

# UNC CHARLOTTE ACADEMIC PROCEDURE: PROCEDURES FOR RESOLVING FACULTY GRIEVANCES (ARISING UNDER SECTION 607(3) OF THE CODE OF THE UNIVERSITY OF NORTH CAROLINA)

## I. 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 [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. *Applicable to all [Section 607\(3\)](#) grievances filed on or after April 13, 2022.*

## II. PROCEDURE STATEMENT

### 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 *other than* those involving decisions about reappointment, promotion, and the conferral of tenure, discharge, termination, or 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](#). 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, 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 who 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;
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 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 to determine whether the petition should be referred to a Lead Investigator 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 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, 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 / Petition Review Process

1. The Faculty Grievance Advisor shall review each petition and to determine whether:
  - the petition contains all of the required elements described in [Section III.A](#) of this procedure;
  - the facts described in the petition, if true, would be sufficient to establish 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; and
  - 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 limit for good cause shown.

The Faculty Grievance Advisor may 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. 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. The Lead Investigator 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**. If so, the Lead Investigator will review the 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 members 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. 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, as appropriate.

## V. 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 with respect 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. 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 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 VI. 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 V.B and V.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 V.B and V.D to fill the vacancy for the unexpired term.

## **Section VI. Administrative Decision**

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

If the grievance is not fully resolved through the informal resolution process, 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, 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. 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.

### **F. Chancellor's Decision**

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.

### **G. 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.

### **H. 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.



## I. 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 VI 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 did not find in favor of the petitioner, then the decision of the Chancellor is final and may not be appealed.
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 (1) of the time limit within which the petitioner may file a petition for review by the Executive Committee, (2) that a written notice of appeal containing a brief statement of the basis for appeal is required within the ten-day period and, (3) that, after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established. 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 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. 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, the petitioner must demonstrate that the Chancellor's decision was clearly erroneous, that it violated applicable federal or state law 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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### **III. DEFINITIONS**

There are currently no definitions.

### **IV. PROCEDURE CONTACT(S)**

- **Authority:** [Office of the Provost and Vice Chancellor for Academic Affairs](#)
- **Responsible Office:** [Office of the Provost and Vice Chancellor for Academic Affairs](#)
- **Additional Contact(s):** [Office of Legal Affairs](#)

### **V. HISTORY**

- **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
- **Revised (approved by the Board of Trustees):** December 3, 2004
- **Revised (approved by the Board of Trustees):** October 11, 2017
- **Revised (endorsed by the Faculty Council):** October 28, 2021