

Dear Members the Board of Governors,

As you debate the merits of promoting SB 575 in the legislature please consider the following concerns voiced by workers, students, faculty, and members of the community. The Coalition for Workplace Democracy is dedicated to stopping Senate Bill 575 from silencing 22,000 of our university community's most vulnerable. The State Personnel Act was enacted to fill the gaps that existed in state and federal laws. Anti-discrimination policies can be vague and only hold if there are oversight bodies that investigate and oversee their enforcement. The SPA provides such a mechanism but SB 575 would do away with it, leaving only the BOG, a body that is not held accountable by voters, to look out for employee interests. Although President Tom Ross has put forth guiding principles that indicate what policies the University system will implement, the Coalition feels that these principles are insufficient and cannot replace the legal protections that the State Personnel Act guarantees for the following reasons:

**1. Lack of Accountability:**

Under SB 575, university employees would lose the right to appeal results of a potentially unfair grievance process. Currently, employees can appeal to state-level offices in the event of a problematic decision at the university level. That right is outlined in section 8 of the State Personnel Act. The guiding principles put out by President Tom Ross' office make clear that all grievance procedures and "opportunities to be heard" will only be available at the university level.

**2. No Sustainability**

Even if current administration and Board of Governors is favorable towards workers, once leadership changes, workers rights policies can change. This is not sustainable, as employees must rely on benevolence of management for critical pieces of their life such as job security.

**3. Vagueness**

The bill's language is deliberately vague to give the university free rein to determine the parameters of employment. In addition, the Guiding Principles issued by Tom Ross' office do not include specific language to ensure that these principles have a legal enforcement mechanism. Despite how well intentioned they may be, they are just empty promises. Tom Ross has clearly stated that workers just have to trust them to do what is right. That is a lot of trust to have when your livelihood is on the line. They continuously refuse to lay out the system or any details outlining rights until after they have received complete power over all of the parameters of employment.

*Excerpt from Campus Blueprint Magazine article on SB 575 by Sarah Bufkin:*

For SEANC, the most important flaw in the guiding principles is the University system's refusal to include a property-rights guarantee, which would ensure that none of the employees would become at-will or able to be fired for any reason at any time. As the principles currently stand, employees would be phased into at-will positions once the new personnel system was up and running.

“Upon implementation of the unified system, employees previously identified as ‘SPA’ will not be required to become ‘at will’ in their current jobs,” the document on the University system website states. “Employees may choose to apply for and accept transfers or promotions to ‘at will’ positions.”

According to Chelsea Philips, a SEANC organizer working in western North Carolina, SEANC lobbyists have met with the Board of Governors several times about adding a provision preventing at-will employment, yet have consistently been told no. If they aren’t planning on turning employees into at-will employees, Philips asked, then why won’t they agree to put that in the law?

#### 4. **Pattern**

This is not the first time a North Carolina public institution has made a move towards removing workers from the protections of the State Personnel Act. UNC Hospital employees are exempt from the protections of the Act as are small groups of workers at the university. The trend is towards removing rights, not protecting them:

*Excerpt from the Campus Blueprint Article on SB 575 by Sarah Bufkin:*

In 1998, the Board of Governors pushed a similar measure to SB 575 and removed hospital employees statewide from the SPA by creating UNC Healthcare as a separate entity, complete with its own personnel system. University officials have cited the success of UNC Healthcare in making their bid to remove the rest of its employees from SPA, but those who work with hospital employees in the Chapel Hill area say there are serious reasons for concern.

“The reason things have been fairly quiet is because it is impossible to file grievances,” said Clay Turner, an attorney at the firm, McSurley and Turner, which specializes in civil rights litigation in the Chapel Hill area.

Although both the Healthcare system and the SPA provide grievance processes for their workers, the ease of access, quality of resources, and structure of the two systems differ widely—and offer employees widely different chances for relief.

In the case of the SPA, the grievance form is several pages long and provides a list of various grievances that employees can check, thereby providing the workers with a much better chance of fully explaining their claim. The SPA website includes links to multi-paged documents detailing all of an employee’s rights, the ins and outs of the grievance process, and guidelines for how to navigate all of the technical jargon.

In contrast, the UNC Healthcare system hands out a grievance form that requires the employee to write in his or her answers to three questions: ‘Nature of grievance,’ ‘Brief statement of facts,’ and ‘Relief.’ The procedure itself is discussed in only a few pages. None of these documents are provided on a website but can only be obtained by going

in to ask management.

“Someone making \$20,000 a year without even a high school education is not going to be able to navigate [this grievance process,]” Turner said.

Turner referenced one Latino housekeeper he had spoken with who had gone to management to file a grievance for workplace discrimination. He brought 12 eyewitnesses along with him, and yet Human Resources told him that he had no basis for a claim and was refused the chance to even fill out a grievance form.

The problems don’t end, however, once a Healthcare employee is fortunate enough to receive a grievance form. Under the SPA system, the employees must go through two stages of hearings internally before they are able to take their claim to a court—where their claim is overheard by a neutral, administratively-experienced judge, where they have due process rights, where attorneys can cross examine witnesses and present testimony.

In the Healthcare system, on the other hand, that evidentiary hearing on the claim takes place internally before the Board of Governors. In that hearing environment, says Turners, workers are often times denied due process rights, such as cross examination, the presentation of witnesses, and an unbiased, impartial adjudicator. By the time the grievance makes it out of the UNC Healthcare System at the final appeal, an outside body like the Superior Court can only review the record compiled in the skewed hearing. At that time, the employee cannot introduce any new evidence to back up his or her claim.

“[Employees have] a hugely better winning percentage in front of a judge,” Turner said.

Without the SPA protections, university employees won’t see a judge until the final stage, at which point most of their fate has already been decided by “a kangaroo court,” according to Turner.

##### **5. Undemocratic**

Despite claiming to want employee feedback, they have systematically ignored them. They have not responded once to our coalition of workers, faculty, students and community members to address the issues we have presented. The feedback they received was unrepresentative (.1% of all SPA employees), yet they pretended that they received enough feedback to move forward. If that is the standard for substantial input, we must worry about the feedback they will deem acceptable when developing the system of rights and processes.

Even in the small, unrepresentative sample of feedback they received, they ignored the most pressing questions and concerns and only responded with an updated version of the guiding principles that is only slightly more specific. As one of the respondents

wrote, “The overall guidelines seem fine, however, the devil will be in the details.” and it is those important details that they refuse to release. Those pushing forth this policy clearly only want symbolic feedback and refuse to take any legitimate concerns into consideration, just as they have continuously ignored any attempts at communication from our coalition. The updated guiding principles showed that the only feedback being considered is that which is convenient to the administration, and not that which is pressing to workers. This is worrisome if the claim that employees will be involved in the development of the system is to be trusted, because there is no way to legally guarantee this and they have been ignored in the process of formulating the guiding principles already.

The employee forum resolution attached at the end of this document highlights this troubling pattern. They were asked for feedback and specifically stated that the bill should provide a series of provisions protected by state law so as to be recognized by the courts. However, the updated guiding principles still do not ensure all of those rights, which is indicative of the problems with the current input process and the fact that the Board is still considering moving forward despite employee disagreement.

*Please consider the following worker feedback:*

#### **Worker Testimonial 1**

I’m a housekeeper for the University of North Carolina at Chapel Hill. Over the eight years that I’ve worked at UNC, I have seen some of my co-workers lose their job for no reason.

I feel that if SB 575 is passed, this process of firing employees for no reason will increase. I have been on several committees in my eight years as a housekeeper, and many promises have been made to us about change for the better of the department. As of today, housekeepers still have an uphill battle.

#### **Worker Testimonial 2**

That word, “grievance” doesn’t exist in my vocabulary. We try to talk to them and it just makes it worse. They say they’ll take care of the situation but they don’t. So we don’t trust them. And we don’t trust them that our job is gonna be there tomorrow. We don’t trust them because of how we are treated. They treat us like slaves, they want us to run like batteries. Even if we’re sick or hurt, they make us run like robots. They always want us to do more for the same salary.

If this bill passes, we will come in everyday afraid. We already feel afraid. We don’t want this bill. Our futures depend on this job. I have to keep this job, I have to feed my kids. And I can’t feel uncomfortable coming to work every day, afraid to lose my sick days, my retirement, my job. They want to take away our rights, our retirement. That’s not fair. We don’t want this bill.

#### **Worker Testimonial 3**

## APPENDIX P

As an employee of UNC, this isn't the first time I've thought about workers' rights. I moved to Chapel Hill in 2000 and (was) hired by the University in 2005, I've been over-worked, underpaid, passed over for promotion and denied due process. I've even been openly discriminated against.

We need power to protect ourselves and to ensure we have a sense of mastery over our lives. We don't approve of the bill's goals. Even the most appropriate means won't make that end acceptable. We don't like the way it's been introduced. It's being employed in a manipulative,, coercive or domineering way. Power OVER rather than power TO. Power is being abused and the criticism is valid.

Do we want to live in a modern society or do we want to regress to "Little House on the Prairie"?

### **Retired Worker Testimonial 4**

Closer to the University means better for employees may be the argument they're pushing, but the NC Community College System is this kind of arrangement and it's fraught with problems for employees. "Closer" really means further away from legal protections guaranteed by the SPA. "Closer" means that a system school could put whatever it wants into its policies and procedures manual and decide personnel matters in house and with the knowledge that workers are trapped in the school's web. The strong counter-argument can be drawn from folks who who have worked in this kind of closed system. SPA is the lifeline that can protect. Ross's naive "trust" point reveals that he's far away from the realities that workers face, and the testimonies we make available will show this.

### **Just today 40 workers came together to discuss SB 575. This is what they had to say:**

"The fact that they would do this without talking to us is ridiculous. i have 15 years until my retirement and I feel scared. They should be supporting us."

"We know why they're doing this. They don't care if we lose our jobs"

"Age discrimination is one of the easiest reasons to get rid of us. With this they can. They want to make way for contracted workers."

"The future employees are the ones who will suffer."

"My wife is an employee at the hospital she has gone to Human Resources and they have said, "If you can't deal with it on your own, find a new job.""

"They need to speak to workers about this instead of just running it through. Workers here don't have any say so about anything. Just like 3-10s. It's what they want not what employees want."

### **Sample Worker Feedback collected by the Human Resources Department that went unaddressed:**

"These principles are too vague and general to provide any useful comment."

"I am not currently in favor of removing UNC employees from the OSP system because

there are no details of what any proposed new personnel system would look like.”

“Please give more details on each of your 8 points as most of us don’t really know what things like ‘best practices in public higher education’ and ‘property rights’ are. Give us some specific examples in layman’s terms of what this will do to or for us.”

“If this change means that EPA employees would enjoy the same protections that SPA employees currently have (e.g. severance packages, etc), without losing their existing benefits, then it seems like a step in the right direction.”

**“After talking to several people at UNC Hospital, going away from the SPA does not sound like a very good move.” (Hospital Workers are currently EPA)**

*Excerpt from Blueprint article on SB 575 by Sarah Bufkin:*

But even though such a move could have potentially huge consequences for the housekeeping staff, the University has not made much of an effort to publicize it among employees. Odessa Davis, who has worked as a housekeeper at UNC for close to 20 years, has found it difficult to get information out of the university.

“They don’t tell us,” Davis said. “We have to find out in bits and pieces. But we know better. They tell us that it’s benefiting because you’ll get more out of this and more out of that. But we already know [better].”

SEANC’s more than 55,000 public employees voted to make opposition to the SPA repeal the union’s third highest priority for this legislative session. And much of the UNC housekeeping staff is also aware of the measure and has expressed their opposition. The newly-constituted Employee Forum recently approved a resolution criticizing the switch to a single personnel system.

Davis is one of the housekeepers taking the lead in raising awareness on campus about this issue.

“If we get that bill, we won’t have no say-so,” Davis said. “They can just fire us just like that. With no excuse. So I think it’s very important that they know as much as they can about that bill.”

Thank you for your consideration. Hopefully this has demonstrated to you why the Board of Governors should rescind their support for this proposal. We truly hope we can count on your support as an ally in this struggle for fairness and respect for the people that work so incredibly hard to maintain our great institutions.

*We ask that Tom Ross and/or members of the board host public forums on each university campus for workers, students, faculty and community members. This is vital to creating a democratic process where you can truly hear worker questions and feedback. If you truly feel our criticisms are unfair you can publicly defend your positions. Moving forward without truly hearing the concerns of workers is unacceptable for any public institution but especially for one that aims to mold the future leaders of our society.*

Thank you,

The Coalition for Workplace Democracy

## APPENDIX P

### UNC Employee Forum Resolution on SB 575:

BE IT RESOLVED that the Employee Forum of UNC Chapel Hill does not support provisions in SB575 pertaining to the removal of UNC staff from SPC oversight; but

BE IT FURTHER RESOLVED that the Employee Forum of UNC Chapel Hill would support an alternate, separate HR system as proposed in SB575 only if it provides to all current employees, whether currently classified as SPA or as EPA Non-faculty, all of the following:

1. Is developed in a collaborative process involving staff, faculty, and administration with decisions made as prescribed by a written procedure agreed upon by those involved;
2. Utilizes the same process when reviewing HR policies in the future;
3. Provides all of the following provisions protected by state law so as to be recognized by the courts:

- Career status granting a property interest

- Paid holidays

- Paid vacation and sick leave

- Longevity pay

- Severance pay

- Voluntary shared leave

- RIF re-employment priority rights

- Protection from political coercion

- Veteran's preference

- Grievance procedure

- Whistleblower protection

- Right to communicate with legislators

BE IT FURTHER RESOLVED that the Employee Forum of UNC Chapel Hill advises the Chancellor and his administration that loss of an explicit, collaborative decision making process will undoubtedly lead to a loss of talented and skilled employees and the ability to recruit staff in the future and asks that any future discussions with the Board of Governors regarding SB575 reflect this resolution.