

[THIS SECTION IS EFFECTIVE FOR PERSONNEL ACTIONS TAKEN ON OR AFTER SEPTEMBER 1, 2009]

*CODE*

SECTION 611. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT (EPA)

(1) Review Processes. Certain non-faculty employees, as described in sub-section (1)(b) below, who are exempt from the State Personnel Act, may seek review under procedures provided for by this section in the event that the employee is discontinued, terminated, or discharged from employment, suffers other adverse personnel action, or is not appointed following the end of a term appointment. Each constituent institution shall develop procedures applicable to employees of the constituent institution, and General Administration shall develop procedures applicable to those of its employees who are covered by this section. Such procedures shall, at a minimum, provide for the following:

(a) A reasonable time within which a covered employee or former employee may file a request for review, after receiving notice of a personnel action covered by this section. If a covered person does not timely file a written request for review, then the personnel action is final without recourse to any institutional review, appeal or grievance procedure.

(b) Covered persons may seek review of personnel actions based on allegations that:

(i) Notice

(A) For Senior Academic and Administration Officers defined only in UNC Policy 300.1.1 I.B., for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.1.1 III.B. 1., 2., and 3. of the University Policy Manual; and

(B) For other employees exempt from the State Personnel Act, as described only in UNC Policy 300.2.1, for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.2.1 III. A., B., and C. of the University Policy Manual; or

(ii) Equal Employment Opportunity and Protected Activity

(A) For the Senior Academic and Administrative Officers defined in sub-section (i) above, for violations of any provision of sub-sections III.D. or E. of Policy 300.1.1 of the University Policy Manual, and

(B) For the other employees exempt from the State Personnel Act defined directly above in sub-section (ii), for violations of any provision of sections V. or VI. of Policy 300.2.1 of the University Policy Manual; or

(iii) Discharge for Cause, Other Discipline, Policy Interpretation/Application

(A) For the Senior Academic and Administrative Officers defined in sub-section (i) above, for discharge for cause or other disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by policy 300.1.1 III.C. of the University Policy Manual, and

(B) For the other employees exempt from the State Personnel Act defined above in sub-section (ii), for discharge for cause or other

disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by policy 300.2.1 IV. of the University Policy Manual; or

except that for both groups such review may be sought only if the employee alleges the discharge, discipline, or policy interpretation or application was illegal or violated a policy of the Board of Governors.

(c) If the employee or former employee timely files a written request for review, the president (as to an employee of General Administration) or chancellor (as to an employee of a constituent institution), shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

(d) In reaching decisions on which its written recommendations to the president (as to an employee of General Administration) or chancellor (as to an employee of a constituent institution), as appropriate, shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the “greater weight of the evidence.”)

(2) Appeal to the Board of Trustees or Board of Governors.

(a) For employees of a constituent institution, if the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor’s written decision, by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Trustees is final with no further appeal.

(b) For employees of General Administration, if the president concurs in a recommendation of the committee that is favorable to the employee, the president’s decision shall be final. If the president either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the president’s written decision, by filing with the president for transmission to the Board of Governors a written notice of appeal, including a brief statement of the basis for appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Governors is final with no further appeal.