settlement agreement that finally and definitively resolves all or portions of the grievance, without having to engage in a formal grievance process with the Grievance Committee.

Mediation of a faculty grievance is voluntary and may be initiated by either party to the grievance by giving notice to the Faculty Grievance Advisor. The Faculty Grievance Advisor will notify the other party that a mediation has been initiated and will communicate with the parties to determine whether the parties mutually agree to engage in a mediation. A decision by either party **not** to pursue mediation will not be held against that party in any way, and no fault will attach to either party if mediation does not produce a settlement.

If the parties agree to mediation of the grievance, the Mediation Procedures in Appendix A apply.

If the grievance is settled through mediation, there is no right of appeal by either party, and the grievance is considered resolved. If mediation fails to produce a settlement, the Faculty Grievance Advisor will engage the formal grievance process in Sections VI. and VII. below, so long as the grievance is otherwise qualified under Section III.B or C above.

No record of a failed mediation process will be produced by the mediator other than an unelaborated written statement to the Faculty Grievance Advisor that mediation was attempted, but a resolution was not reached.

The mediator may not be called as a witness in any subsequent formal grievance procedure, and nothing done or said by either party during a mediation process may be referred to or used against a party in any subsequent proceeding.

## **VI. Grievance Committee**

### **A. Scope and Powers**

The Grievance Committee is established pursuant to ~~Section 607(1)~~ of the Code and the Constitution of the Faculty and is authorized to hear and advise the Chancellor with respect to ~~the a petitioner's~~ alleged violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy~~violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment.~~ If the Committee finds that a violation has occurred, it may also recommend an adjustment to remedy the injury.

~~A finding of a violation in favor of an aggrieved faculty member will be given to the Chancellor, only in accordance with Section VI.D below.~~ If the grievance is against the Chancellor, the Grievance Committee will give its advice to the Board of Trustees.

The Grievance Committee is authorized to make such rules of procedure as it considers necessary for the conduct of its tasks, provided such rules are consistent with the requirements of these Procedures and other applicable policies. Such rules shall be made available to the petitioner and the respondent(s) to assist their understanding of the procedures to be followed in conducting a hearing.

### **B. Composition**

The Grievance Committee is elected by the faculty. It consists of twelve faculty members, including faculty members elected from each professorial rank. No dean, department chair, department head, senior administrative officer, or mediator currently eligible to mediate such grievances at UNC Charlotte shall serve on the Grievance Committee. The Grievance Committee shall elect its chair each year.

### **C. Terms of Office**

The Grievance Committee members shall serve staggered four-year terms and may serve no more than two consecutive terms. The term of office shall begin at the conclusion of the final Faculty Council meeting of the academic year. Grievance Committee members may be removed by a two-thirds vote of the faculty present at a general faculty meeting.

### **D. Election**



The faculty shall elect the Grievance Committee members by majority vote before the last day of classes of each spring semester, or as appropriate to fill a vacancy.

### **E. Conflicts of Interest, Incapacity, or Temporary Vacancy**

A Grievance Committee member who holds an appointment in the department of a person directly involved in a grievance, who will testify as a witness at the hearing, or who has any other conflict of interest bias, or appearance of bias, or who appears to be unable for any reason to assess the evidence fairly, impartially, and without prejudice, is disqualified and shall not participate as a Grievance Committee member in the proceedings described in Section VII. If such Committee member does not recuse himself or herself from the proceedings, the petitioner or respondent may request that the chair of the Grievance Committee consider excluding from the proceedings any member of the Grievance Committee who they believe has a conflict of interest or bias. If the disqualified member is the Grievance Committee chair, the remaining Grievance Committee members shall elect one of the members to fill the vacancy while these conditions exist. The Grievance Committee shall also select one of its members with permanent tenure to replace the chair if they are incapacitated or absent.

If the Grievance Committee should have fewer than four qualified members because of conflicts of interest, bias, incapacity, or temporary vacancy, elections shall be held promptly in accordance with Sections VI.B and VI.D above to staff the Grievance Committee while these conditions exist. If the need arises during the summer terms, the President of the Faculty, in consultation with the Faculty Executive Committee, may make temporary appointments to fill vacancies on the Grievance Committee. If a permanent vacancy occurs, elections shall also be held promptly in accordance with Sections VI.B and VI.D to fill the vacancy for the unexpired term.

## **Section VII. Formal Grievance Process and Administrative Decision**

### **A. Review by the Grievance Committee**

If the grievance is not fully resolved through ~~the informal resolution process~~ mediation, then the issues not resolved will be reviewed by the Grievance Committee.

### **B. Standard for Determining Contested Grievances**

The standard of review for determining contested grievances is set forth in Section II above.

### **C. Conduct of Hearing**

While the Grievance Committee is authorized to make its own rules for the conduct of hearings, the following standards shall be observed with respect to all such hearings:

1. The hearing shall be conducted informally and in private with only the eligible members of the Grievance Committee, the Grievance Committee's legal counsel, the petitioner and respondent, and such witnesses as may be called in attendance, except that each person directly involved in the grievance may be accompanied by one person of their choosing to serve as an advisor.
2. Both the petitioner and respondent may elect to bring an attorney to serve as such an advisor.
3. The advisor(s) shall not present evidence or make any arguments at the hearing.

At the hearing, the petitioner may present evidence in support of the petitioner's contentions, and the respondent will have an opportunity to respond.

A quorum for the hearing will consist of a minimum of four eligible members of the Grievance Committee. The Chair of the hearing has responsibility for keeping a complete transcript of the testimony and preserving all documents that are accepted by the Grievance Committee at the hearing as evidence. Only the evidence so compiled is to form the basis for Grievance Committee conclusions about the case and any resulting advice to the responsible administrator and the Chancellor. All witnesses may be questioned by the Grievance Committee members and by the persons directly involved in the grievance. Except as herein provided, the conduct of the hearing is under the control of the Chair of the hearing.

The burden is on the petitioner to establish by a preponderance of the evidence that the petitioner has experienced an injury that would entitle the petitioner to relief in accordance with the standard set out in Section II above.

#### **D. Recommendation of the Grievance Committee**

After receiving the evidence at the hearing, the Grievance Committee will make a recommendation to the Chancellor and shall prepare a written report of its findings, which shall be provided to the faculty member, the respondent, and the Chancellor. The written report shall indicate whether the party with the burden of proof has met its burden, and what, if any, relief is recommended.

If the Grievance Committee determines by a preponderance of the evidence that a violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy has occurred, the Grievance Committee shall so advise the Chancellor in its written report. If the Grievance Committee recommends that an adjustment in favor of the petitioner is appropriate, the Grievance Committee shall so advise the Chancellor.

If the Grievance Committee determines that there is no violation of federal or state law, UNC Policy or Regulation, or UNC Charlotte policy, or otherwise that the petitioner has no remediable injury, it shall so advise the Chancellor in its written report. In the unlikely event that the Grievance Committee finds a violation but no remediable injury on behalf of the petitioner, the Grievance Committee may recommend corrective action to address the violation to the Chancellor for further consideration.

#### **D. Procedure if Injury Found**

~~If, after hearing the matter, the Grievance Committee determines by a preponderance of the evidence that a violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment has occurred and recommends that an adjustment in favor of the petitioner is appropriate, the Grievance Committee shall so advise the petitioner, respondent, and the dean, department head, or other respondent administrator in writing.~~

~~The respondent shall notify the Grievance Committee and the petitioner in writing whether they will make the recommended adjustment or a different adjustment satisfactory to the petitioner. If the respondent does not provide any such notice to the Grievance Committee within twenty-one (21) days after the Grievance Committee's written recommendation, or if the respondent administrator does not make the recommended adjustment or a different adjustment satisfactory to the petitioner, within a reasonable period of time, the Grievance Committee shall advise the Chancellor of its recommendation that an adjustment is appropriate.~~

#### **E. Procedure if No Injury Found**

~~If the Grievance Committee determines that there is no violation of a right or privilege based on federal or state law, University policies or regulations, or commonly shared understandings within the academic community about the rights, privileges, and responsibilities attending University employment, or otherwise that the petitioner has no remediable injury, it shall so advise the petitioner, respondent, and the Chancellor. In the unlikely event that the Grievance Committee finds a violation but no remediable injury on behalf of the petitioner, the Grievance Committee may recommend corrective action to address the violation to the Chancellor for further consideration.~~

#### **EF. Chancellor's Decision**

~~The chancellor shall decide whether to accept, reject, or modify the faculty grievance committee's finding and recommendation. The chancellor shall base their decision on the record. The chancellor may, in their discretion, consult with the faculty grievance committee before making the decision. The decision of the chancellor is the final administrative decision.~~

~~The Chancellor shall notify the petitioner and the respondent, in writing, of the Chancellor's decision. The notification to the parties shall include a notice of any available appeal rights and the timeline for any available appeal.~~

~~If the Chancellor's decision is in favor of the petitioner, the respondent shall notify the Grievance Committee and the petitioner in writing whether they will make the recommended adjustment or a different adjustment satisfactory to the petitioner. If the respondent does not provide any such notice to the Grievance Committee within twenty-one (21) days after the Grievance Committee's written recommendation, or if the respondent administrator does not make the recommended adjustment or a different adjustment satisfactory to the petitioner, within a reasonable period of time, the Grievance Committee shall advise the Chancellor of its recommendation that an adjustment is appropriate.~~

~~If the Grievance Committee finds a violation and remediable injury in the petitioner's favor, and the parties are unable to resolve the grievance within 21 days of the Grievance Committee's finding, the Chancellor shall make a final decision in the matter.~~

~~The Chancellor shall base their decision on the recommendation of the Grievance Committee and the record from the Grievance Committee hearing. The Chancellor may, in their discretion, consult with the Grievance Committee before making a decision. If the Chancellor's decision is not in favor of the petitioner, the petitioner may appeal the Chancellor's decision to the Board of Trustees as set forth in Section VIII below. In the unlikely event that the Chancellor finds a violation but no remediable injury on behalf of the petitioner, the Chancellor may recommend corrective action to address the violation.~~

#### **FG. Notice of the Chancellor's Decision**

~~The Chancellor shall notify the petitioner and the respondent in writing of the Chancellor's decision. The notification shall include a notice of appeal rights, if any, and, if the decision is appealable, it shall contain the information specified in Section VII.C.1 below.~~

#### **GH. Effect of Termination of Employment**

The faculty grievance process is a process available to current members of the faculty. A petitioner whose University employment ends for any reason during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of a petitioner ends for any reason after the grievance is filed, the Chancellor may, however, in their

discretion, determine that it is in the best interest of the institution to continue the grievance process.

### **III. Grievances Against the Chancellor**

If the Chancellor is the party against whom the petitioner's grievance is directed under Section III above, then references to the Chancellor in this Section VII shall be construed as references to the Board of Trustees.

## **VII. Appeal to the Board of Trustees**

### **A. Decisions That May Be Appealed**

1. If the ~~Grievance Committee~~Chancellor ~~did not find in~~finds in favor of the petitioner, then the decision of the Chancellor is final and may not be appealed.
- ~~4.2.~~ If the Chancellor does not find in favor of the petitioner, the petitioner may appeal the Chancellor's decision to the Board of Trustees.
- ~~2. If the Grievance Committee finds in favor of the petitioner, but neither the parties nor the Chancellor reach a resolution that is satisfactory to the petitioner, then the petitioner may appeal to the Board of Trustees. The decision of the Board of Trustees is final.~~

### **B. Delegation to the Executive Committee**

The Board of Trustees' Executive Committee is authorized to make procedural decisions and to make final decisions on behalf of the Board concerning dispositions or appeals of faculty grievances pursuant to these Procedures.

### **C. Timeline for Appeals**

1. If the Chancellor's decision is appealable, the Chancellor's notice of the disposition of a petitioner's case must inform the petitioner that:
  - a. ~~(1) a written notice of appeal to the Executive Committee must be filed with the Chancellor within 14 calendar days after the Chancellor issues their decision of the time limit within which the petitioner may file a petition for review by the Executive Committee,~~
  - b. ~~(2) that~~ a written notice of appeal containing a brief statement of the basis for appeal is required within the ~~ten~~14-day period, and,
  - c. ~~(3) that,~~ after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established by the Executive Committee and transmitted to the petitioner.

All such notices of decision are to be conveyed to the petitioner by Formal Notice, as defined in University Policy 102.13, Tenure Policies, Regulations, and Procedures.

2. A petitioner who seeks to appeal the Chancellor's disposition of the grievance must file written notice of appeal with the Executive Committee by transmitting such notice to the Chancellor by Formal Notice, as defined in University Policy 102.13, Tenure Policies, Regulations, and Procedures, within 10-14 days after the petitioner's receipt

of the Chancellor's decision. The notice shall contain a brief statement of the basis for the appeal. The Chancellor shall transmit such notice to the Executive Committee.

3. The Executive Committee may, in its sole discretion, waive or extend the 14-calendar day timeline for a petitioner to file written notice of appeal.

2.4. If the Executive Committee agrees to consider the appeal, it will do so on a schedule established by the Chancellor, subject to any instructions established by the Executive Committee. The Executive Committee will issue its decision on behalf of the Board of Trustees as expeditiously as is practical. If the petitioner fails to comply with the schedule established for processing the appeal, the Executive Committee in its discretion may extend the time for compliance or it may dismiss the appeal.

#### **D. Standard of Review by the Executive Committee**

~~To prevail before the Executive Committee on behalf of the Board of Trustees in an appeal from a decision of the Chancellor~~ In order for the Executive Committee to reverse or modify the decision of the Chancellor, the petitioner must demonstrate that the Chancellor's decision was clearly erroneous, that it violated applicable federal or state law, ~~or UNC Code or Policies, or~~ University policies or regulations, or that the process used in deciding the grievance was materially flawed.

#### **E. Notice of Decision of the Executive Committee**

The decision of the Executive Committee on behalf of the Board of Trustees shall be written and shall be sent to the petitioner and to the Chancellor.

#### **F. Finality of the Executive Committee's Decision**

The decision of the Executive Committee is the final decision on the petition by the Board of Trustees. No further appeal is permitted within the University of North Carolina.

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- Approved by Faculty Council, October 16, 2003
  - Approved by the Board of Trustees, December 5, 2003
  - Approved by the Office of the President, January 6, 2004
  - Revisions approved by the Board of Trustees December 3, 2004
  - Revisions approved by the Board of Trustees October 11, 2017
  - Revisions endorsed by the Faculty Council October 28, 2021
  - Revisions endorsed by the Faculty Council on [DATE] and approved by the Board of Trustees [DATE]

#### Related Resources:

- Section 607 of The Code of The University of North Carolina
- ~~UNC System Policy 101.3.1.3[R] "Regulation on Grievances Filed Pursuant to Section 607 of the Code"~~ Board of Governors Policy 101.3.2 "Grievances filed Pursuant to Section 607 of The Code"
- UNC Charlotte University Policy 102.13, Tenure Policies, Regulations, and Procedures
- Disposition of Appeal: Instructions to General Counsel

- [Procedures for Review of Discrimination Complaints](#)

## Appendix A

### Mediation of Faculty Grievances (arising under Section 607(3) of The Code of The University of North Carolina)

Mediation is a procedure in which the petitioner and respondent engage the assistance of a neutral party (the University Ombuds or another trained mediator) to help them in achieving a voluntary, bilateral settlement agreement that finally and definitively resolves all or portions of the grievance, without having to engage in a formal grievance process with the Grievance Committee.

If the parties agree to a mediation under Section IV.D of the Procedures for Resolving Faculty Grievances, the following procedures will be followed:

1. The mediator shall be the University Ombuds or another mediator assigned by the Faculty Grievance Advisor. The Faculty Grievance Advisor will maintain a list of qualified individuals who have received mediation training in order to facilitate the mediation. A mediator will not be selected from the petitioner's or respondent's college or department.
2. The mediation process must be concluded within 35 calendar days from the filing of the grievance unless the parties mutually agree in writing to extend the time due to extenuating circumstances. However, any extension of time shall not be more than 90 calendar days from filing of the grievance.
3. The mediation will be conducted at a date, time, and location identified by the Faculty Grievance Advisor after conferring with the mediator and the parties. The mediation shall be scheduled for an amount of time determined by the mediator to be sufficient. If necessary, the mediation may be recessed by the mediator and reconvened at a later time.
4. Only the petitioner, respondent, and mediator may attend the mediation. Both parties must make a good faith effort to resolve the matter. Failure to attend the mediation by the petitioner will result in an automatic dismissal of the grievance. If the respondent fails to attend the mediation, the Faculty Grievance Advisor will engage the formal grievance process under Sections V. and VI. of the Procedures for Resolving Faculty Grievances, so long as the grievance is otherwise qualified under Section III.B or C of those Procedures.
5. Attorneys and other observers may not attend the mediation. Either party may ask for a recess at any time during the mediation in order to consult privately with an attorney or another advisor.
6. The mediation cannot be recorded or transmitted in any format. In addition, all documents generated during the course of the mediation and any communications shared in connection with the mediation are confidential to the extent provided by law.
7. If the mediation resolves the grievance, the parties will sign a settlement agreement. If the mediation does not result in a resolution, the grievance will be considered at an impasse. Any settlement agreement that obligates the University must be signed by a University official with the authority to bind the University concerning the particular terms of the agreement.
8. Upon the conclusion of the mediation, the mediator will notify the Faculty Grievance Advisor in writing of the outcome (either resolution or impasse). If the mediation is

resolved, the mediator will will include a copy of the settlement agreement in their notification to the Faculty Grievance Advisor.

9. If the grievance is resolved at the mediation, but the respondent fails to implement the agreed-upon resolution within 30 calendar days of mediation, the petitioner shall notify Faculty Grievance Advisor and request that the Faculty Grievance Advisor engage the formal grievance process under Sections V. and VI. of the Procedures for Resolving Faculty Grievances, so long as the grievance is otherwise qualified under Section III.B or C of those Procedures.