
**APPEAL GUIDELINES FOR DESIGNATED EXEMPT EMPLOYEES (EPA)
THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO**

**(Adopted by the Board of Trustees, April 1981)
(Amended by the Board of Trustees August 29, 1996; April 23, 1998; November 16, 2000;
and November 6, 2003)**

The purpose of this document is to establish procedures whereby certain designated exempt employees may secure review of employment decisions and grievances based on the following employment policies:

- (A) "Policy on Employees Exempt from the State Personnel Act (EPA)" of The University of North Carolina at Greensboro, adopted by the Board of Trustees, April 1981, and
- (B) "Personnel Policies for Senior Academic and Administrative Officers (Tier II)" of The University of North Carolina at Greensboro, adopted by the Board of Trustees, November 16, 2000.

As noted in these Policies, "employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these Policies; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections IV.A., IV.B., or IV.C., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI. or VII. of these Policies" All petitions for the review of decisions are to be made to the EPA Nonfaculty Appeals Committee, hereinafter referred to as the Committee.

As noted in these Policies, "if the membership of the Committee is for any reason inappropriate in a particular case in the judgment of the Chair, the Chair may recommend some changes of membership to ensure objective and timely review in that case. The Chancellor may add or subtract members in response to this recommendation, on a temporary basis." A committee member may not participate in the review of an appeal he or she brings on his or her own behalf or in any case in which he or she has been involved.

It is the responsibility of the Committee to evaluate petitions, consider the evidence, and where warranted, conduct hearings and advise the Chancellor on appeals of the kind mentioned here.

As noted in these Policies, "the Committee may at any time submit policy suggestions to the Chancellor as experience dictates, toward the end of improving the fairness and effectiveness of these hearings."

Procedures for Grievances Concerning Interpretation and Application of Any Provision of These Policies Other than Discharge for Cause

Appeals invoking grievance procedures will include matters as noted in these Policies "concerning the interpretation and application of any provision of these Policies; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections IV.A. (Discontinuation of appointment, with notice), IV.B. (Expiration of term appointment), or IV.C. (Termination of employment because of financial exigency or program curtailment or elimination), may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI. or VII. of these Policies."

As noted in these Policies, "the petition for review should be made in a timely fashion and addressed to the Chair of the Committee, with a copy to the Chancellor.

The petition shall explain the circumstances that led to and justify the grievance, not to exceed four pages in length. A grievance may be considered only on the basis of a prior written statement by the employee bringing the complaint. Review may be granted only when the determination is made by the Chair, or his or her delegate, that the employee filing the grievance has been unsuccessful in resolving it through discussion with the administrative officials most directly empowered to adjust the matter.

A petition for review constitutes on the employee's part: (1) a representation that he or she can support his or her contention, and (2) an agreement that the University may offer in rebuttal of his or her contention any relevant data within its possession.

If the Committee determines that the alleged violations, if proven true, would constitute violations of the provisions of Sections VI. or VII. of these Policies, or violations of the applicable notice requirements, then a hearing must be held to give the petitioner an opportunity to prove his or her allegations. If the Committee determines that the allegations, even if proven true, would not constitute a violation of applicable notice requirements or a violation of the provisions of Sections VI. or VII., there would be no basis for proceeding with a formal hearing.

As noted in these Policies, "the hearing will be conducted as directed by the Chair of the Committee, guided by the sole purpose of providing a fair, balanced and dispassionate hearing." Prior to conducting the hearing, the Chair of the Committee is empowered to review the appeal in the manner that seems most expedient, including the delegation of responsibilities to one or more members or subcommittees of the Committee. These delegated responsibilities may include hearing representations by the persons directly involved in the grievances, by encouraging voluntary adjustment by the employee and the department head or administrative official directly involved. Once a hearing begins, the Committee's role in encouraging voluntary adjustments normally will conclude, giving way to the formal review process.

As noted in these Policies, after a hearing, "the Committee's findings, opinions and recommendations will be written and delivered to the Chancellor with a copy to the grievant normally within 30 days after receipt of the petition for review. Additional time may be requested by the Chair from the Chancellor as needed."

As noted in these Policies, "the Chancellor's decision upon receipt of the Committee's recommendations is final. Review thereafter may be had in accordance with the provisions of Section 609 C of *The Code of the Board of Governors of The University of North Carolina*."

Procedures for Grievance Concerning Discharge for Cause

Grievance procedures concerning the interpretation and application by administrative decision of any provision of Section IV.D., (Discharge for Cause) of these Policies shall be as follows:

1. Letters of discharge for cause may come only from the senior administrative officer responsible to the Chancellor in that functional area.
2. As noted in these Policies, "in the case of an appeal on the basis of discharge for cause, the employee will have ten (10) days ("day" shall mean any day except Saturday, Sunday or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the Chair, with a copy to the Chancellor."
3. If, within ten (10) days after the employee receives the notice of intent to discharge, the employee makes no written statement explaining the grievance and request for review, he or she may be discharged without recourse to any further institutional procedure by a written letter of discharge from the senior administrative officer responsible to the Chancellor in the functional area.
4. If the employee makes a written request within ten (10) days for a hearing, the Chair of the Committee shall ensure that a hearing is accorded before the Committee. The hearing shall be based upon "the employee's written statement explaining the grievance." The Committee shall give the employee ten (10) days from the time it receives the written request for a hearing to prepare his or her defense. The Committee may, upon the employee's written request and for good cause, extend this time by written notice to the employee.
5. The hearing shall be closed to the public unless the employee and the Committee agree that it may be open. The employee shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and question witnesses, and to examine all documents and other demonstrative evidence. The Chancellor will designate the University's representative or counsel, who will participate in the hearing and who may present evidence, question witnesses, and present arguments. The Chair will secure the services of a court reporter for the hearing. A copy of the transcript of the hearing will be furnished to the grievant at the University's expense, as soon as practicable after it is made available to the University by the court reporter. When no longer needed for appeal purposes, the University's copy of the transcript will become a part of the grievant's personnel file maintained in the Office of the Provost.
6. As noted in these Policies, "any claim by the Committee upon the time of University Counsel should first be approved by the Chancellor."
7. In reaching decisions on which its written recommendations to the Chancellor shall be based, the Committee shall consider only such written and oral arguments presented at the hearing as the Committee may allow. The Committee shall make its written recommendations to the Chancellor within ten (10) days after its hearing concludes.
8. If the Chancellor receives and accepts a recommendation from the Committee that the discharge should be reversed, his or her decision is final. If the Chancellor either declines to accept a Committee recommendation that the discharge should be reversed or concurs in a Committee recommendation that the original decision to discharge the employee stand, the employee may appeal the Chancellor's decision in accordance with the provisions of Section 609 C of *The Code of the Board of Governors of The University of North Carolina*.

9. As noted in these Policies, "when an employee occupying a covered position has been notified of the University's intention to discharge him or her for cause, the Chancellor may suspend his or her employment at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein; the power to suspend shall be invoked only in exceptional circumstances and such suspension shall be with full pay."

Procedures for Grievances Other than Those Covered by the Personnel Policies

The Chancellor may, at his or her discretion, ask the EPA Nonfaculty Appeals Committee to serve as a general grievance committee in instances when employees in covered positions seek the review of possible grievances that are not covered in these Policies.