

Guidelines on Determining Proper Routes of Appeal

A recent request for appellate review of a chancellor's disposition of a grievance raised a question about Section 501C(4) of *The Code*, which provides in relevant part: A faculty member "may have the right to appeal the disposition of grievances to the chancellor, and from the chancellor to the President, and from the President to the Board of Governors; provided, that appeals based on policies, rules or regulations adopted by the Board of Trustees shall be addressed initially to the chancellor, and from the chancellor to the Board of Trustees, and, where allowed, from the Board of Trustees to the Board of Governors" The question concerns interpretation of the phrase "policies, rules or regulations adopted by the Board of Trustees," and the consequent routing of an appeal from the chancellor either to the President or to the Board of Trustees.

In the case at issue (involving a dispute about entitlement to summer session employment), following the chancellor's decision the grievant was instructed to address the appeal to the Board of Trustees, rather than to the President, because the grievance procedure that was invoked by the faculty member to resolve the dispute had been established by the Board of Trustees; however, no substantive policy of the Board of Trustees was implicated by the grievance.

The Committee on Personnel and Tenure and the Committee on University Governance of the Board of Governors have concluded that the proviso of Section 501C(4) of *The Code*, requiring trustee consideration of an appeal, applies only when the dispute is based on a substantive policy of the Board of Trustees. If a trustee "law" (i.e., "policies, rules or regulations" that confer rights or impose obligations) is at issue, the trustees properly should have first opportunity and first responsibility to oversee the proper interpretation and application of their requirements. However, for controversies in which the merits are not affected by trustee legislation, the President is the first level of appeal beyond the chancellor. For example, an allegation that a decision not to reappoint a tenure-track faculty member was based on a consideration made impermissible by institutional tenure regulations (e.g., discrimination or personal malice) does implicate trustee policy, and the route of appeal would be from the chancellor to the Board of Trustees to the Board of Governors; on the other hand, a dispute about denial of a merit salary increase typically does not involve any trustee policy and thus would be appealed from the chancellor to the President to the Board of Governors.

[This is a rewrite of a memorandum dated May 24, 1995, from the Vice President for Academic Affairs.]

(Effective January 1, 2004, this guideline will be repealed).