

APPELATE RIGHTS TO THE BOARD OF TRUSTEES



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BOT Governance Committee
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EHRA-FACULTY

Discharge/Imposition of Serious Sanctions (UNC Code Chapter 603/Regulation 101.3.1.1 [R])

- Faculty right to a hearing before standing faculty committee; Committee is advisory to the Chancellor.
- Faculty member may appeal the Chancellor's decision to the BOT based on:
 - > Materially flawed process;
 - > The result reached by the Chancellor was clearly erroneous;
 - > or Decision was contrary to controlling law or policy.
- Appeal must be decided by the full Board of Trustees
 - > Determine whether there is clear and convincing evidence to support Chancellor's decision (deference)
 - > Board of Trustees may delegate initial review to an ad hoc committee of at least three (3) members.
 - > Review normally on the record with option for written or oral arguments.
 - > Decision should be issued "as soon as reasonably possible."

EHRA-FACULTY

Discharge/Imposition of Serious Sanctions (UNC Code Chapter 603/Regulation 101.3.1.1 [R])

- Board determines if the faculty member's written grounds for review raise one of the three (3) allowable grounds for appeal. The Board may dismiss the appeal if the issues presented do not fit within the established ground for appeal.
- Board does not reweigh evidence, express independent judgment of the facts, determine credibility of witnesses.
 - > Flawed process – faculty member must demonstrate that faculty committee or chancellor did not follow its own procedures and that such failure materially impacted the credibility, reliability, and fairness of the process (e.g., if not for the error, a different decision would have been reached).
 - > Clearly erroneous – was the decision reached a reasonable one, in light of the competent evidence?
 - > Law or policy – was disregarded, misinterpreted, or misapplied to the facts of the case.

EHRA-FACULTY

NonReappointment/Denial of Tenure (UNC Code Chapter 604/101.3.1.2[R])

Faculty right to a hearing before standing faculty committee; Committee is advisory to the Chancellor.

Faculty member may appeal the Chancellor's decision to the BOT based on:

- Materially flawed process;
- The result reached by the Chancellor was clearly erroneous; or
- Decision was contrary to controlling law or policy.

Appeal must be decided by the full Board of Trustees

- Determine whether there is clear and convincing evidence to support Chancellor's decision (deference)
- Board of Trustees may delegate initial review to an ad hoc committee of at least three (3) members.
- Review normally on the record with option for written or oral arguments.
- Decision should be issued "as soon as expeditiously as practical."

EHRA-FACULTY

Termination (UNC Code Chapter 605)



Financial exigency or major curtailment or program elimination.



Campus based reconsideration process/hearing to determine if the decision to terminate was arbitrary or capricious



Faculty member may appeal the reconsideration decision to the Board of Trustees pursuant to the campus-based policy.

EHRA-FACULTY

Grievances (UNC Code Chapter 607/Regulation 101.3.2)

- Faculty member required to mediate grievance before a hearing before faculty standing committee; request for hearing not automatic.
- Board of Trustees may delegate to a designated committee the authority to make procedural decisions and to make final decision on behalf of the Board.
- Board shall issue a decision of the grievance "as expeditiously as practical"
- Faculty member must demonstrate to the Board that the Chancellor's decision was "clearly erroneous, violated applicable federal or state law or university policies, or that the process used to decide the grievance was materially flawed"

EHRA-NONFACULTY

Grievances (UNC Code Chapter 611)

- EHRA-NonFaculty (at-will employees) may seek review of decision to discontinue, terminate or discharge as well as other adverse personnel actions or nonreappointment.
- Reviews allowable for alleged violations of:
 - > Failure to provide the required notice periods;
 - > Unlawful discrimination; or
 - > Protected activity – first amendment rights.

STUDENT DISCIPLINE

Grievances (UNC Code Chapter 502D)



CODE OUTLINES SUBSTANTIVE AND PROCEDURE ALL DUE PROCESS REQUIREMENTS FOR STUDENT DISCIPLINARY PROCEEDINGS.



SUSPENSION DECISIONS MADE BY VC FOR STUDENT AFFAIRS WITH APPEAL TO CHANCELLOR AND BOARD; EXPULSION DECISIONS MADE BY CHANCELLOR WITH APPEAL TO BOARD. ONE LEVEL OF INSTITUTIONAL APPEAL MUST BE ALLOWED.



N.C. A&T STUDENT HANDBOOK PROVIDES FOR APPEAL TO BOT FOR ALL EXPULSION AND SUSPENSION MATTERS.

QUESTIONS????

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