

# TRANSMITTAL LETTER

The University of North Carolina  
*Office of the President*

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Number: 21

May 5, 2003

**Subject:**

Changes to *The Code*

Appeals of Nonreappointment Decisions under Section 604 of *The Code*, Policy 101.3.1

Grievances Filed Pursuant to Section 607 of *The Code*, Policy 101.3.2

Appellate Review under Section 501C(4) of *The Code*, Policy 100.3.1

Guidelines on Determining Proper Routes of Appeal, Guideline 100.3.1[G]

Time Limits on Appeals, Policy 100.3.2

Regulations on Time Limits on Appeals, Regulation 100.3.2.1[R]

Policy Suspending Established Time Limits on Appeals, Policy 100.3.3

Recording and Preserving Evidence in Faculty Grievance Cases, Policy 100.3.4

Interpreting Code Provisions Prohibiting "Personal Malice" in Reappointment Decision Making, Policy 100.3.5

Guidelines for Interpreting Section 607 of *The Code*, Guideline 100.3.6[G]

Faculty Military Leave, Policy 300.2.8

Faculty Community Service Leave, Policy 300.2.10

Policy on Administrative Separation and /or Retreat to a Faculty Position, Policy 300.1.6

Regulations on Administrative Separation and/or Retreat to a Faculty Position, Regulation 300.1.6[R]

Employees Exempt from the State Personnel Act, Policy 300.2.1

Senior Academic and Administrative Officers, Policy 300.1.1

Minimum Requirements for Undergraduate Admission, Policy 700.1.1

Regulations on Long Range Planning, 2004-2009, Regulation 400.2.1.1[R]

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This transmittal letter distributes a number of changes made to *The Code*. The changes were approved by the Board of Governors on 03/21/03 and will be effective from July 1, 2003. Please contact Leslie Winner, Vice President and General Counsel, at 919-843-5844, if you have any questions regarding the changes.

This transmittal letter distributes Policy 101.3.1 Appeals of Nonreappointment Decisions under Section 604 of *The Code* and Policy 101.3.2 Grievances filed Pursuant to Section 607 of *The Code*, which were adopted by the Board of Governors 03/21/03 and will be effective from July 1, 2003. This letter also transmits Policies 100.3.1, 100.3.2, 100.3.3, 100.3.4 and 100.3.5, and Guidelines 100.3.1.1[G] and 100.3.6[G], and Regulation 100.3.2.1[R], all of which were repealed on 03/21/03, effective July 1, 2003. Please contact Leslie Winner, Vice President and General Counsel, at 919-843-5844, if you have any questions regarding these policies, regulation and guidelines.

This transmittal letter distributes Policy 300.2.8, Faculty Military Leave, replaced by the Board of Governors on 03/21/03 and Policy 300.2.10, Faculty Community Service Leave, adopted by the Board of Governors on 03/21/03. Please contact Kitty McCollum, Associate Vice President for Human Resources and University Benefits Officer, at 919-962-4651, if you have any questions regarding these policies.

This transmittal letter distributes Policy 300.1.1, Senior Academic and Administrative Officers, and Policy 300.2.1, Employees Exempt from the State Personnel Act, both policies were amended by the Board of Governors on 03/21/03. Please contact Gretchen Bataille, Senior Vice President for Academic Affairs, at 919-962-4614, if you have any questions regarding these policies.

This Transmittal letter distributes Policy 700.1.1, Minimum Requirements for Undergraduate Admission, amended by the Board of Governors on 04/11/03. Please contact Bobby Kanoy, Associate Vice President for Access and Outreach, at 919-962-1000, if you have any questions regarding this policy.

This transmittal letter distributes Policy 300.1.6, Policy on Administrative Separation and/or Retreat to a Faculty Position, adopted by the Board of Governors on 03/21/03 and Regulation 300.1.6[R] Regulations on Administrative Separation and/or Retreat to a Faculty Position, adopted by the President on 03/21/03. Please contact Gretchen Bataille, Senior Vice President for Academic Affairs, at 919-962-4614, if you have any questions regarding the policy or regulation.

This transmittal letter distributes Regulation 400.2.1.1[R], Regulation on Long Term Planning, 2004 - 2009, which was approved by the President 02/07/03 and replaces the previous Regulation. Please contact Alan Mabe, Vice President for Academic Planning, on 919-962-4589, if you have any questions regarding this regulation.

## Changes to *The Code*

Approved 03/21/03  
Effective July 1, 2003

**301 D.** The Committee on Personnel and Tenure shall consist of seven voting members. Upon recommendation of the president, it shall review and make recommendations to the board with respect to the appointment and compensation of all vice chancellors, senior academic and administrative officers, and persons with permanent tenure. Notwithstanding the provision above, the committee shall not review or recommend the appointment and compensation of vice chancellors, senior academic and administrative officers, and persons with permanent tenure for those campuses delegated the authority to appoint and set compensation for such employees so long as the boards of trustees act consistently with the policy and compensation ranges established by the Board of Governors. Further, the committee shall advise and assist the president in the review and evaluation of tenure policies and regulations which the president shall periodically conduct, and it shall review all appeals from faculty members of the constituent institutions which involve an institution's decision to not to reappoint a faculty member, to deny tenure, to discharge a tenured faculty member, or to impose a serious sanction pursuant to the provisions of Chapter VI of this *Code*.

**301 E.** The Committee on University Governance shall consist of seven voting members. It shall keep under continuous review the application and interpretation of *The Code of the University of North Carolina* and all delegations of authority under that code, and it shall make such recommendations to the Board of Governors for the amending of *The Code* or delegations of authority as may seem appropriate for the effective and efficient operation of the University of North Carolina and its constituent institutions. The committee shall make nominations to the Board of Governors for elections to the boards of trustees of the constituent institutions. The committee shall receive all requests from students of the constituent institutions for appellate review by the Board of Governors pursuant to Section 502 D(3) of this *Code* and from non-faculty employees of the University who are exempt from the State Personnel Act pursuant to Section 609 C of this *Code*.

### **SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW.**

#### **604 A. Notice of Reappointment or Nonreappointment.**

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

- (a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires;
- (b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and
- (c) after two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.

(2) Notice of reappointment or nonreappointment shall be written. If the decision is

not to reappoint, then failure to give timely notice of nonreappointment will oblige the chancellor thereafter to offer a terminal appointment of one academic year.

**604 B. Impermissible Reasons for Nonreappointment.**

In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, sex, religion, national origin, age, disability, or honorable service in the armed services of the United States, or (c) personal malice.

**604 C. Special Faculty Appointments.**

All appointments of visiting faculty, adjunct faculty, or other special categories of faculty such as lecturers, artists-in-residence, or writers-in-residence shall be for only a specified term of service. That term shall be set forth in writing when the appointment is made, and the specification of the length of the appointment shall be deemed to constitute full and timely notice of nonreappointment when that term expires. The provisions of Sections 602 (4) and 604 A shall not apply in these instances.

**604 D.** Subject to limitations contained in the Policies of the Board of Governors, a faculty member who is subject to Code section 604A may appeal to the Board of Governors the decision of a chancellor not to reappoint the faculty member.

**SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.**

**605 A. Definition.**

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605 C(1), subject to the concurrence by the President and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.

**605 B. Timely Notice of Termination.**

(1) When a faculty member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public-service program and such curtailment or elimination of program is not founded upon financial exigency, the faculty member shall be given timely notice as follows:

- (a) one who has permanent tenure shall be given not less than 12 months' notice; and

- (b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

(2) When a faculty member's employment is to be terminated because of financial exigency, the institution will make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give the same notice as set forth in Section 605 B(1).

(3) For a period of two years after the effective date of termination of a faculty member's contract for any of the reasons specified in Section 605 A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be made by a method of delivery that requires a signature for delivery, and the faculty member will be given 30 calendar days after attempted delivery of the notice to accept or reject the offer.

### **605 C. Institutional Procedures.**

The institution shall establish regulations governing termination procedures. These regulations shall include provisions incorporating the following requirements:

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

### **SECTION 607. FACULTY GRIEVANCE COMMITTEE FOR CONSTITUENT INSTITUTIONS.**

(1) The chancellor of each constituent institution shall provide for the establishment of a faculty grievance committee. The faculty grievance committee shall be elected by the faculty

with members elected from each professorial rank. No officer of administration shall serve on the committee. For purposes of this section, "officer of administration" shall be deemed to include department chairs and department heads.

(2) The committee shall be authorized to hear and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the persons directly involved in a grievance, to facilitate voluntary adjustment by the parties, and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the chancellor only after the dean, department head, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.

(3) "Grievances" within the province of the committee's power shall include matters directly related to a faculty member's employment status and institutional relationships within the constituent institution. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.

(4) If any faculty member has a grievance, the faculty member may petition the faculty grievance committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition.

(5) If, before this section is established, the faculty of an institution has adopted a faculty grievance procedure that in its judgment is adequate to its needs, it may retain that procedure in place of the one specified above.<sup>1</sup>

(6) If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. The decision of the board of trustees is final.

## **SECTION 609. APPELLATE JURISDICTION OF THE BOARD OF GOVERNORS.**

### **609 A. Discretionary Review.**

Nothing contained in Chapter VI, or any other chapter of the *Code*, shall be construed to limit the right of the Board of Governors to make such inquiry and review into personnel actions as it may from time to time deem appropriate.

### **609 B. Hearings.**

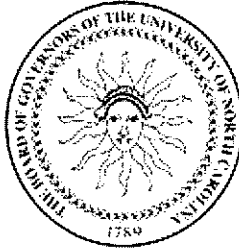
The Board of Governors may in its sole discretion conduct hearings. Any hearing, whether before the full board or a designated standing or special committee of the board, shall be limited to such matters as the Board of Governors shall deem appropriate.

### **609 C. Appeals by Non-Faculty Exempt Employees**

A non-faculty employee who is exempt from the State Personnel Act whose employment is terminated and who alleges that the termination was illegal or violated a Policy of the Board of Governors may appeal the decision in accordance with procedures established by the constituent institution. If the employee is a professional member of the president's staff, as provided for in Section 500 A(2) of this *Code*, then the employee may appeal to the president. Subject to limitations contained in the Policies of the Board of Governors, an employee who alleges that the termination of the employee's employment was illegal or in violation of Board of Governors Policy may appeal the final decision of the constituent institution, or the decision of the president, to terminate the employment to the Board of Governors.

### **609 D. Transmission of Appeals**

All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.



# POLICIES

The University of North Carolina  
*Board of Governors*

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1000.1.1

Adopted 02/09/73  
Amended 06/18/73  
Amended 07/12/74  
Amended 06/11/93  
Amended 02/14/03

## ESTABLISHING TUITION AND FEES

*The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense. –North Carolina Constitution, Article IX, Section 9*

### I. ESTABLISHING TUITION

This citation from the North Carolina Constitution sets the parameters for establishing resident tuition rates at the constituent institutions of The University of North Carolina. The constitutional provisions for setting tuition are codified in General Statute 116-11(7), which states, in part, "*The Board (of Governors) shall set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly.*" This statute governed the setting of tuition rates for both resident and nonresident students from 1971 through 1999 during which time the Board of Governors recommended no tuition increases except as required by statute. This policy outlines the framework to be followed by the Board in establishing tuition levels for constituent institutions, commencing with academic year 2003-2004. Tuition is charged to students enrolled in academic programs during regular terms, summer sessions or through off-campus distance instruction and is used to partially defray the costs of general academic and administrative operations of



campuses, including academic programs and faculty and administrative salaries and benefits.

1. *Board-initiated Tuition Rates*

A. *Undergraduate Tuition – General Policy*

The appropriate tuition policy at the undergraduate level encourages students to pursue academic and intellectual interests without regard to program costs. Accordingly, no difference in tuition between undergraduate programs will occur within an institution, and there will be only minimal differences in undergraduate tuition among campuses in similar institutional categories as defined by the Board to reflect both varying missions and contrasting costs of education. Deviation in undergraduate tuition among campuses in different institutional categories will be based upon institutional offerings and will be reasonable.

B. *Graduate and Professional Tuition – General Policy*

The Board will attempt to extend the principle that tuition be set as low as practicable to graduate and professional students as well as those at the undergraduate level. The financial structure and educational purposes of graduate and professional education, however, are sufficiently different from undergraduate education that distinct tuition policies at the graduate and professional level will be permitted. The application of what is “practicable” varies by level of instruction for a number of reasons, and those differences will be reflected in the tuition policies associated with each.

The Board will apply Article IX, Section 9 of the North Carolina Constitution to graduate and professional level students but with the realization that the costs, sources of funds and purposes of graduate and professional education are materially different from undergraduate education. Tuition for graduate and professional students will be set with an understanding that tuition revenues may be needed to maintain and increase the excellence of the University’s graduate and professional programs. In setting tuition rates, the Board will consider the need to provide access to these programs for students irrespective of their financial capacity as well as the desire to attract and retain the best students to serve North Carolina’s needs in each field.

C. *Tuition for Nonresident Students - General Policy*

Under General Statute 116-144, the Board of Governors is required to set tuition rates for nonresident students at levels “...higher than the rates charged residents of North Carolina and comparable to the rates charged nonresident students by comparable public institutions nationwide. . . .” In complying with the statute, the Board will set tuition for nonresident students after considering the results of a review of rates set by comparable public institutions nationwide. The Board will

further consider the need for tuition remissions for nonresident graduate students when setting tuition rates and tuition remission policies.

*D. Process for Setting Board-initiated Tuition Rates*

- i. Proposed increases in general tuition rates are to be recommended by the President for consideration by the Board. The President will seek counsel from University Chancellors and a committee of campus representatives appointed by each chancellor, before making the recommendations for tuition changes. The committee of campus representatives appointed by each chancellor will include students.
- ii. The President, the chancellors and the committee of campus representatives will consider a number of factors in deciding whether to recommend changes to general tuition rates in any given year. After the President recommends any action to the Board of Governors, the Board will also consider those factors, which include:
  - a. Availability of State general fund revenue to maintain quality and access within the campuses of the University of North Carolina;
  - b. Evidence of institutional efforts to manage costs through increases in productivity, budget flexibility, and/or efficiency improvements;
  - c. Analysis of the impact of tuition and fee charges on student access to the campuses of the University of North Carolina as measured by the college-going rate and other metrics so as not to limit access to the University;
  - d. Changes in various price and income indices (e.g., North Carolina per capita personal income, Consumer Price Index, Higher Education Price Index);
  - e. The current level of student charges (tuition, fees, room and board) at UNC institutions and whether campuses have proposed campus or program tuition differentials for the budget period that would be in addition to general increases in tuition;
  - f. Analysis of student indebtedness levels within the University, viewed in the context of student attrition rates;
  - g. Availability of financial aid and tuition remission and amount of unmet need. Financial aid should be reviewed in the context of the different missions of the institutions, the

diverse capacities of the institutions to provide financial assistance and the contrasting needs of students attending the institutions.

- iii. In academic years ending in odd numbers (e.g., June 30, 2003, the long session of the General Assembly), the Board will act by October of the preceding year or when it adopts its biennial budget request to establish the University's general tuition rates for the next academic year. This timing allows Board action on tuition to be incorporated into the University's budget request as part of its overall financing plan. In academic years ending in even numbers when the Board prepares a supplemental budget request, the Board will set Board-initiated tuition rates in conjunction with its establishment of campus-initiated tuition rates.

## 2. *Campus-initiated Tuition Rates*

- A. Campuses may request increases in tuition to provide revenue for specific purposes and programs. Revenue generated from a campus-initiated change in tuition rates will be accounted for in the budget of the originating campus and transferred within the institution by the chancellor in accordance with the priorities identified in the approved campus proposal.

### B. *Undergraduate Tuition*

The Board recognizes that campuses may experience circumstances that suggest that an across-the-board change in undergraduate tuition may be needed at one or more institutions. In the event that circumstances lead a campus or campuses to the conclusion that a change in undergraduate tuition rates is needed, campuses are permitted to bring proposals for undergraduate tuition changes before the Board for its consideration. Campuses wishing to submit requests for undergraduate tuition changes will conduct a process that includes consultation with participation by students. A campus will consider the following factors when creating an undergraduate tuition proposal.

- i. Availability of State general fund revenue to maintain quality and access within the campuses of the University of North Carolina;
- ii. Evidence of institutional efforts to manage costs through increases in productivity, budget flexibility, and/or efficiency improvements;
- iii. Analysis of the impact of tuition and fee charges on student access to the campuses of the University of North Carolina as measured by the college-going rate and other metrics so as not to limit access to the University;

- iv. Changes in various price and income indices (e.g., North Carolina per capita personal income, Consumer Price Index, Higher Education Price Index);
- v. The current level of student charges (tuition, fees, room and board) at UNC institutions and whether campuses have proposed campus or program tuition differentials for the budget period that would be in addition to general increases in tuition;
- vi. Analysis of student indebtedness levels within the University, viewed in the context of student attrition rates;
- vii. Availability of financial aid and tuition remission and amount of unmet need. Financial aid should be reviewed in the context of the different missions of the institutions, the diverse capacities of the institutions to provide financial assistance and the contrasting needs of students attending the institutions.
- viii. A plan for the intended use of additional tuition receipts (e.g., needed improvements to the educational program, funding for competitive salary increases, financial aid, etc.)

### 3. *Graduate and Professional Tuition*

The Board of Governors will permit individual campuses to initiate requests for Board approval of different base or program tuition rates at the graduate and professional level. If a campus explores the possibility of developing such a request, it will present evidence to ensure that students in the affected graduate and/or professional programs have been consulted. Tuition for graduate and professional students will be set with an emphasis on maintaining and increasing the excellence of the campus' graduate and professional programs as well as ensuring access. To the extent possible, there should be full tuition remission for graduate assistants to improve a campus' competitiveness in recruiting and retaining highly qualified nonresident graduate students.

In reviewing potential criteria to recommend as a basis for deciding when specific graduate or professional tuition differentials may be appropriate at a particular institution, a flexible policy framework that allows judgments to be reached based on a number of factors is preferable either to cost-based formulas or to discipline or program typologies that treat all academic or professional programs the same. In particular, a flexible approach based on the unique factors associated with specific programs is desirable because of the potential mix of graduate and professional programs that one may find within any given school or college; e.g., a professional school may offer a Ph.D. program in addition to one or more professional degree programs. Therefore, the campuses will consider the following factors in developing graduate and professional school tuition proposals.

- A. The anticipated impact of a proposed change on program quality;
- B. The projected impact of a proposed change in tuition on access for North Carolina residents;
- C. The availability of student financial aid for students with economic need and of tuition remission;
- D. The extent to which current and prospective students can afford possible increases in tuition;
- E. The relationship of projected tuition revenue to institutional and/or program costs;
- F. Tuition and fees, net of remissions and waivers, charged by peer institutions or programs, as compared to tuition and fees, net of remissions, at the UNC institution or program (the public subsidy received by students at public institutions or programs in the peer set, including the UNC institution or program in question, will also be identified as part of the comparison);
- G. A plan for the intended use of additional tuition receipts (e.g., needed improvements to the educational program, funding for competitive salary increases, financial aid, etc.); and
- H. Assistantships or grant support for graduate students;
- I. Analysis of student indebtedness levels within the University.

#### 4. *Timing and Review of Board Action*

The Board will act by February of each year, or as soon as possible thereafter, to establish the University's campus-initiated tuition rates for the next academic year. Setting campus-initiated tuition rates by February will permit students and their families to know in early spring what their tuition charges for the fall semester will be, assuming consistency between the actions of the Board of Governors and the General Assembly. Moreover, an institution is required to submit a one-time report at the end of the first full biennium following an approved campus-initiated tuition rate increase in order to confirm that the additional revenues were used as the Board intended in approving the campus request. This will ensure the accountability of a campus for its tuition proposals as well as enable the Board to maintain the University's accountability to the State.

#### 5. *Tuition Requests in Context of Long Range Plans*

All proposals for campus-based tuition increases will include the campus' plan for other tuition increases for a prospective period of five years, including the year of the current application.

## 6. *Individual Consideration of Campus Request*

The Board will review each campus-based tuition request on an individual basis, within the context of the University's long range plan, the need for Board-initiated tuition increases, the state's economic environment, and the financial impact on students. The Board is obligated to exercise its discretion in granting, modifying or denying a campus request.

## II. ESTABLISHING FEES.

The Board of Governors is responsible for establishing fees at the constituent institutions of the University consistent with the philosophy set forth in the North Carolina constitution. Fees will be charged only for limited, dedicated purposes and shall not be used to defray the costs of general academic and administrative operations of campuses, including academic programs and faculty and administrative salaries and benefits. Consistent with the above citation, the Board will make every effort to keep fees for students as low as possible while providing the revenues needed to support the purposes for which the fees are charged.

A. Each year, the Board establishes the fees listed below. All fees established shall be based upon the recommendation of the chancellor, the institutional Board of Trustees, and following his or her review, the President. Excluding the application fee charged to prospective students, all fees set by the Board are annual fees. Once an annual fee has been established, semester rates, summer rates, and part-time rates shall be established by the President. It is the policy of the Board to act no later than February of each year to establish fees for the following fall semester.

1. Although the General Assembly provides for most of the instructional costs of institutions through State appropriations, institutions traditionally rely entirely on student fees to finance a number of activities, services, and facilities. Institutional Boards of Trustees are required to weight the benefits of the activity, facility or service against the fee required to provide financial support. Orientation sessions for the Boards of Trustees will regularly include discussions of the process followed when establishing student fees.

A. *Application Fee.* An application fee shall be established for each institution. Specific programs within an institution may require an application fee different from the fee charged for most students and the Board may set different fees according to program needs.

B. *General Fees.* Fees generally applicable to all students shall be established by the Board of Governors. Four general fees are authorized: athletic fees, health services fees, student activity fees, and educational and technology fees.

C. *Fees Related to the Retirement of Debt Incurred for Capital Projects.* Fees generally applicable to all students that provide revenues for the retirement of debt shall be fixed by the Board of Governors at the time of the borrowing. Indebtedness fees may not include components for operations and maintenance but shall reflect the cost of servicing the debt at the coverage levels required in Board resolutions and other documents authorizing the debt. Changes in fees required subsequent to the issuance of the debt may be approved by the President upon the request of the chancellor. Indebtedness fees expire when the related debt is retired.

D. *Special Fees.* Fees applicable only to students engaged in particular activities or courses of study shall be established by the Board of Governors when needed. These fees will not be used to provide general academic revenues that will be provided for from campus-initiated tuition increases.

2. Each chancellor is authorized to establish miscellaneous service charges for such items as transcripts, diplomas, caps & gowns, special examinations, late registrations, and replacement of I.D. cards. A schedule of such charges shall be filed with the President prior to the beginning of each school year.

3. The process for establishing fees shall be as follows:

A. In academic years ending in odd numbers (e.g., June 30, 2003, prior to the short session of the General Assembly in 2004), the process shall be initiated at the beginning of the fall semester and contain the following steps.

i. The Vice President for Finance shall issue instructions to the campus chancellors calling for them to initiate a review of fees.

ii. Each chancellor shall establish a fee review committee with representatives of all aspects of campus life, including, but not limited to, representatives from Business Affairs, Student Affairs, the Financial Aid Office, and the student body. The Committee shall conduct a complete review of student fees from a zero-based budgeting perspective and shall make recommendations to the chancellor for establishing fees effective with the upcoming fall semester. The review will include an examination of alternative resources, including available institutional reserves, to determine if other funding is available to provide the services in lieu of establishing the fee. The review will include a reassessment of the existing operating methods to ensure that operations are performed in a cost-effective manner. If the committee determines that an increase in a fee is needed, the committee shall attempt to decrease

another fee so that the total cost of education for students does not increase. In order to ensure that all students are able to meet the increased cost of education, the university's financial aid officer, working with the committee, shall determine that sufficient financial aid is available, from whatever sources are possible.

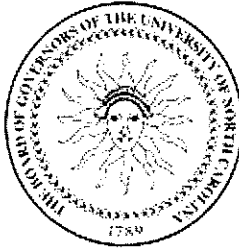
- iii. The chancellor shall review the recommendations of the Committee and present recommendations to the Board of Trustees for review and approval. Before a chancellor makes recommendations to the Board of Trustees, the recommendations of the fee review committee will be shared with student government leaders so that students may inform the chancellor of their perspectives on the proposed changes.
- iv. The recommendations of the Board of Trustees will be forwarded to the President for review.
- v. When the review is completed, the President will present fee recommendations to the Budget and Finance Committee for consideration by the Board of Governors.

Each step in the process shall be an iterative and comprehensive review of the previous step, resulting in changes to the fee recommendations as deemed appropriate.

- B. In academic years ending in even numbers (e.g., June 30, 2004, prior to the long session of the General Assembly in 2005), fee increase proposals submitted by the institutional Board of Trustees to the President may be approved by the President if the increase provides only for the following:
  - i. Additional revenues equal to the amount required for funding compensation increases for fee-supported employees at a level equivalent to the previous years' compensation increases authorized by the General Assembly.
  - ii. Additional revenues for non-personnel items at a level equivalent to increases in the consumer price index.

If a campus requires other changes in fees in academic years ending in even numbers, the process that shall be followed is identical to that followed in academic years ending in odd numbers.





# POLICIES

## The University of North Carolina *Board of Governors*

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101.3.1

Adopted 03/21/03

*Effective Date: This policy applies to appeals of all decisions not to reappoint made on or after July 1, 2003.*

### **APPEALS OF NONREAPPOINTMENT DECISIONS UNDER SECTION 604 OF *THE CODE***

#### **I. The Purpose of the Appellate Process Under Section 604 of *The Code*.**

Within the University, important faculty personnel decisions are based on evaluations of performance rendered by a candidate's immediate colleagues and supervisors, who are in the best position to make such judgments. These assessments are not the product of mechanically applied checklists, criteria or formulas; there is no simple litmus test for outstanding teaching, research or service. Rather, these decisions must reflect careful exercises of discretion, in which the faculty colleagues draw on their own academic knowledge, experience and perceptions to evaluate the candidate's qualifications and performance. Unavoidably and appropriately, such exercises to some extent are subjective and imprecise. Thus, the academic review process seeks to obtain the collective good faith judgment of the candidate's colleagues and responsible university administrators, as the basis for decisions about advancement and reward within the academic community. Provided that these conclusions are based on considerations that are relevant to the candidate's performance and the candidate's promise to contribute to the good of the institution, they are entitled to great deference and weight.

The purpose of reviewing decisions not to reappoint is to determine whether the decision not to reappoint was materially flawed, in violation of applicable laws, policies, standards, or procedures. It is not to second-guess professional judgments based on permissible considerations. The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that *The Code* provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such

that doubt is cast on the integrity of the decision not to reappoint. The purpose of appeal to the Board of Governors is to assure (1) that the campus-based process for making the decision was not materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy.

## II. Campus based decision

- A. **Basis for Appeal:** A decision not to reappoint a faculty member may be made for any reason that is not an impermissible reason. The three impermissible reasons for a decision not to reappoint a faculty member, as stated in Section 604B of *The Code*, are, "(a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, sex, religion, national origin, age, disability, or honorable service in the armed services of the United States, or (c) personal malice." A faculty member who asserts that the procedure for determining whether to reappoint the faculty member was materially flawed or that the decision was based on an impermissible reason may file a notice of appeal from that decision in accordance with the procedure established by the constituent institution.
- B. **Definition of "personal malice":** As used in *The Code*, the term "personal malice" means dislike, animosity, ill-will or hatred based on personal characteristics, traits or circumstances of an individual that are not relevant to valid University decision making. For example, personnel decisions based on negative reactions to an employee's anatomical features, marital status or social acquaintances are intrinsically suspect. If reappointment is withheld because of personal characteristics that cannot be shown to impinge on job performance, a wrong likely has been committed. On the other hand, if personal characteristics can be shown to impede a faculty member's capacity to relate constructively to his or her peers, in a necessarily collegial environment, withholding advancement may be warranted. For example, the undisputed record evidence might establish that the responsible department chair declined to recommend a probationary faculty member for reappointment with tenure because of the faculty member's "unpleasant personality and negative attitude." Disposition of such a case requires a determination of whether the personality and attitude impeded the faculty member's job performance. While the terms "ill-will," "dislike," "hatred" and "malevolence" may connote different degrees of antipathy, such distinctions make no difference in applying the fundamental rationale of the prohibition. Any significant degree of negative feeling toward a candidate based on irrelevant personal factors, regardless of the intensity of that feeling, is an improper basis for making decisions.
- C. **Role of the faculty committee:** The first responsibility for resolving a faculty member's claim of an improper decision not to reappoint is through the established campus process, which, if sufficient allegations are made, includes the opportunity for a formal hearing before a duly constituted faculty committee. Such faculty committees are responsible for receiving relevant evidence, making findings of fact, and providing advice to the chancellor on the merits of the faculty member's allegations. The role of the faculty committee is to create a clear, permanent record of the evidence presented at the hearing and to advise the chancellor whether or not the faculty member has demonstrated, by a preponderance of the evidence, that the decision not to reappoint the faculty member was materially procedurally flawed or was based in significant part on an impermissible reason. The chancellor has final administrative responsibility for deciding the issue, with the assistance of the faculty

committee.

- i. Because hearings in matters of non-reappointments can present complex and difficult questions of fact, policy, and law, and because of the central role of the faculty committee hearing in gathering and preserving the evidence upon which most subsequent decisions related to the matter will be based, it is important for the President and the chancellors to assure that faculty committee members, as well as relevant administrators and aggrieved faculty members, have access to appropriate training materials and guidance to enable them to perform their functions well.
- ii. Each constituent institution should consider whether to extend the length of service of appropriately trained committee chairs, for example to four or five years, in order to assure that each hearing has a skilled person to manage it.
- iii. Each constituent institution must decide whether to allow faculty members to have the assistance of an attorney or other advisor at the hearing and, if so, whether the advisor is permitted actively to participate in the hearing. The Board of Governors discourages constituent institutions from allowing attorneys actively to participate during the hearing. If, however, an attorney will be permitted actively to participate during the hearing on behalf of the faculty member, then the campus should provide legal counsel for the respondent administrator.

- D. **Preservation of evidence:** It is essential that all testimony and other evidence received by a faculty committee be preserved in a form that will permit its later review by the parties to the proceeding, the chancellor, and the Board of Governors. Both the chancellor, in making the final campus decision, and the Board of Governors, in responding to requests for appellate review, must have access to a complete record of the evidence received at the hearing. While the conclusions and recommendations of the faculty committee are entitled to great deference, the chancellor is responsible for determining whether the evidence in the record supports the disposition that has been recommended by the faculty committee. Similarly, the Board of Governors, when considering an appeal from a chancellor's decision, must be able to determine whether the available evidence supports the chancellor's decision.

The Board of Governors recommends that a professional court reporter, or a similarly reliable means, be used to enable the production of a verbatim written transcript of the hearing and properly to maintain a record of the documents received by the committee. Any such record is a part of the personnel inquiry and must be treated with appropriate confidentiality. Only the immediate parties to the controversy, the responsible administrators and attorneys, and the members of the University governing boards, and their respective committees and staffs, are permitted access to such materials.

- E. **The Chancellor's Decision:** The chancellor must base his or her decision on a thorough review of (i) the record evidence from the hearing and (ii) the report of the faculty hearing committee. While the chancellor should give appropriate deference to the advice of the faculty committee, the final campus-based decision is the chancellor's. If the chancellor is considering taking an action that is inconsistent with the recommendation of the hearing committee, the Board of Governors encourages the chancellor to communicate or consult with the hearing committee, either in

person or in writing, regarding the chancellor's concerns before making a decision. The chancellor shall notify the faculty member and relevant administrators of the chancellor's decision in writing.

- F. **Notice of Appeal Rights:** A faculty member who has adequate grounds for appeal may appeal the chancellor's decision not to reappoint the faculty member to the Board of Governors. The chancellor's notice to the faculty member of the decision concerning the faculty member's case must inform the faculty member: (1) of the time limit within which the faculty member may file a notice of appeal with the President requesting review by the Board of Governors, (2) that a simple written notice of appeal with a brief statement of its basis is all that is required within the ten-day period and, (3) that, thereafter, a detailed schedule for the submission of relevant documents will be established if such notice of appeal is received in a timely manner. The notice of the decision is to be conveyed to the faculty member by a method which produces adequate evidence of delivery.
- G. To insure full understanding by all constituencies of the campus, the informational document regularly published by the institution containing faculty information (e.g., the faculty handbook) must include a summary statement of the time limits for appeal established by this policy and any other relevant time limits established by board of trustees' policy.

### III. Appeals to the Board of Governors

- A. **Time Limits for Appeal** A faculty member who wishes to appeal the chancellor's decision must file written notice of appeal with the Board of Governors, by submitting such notice to the President, by certified mail, return receipt requested, or by another means that provides proof of delivery, within 10 days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement of the basis for the appeal. If the Board agrees to consider the appeal, it will do so on a schedule established by the President, subject to any instructions received from the committee or sub-committee of the Board which has jurisdiction of the subject matter of the appeal. If the faculty member fails to comply with the schedule established for perfecting and processing the appeal, the Board in its discretion may extend the period for complying with the schedule or it may dismiss the appeal. The Board of Governors will issue its decision as expeditiously as is practical.
- B. **Review by the Board of Governors:** Under *The Code*, primary reliance is placed on the campus decision-making apparatus; an appeal to the Board of Governors is intended only to determine if the campus-based process or decision had material procedural errors, was clearly erroneous, or was contrary to controlling law or policy. The Board of Governors will exercise jurisdiction under Section 604D of *The Code* in a manner that assures that primary focus will be on the integrity of campus procedures. Three kinds of assignments of error may be raised on appeal to the Board of Governors:
  - 1. **Procedural flaws.** A faculty member may allege on appeal that the hearing conducted by the responsible faculty committee or the process followed by the chancellor, in reviewing the recommendation of the faculty committee, did not comport with institutional requirements. Examples of procedural flaws could be that the committee was not an "elected, standing committee of the faculty" in

contravention of institutional rules; that identified members of the committee had demonstrably conflicting interests which precluded, or could have precluded, their objective and fair assessment of the evidence; or that the committee improperly excluded relevant evidence that arguably would have established the faculty member's contentions. The Board normally will grant requests to review contentions that the grievance procedures followed by the campus in a particular case did not comport with University requirements that materially affected the credibility, reliability and fairness of such inquiries, thereby depriving the faculty member of a valid opportunity to establish his or her contentions. If a faculty member demonstrates that, because of a material procedural flaw, he or she did not receive a fair hearing or fair review by the chancellor, a remedy on appeal normally will be granted. Typically, that would consist of remanding the case for a new, properly conducted hearing or review.

**2. Sufficiency of the evidence.** A faculty member may allege on appeal that the evidence available to the decision maker, taken as a whole, established that the decision not to reappoint was based on an impermissible reason, and that the grievance committee or the chancellor clearly erred in deciding otherwise. A clearly erroneous decision is one that a reasonable person could not have reached, based on the available evidence taken as a whole and the relevant controlling laws or policies. To demonstrate that a decision was clearly erroneous, the faculty member must demonstrate that a reasonable person, viewing the evidence as a whole, could not have reached the conclusion that the decision maker reached. Such an appeal constitutes a request that the Board of Governors review the entire record of evidence generated by the faculty hearing committee (as augmented through any supplemental inquiries conducted by the chancellor) to determine whether reasonable persons could have arrived at the conclusion in question. The issue is not whether the Board of Governors would have evaluated the evidence the same way and reached the same conclusion as did the faculty committee or the chancellor; rather, the question is whether the decision reached was a reasonable one, in light of the available evidence. The Board will not routinely grant requests to review questions about the sufficiency of the evidence to sustain the conclusion reached below. However, the Board may entertain such appeals when the history of the case reveals a difference, with respect to ultimate conclusions of fact, between the responsible faculty hearing committee and the chancellor.

**3. Interpretation of applicable law or policy.** A faculty member may allege on appeal that, in disposing of the grievance, controlling law or University policy was disregarded, misinterpreted, or misapplied to the facts of the case. The Board will grant requests to review University policy or legal issues implicated by a particular decision when the question appears to require intervention by the Board to clarify the definition, interpretation or application of such law or policies.

The first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, of the faculty member's written statement of grounds for appeal to determine whether the issues sought to be raised warrant Board attention, as judged by the three basic standards set out in this policy. If not, the Board may dismiss the appeal without further proceedings.

If the faculty member has made allegations that are sufficient to invoke the jurisdiction of the Board of Governors, and if the Board finds material errors in the campus decision, the

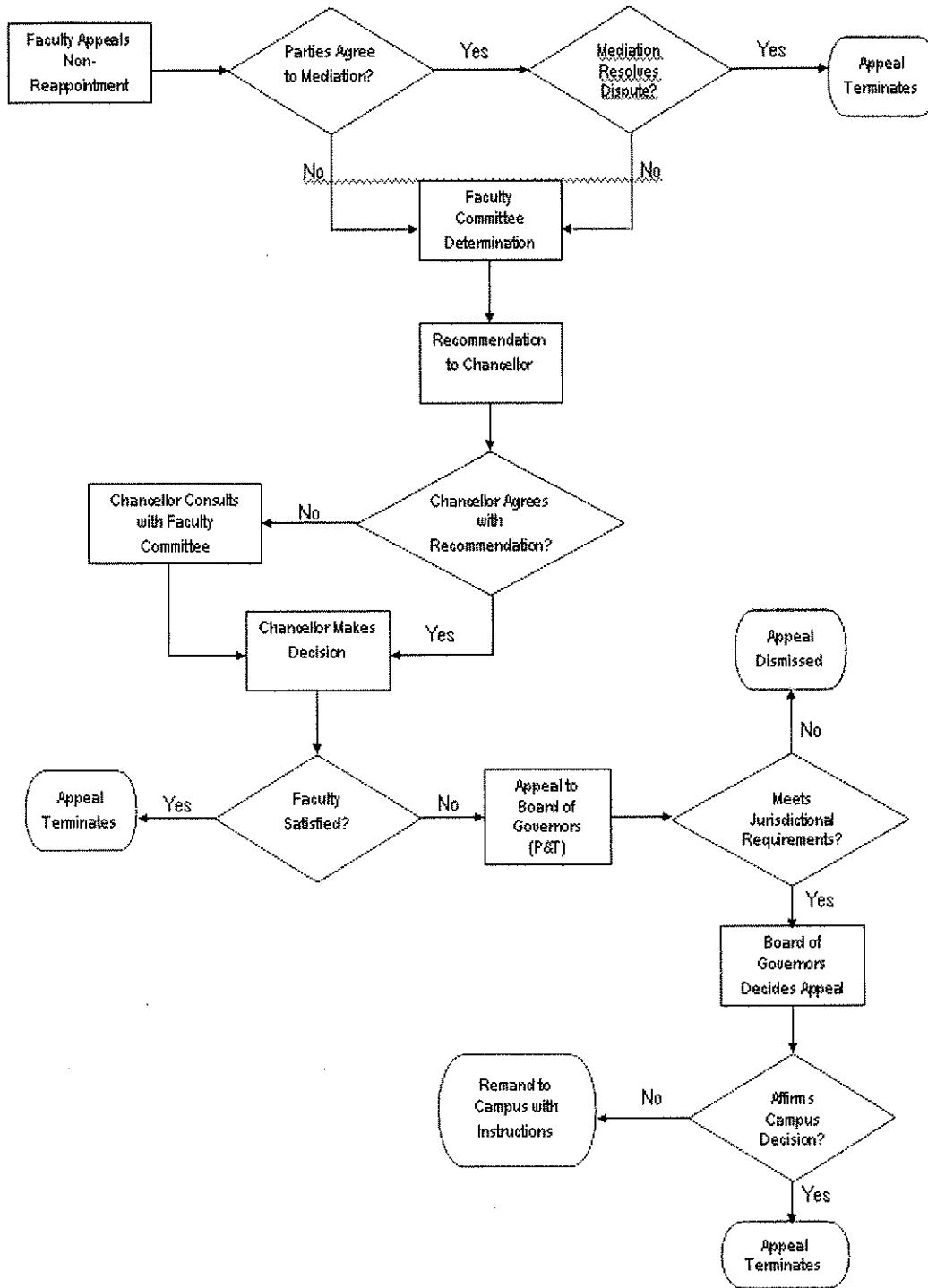
case may be remanded to the campus for a new or supplemental grievance inquiry. The remedy available on appeal is never an award by the Board of Governors of the conferral of tenure, reappointment or promotion, absent a positive recommendation from the constituent institution.

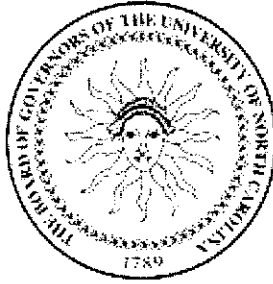
#### **IV. Regulations and guidelines**

The President may issue appropriate regulations and guidelines for effective implementation of this policy.

**Effective Date: This policy applies to appeals of all decisions not to reappoint made on or after July 1, 2003.**

### Process for Appeal of Non-Reappointments





# POLICIES

## The University of North Carolina

### *Board of Governors*

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101.3.2

Adopted 03/21/03

*Effective Date: This policy shall apply to all faculty grievances submitted on or after July 1, 2003.*

#### GRIEVANCES FILED PURSUANT TO SECTION 607 OF THE CODE

##### **I. The Purpose of the Grievance Procedure**

Section 607 of the Code provides a process for faculty members to seek redress concerning employment related grievances. The function of the grievance procedure is to attempt to reach a consensual resolution of the dispute and, if that fails, to determine whether the contested decision was materially flawed, in violation of applicable policies, standards or procedures. The grievance process is not intended to second-guess the professional judgment of officers and colleagues responsible for making administrative decisions.

##### **II. Initiation of the Grievance Process**

- a. Any faculty member who has a grievance, as defined in Section 607(3) of *The Code*, may file a petition for redress in accordance with the procedure established by the constituent institution. The petition of the faculty member shall be in writing and shall set forth in detail the nature of the grievance and against whom the grievance is directed. The petitioner shall set forth any information that he or she considers pertinent to the grievance. The faculty member shall deliver a copy of the petition to the respondent administrator by certified mail or by another means that provides proof of delivery.
- b. Unless the parties to the grievance have participated in mediation prior to the faculty member's filing the petition, before taking any action on the petition, the faculty grievance committee shall refer the matter for mediation in accordance with the policies of the constituent institution.



### III. Mediation of Grievances

- a. Mediation is a procedure in which disputing parties enlist the assistance of a neutral party to help them in achieving a voluntary, bilateral agreement that finally and definitively resolves all or portions of their dispute, without resorting to adversarial procedures such as grievance hearings, administrative hearings or litigation. Any such mediated agreement that the parties are able to negotiate will be embodied in a written agreement.
- b. The appropriate functions of a mediator are to assist the parties in defining, clarifying, communicating about, and ascertaining the substantiality and relevance of the issues that appear to divide the parties and to aid the parties in generating, considering, and communicating with each other about possible bases for resolving the dispute.
- c. Each constituent institution will have a policy either that requires the parties to a dispute made under Section 607 to participate in mediation as a prerequisite to access to the formal faculty grievance process or that permits the parties voluntarily to do so. While there can be no requirement that forces a party to reach a mediated agreement, a constituent institution may have a policy that require the parties to participate in a mediation process about the dispute. If a constituent institution requires participation in mediation, the mediator may assess the value of continuing the mediation. If the mediator determines that the parties are not amenable to a settlement, then the mediator may end the mediation, and the formal grievance hearing process will then begin.
- d. Each constituent institution will have a mediation process available which:
  1. Has available the number of campus mediators necessary based on the size of the campus and the estimated need. Mediators may be trained members of the faculty or staff, outside mediators from the community, or mediators from other campuses within the University. Mediators may not be members of the faculty hearing committee that hears Section 607 grievances.
  2. Requires every mediator to have successfully completed formal mediation training substantially equivalent to that required for certification by the North Carolina Administrative Office of the Courts or to have been formally trained in mediation specifically designed for use in a university setting.
  3. Determines under what circumstances, if any, attorneys will be allowed to participate in the mediation process.
  4. Assures the parties that a decision by either party not to pursue mediation beyond the campus required minimum will not be held against that party in any way and that no blame will to attach to either party if mediation does not produce a settlement.
  5. Provides that no record of a failed mediation process will be produced by the mediator other than an unelaborated written statement to the appropriate authority necessary to invoke the next step in the grievance process, i.e., that mediation was attempted but settlement was not reached.
  6. Prohibits the mediator from being called as a witness in any subsequent proceeding, and prohibits anything done or said by either party during a mediation process from being referred to or used against a party in any subsequent proceeding.
- e. The adopted mediation policy of each constituent institution must provide that any mediation agreement that obligates the university must be signed by a university official with the authority to bind the university concerning the particular agreement.

- f. Any time limit adopted by a constituent institution or by Board of Governors Policy concerning the formal resolution of Section 607 grievances will be suspended for the duration of a mediation process being held pursuant to this policy.

#### **IV. Administrative Decision**

- a. If the grievance is not resolved through the mediation process, then the matter will be reviewed by the faculty grievance committee established pursuant to Section 607(1) of *The Code*.
- b. Standard for determining contested grievances. In order to prevail in the grievance process, a faculty member must 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. Examples would be if the decision-maker disregarded an established standard for evaluation, relied on impermissible considerations such as race or sex, or failed or refused to consult with or receive information from mandated advisory bodies.
- c. If mediation fails to produce a voluntary resolution, the faculty grievance committee must decide whether a hearing should be held in response to the petition. The submission of a petition shall not result automatically in an investigation of or hearing on the petition. The committee shall determine whether the facts alleged merit a detailed investigation. The committee is to consider the content of the grievant's petition. Assuming the truth of the information contained in the petition, the committee is to determine whether the contentions advanced by the grievant justify a hearing. A petition properly is dismissed if the grievant fails to allege an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV. B., above. Dismissal is also required if the petition addresses a problem that is not within the committee's jurisdiction.
- d. If the petitioner has presented an apparently substantial issue within the purview of the committee's responsibility, the committee will hold an evidentiary hearing. At the hearing, which is to be attended by the grievant and the respondent, the faculty member is to present evidence in support of the faculty member's contentions and the person charged with wrongdoing is to be given an opportunity to respond. The committee is to maintain a complete transcript of all evidence received. Only the evidence so compiled is to form the basis for committee conclusions about the case and any resulting advice to the responsible administrator and the chancellor. The burden is on the grievant to establish by a preponderance of the evidence that the faculty member has experienced an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV. B., above.
- e. If, after hearing the matter, the faculty hearing committee determines that an adjustment in favor of the aggrieved faculty member is appropriate, the faculty grievance committee shall so advise the faculty member and the dean, department head, or other respondent administrator. If the relevant administrator does not make the recommended adjustment, or a different adjustment satisfactory to the faculty member, within a reasonable period of time, the faculty grievance committee shall advise the chancellor of its recommendation that an adjustment is appropriate.
- f. If, after reviewing the petition or hearing the matter, the faculty grievance committee determines that no adjustment in favor of the grievant is appropriate, it shall so advise the faculty member and the chancellor.

- g. The chancellor shall base his or her decision on the recommendation of the faculty committee and the record from the faculty grievance committee hearing. The chancellor may, in his or her discretion, consult with the faculty grievance committee before making a decision. The decision of the chancellor is the final administrative decision.
- h. The chancellor shall notify the faculty member and the respondent administrator 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 paragraph V.C.ii, below.
- i. The faculty grievance process is a process available to current members of the faculty of a constituent institution. A faculty member whose employment is terminated during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of a faculty member is terminated after the grievance is filed, the chancellor may, however, in the chancellor's discretion, determine that it is in the best interest of the institution to continue the grievance process.

## **V. Appeal to the Board of Trustees**

- a. Decisions which may be appealed.
  - i. If the faculty grievance committee did not advise that an adjustment in favor of the grievant was appropriate, then the decision of the chancellor is final and may not be appealed.
  - ii. If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. The decision of the board of trustees is final.
- b. The board of trustees may delegate to a designated committee the authority to make procedural decisions and to make final decisions on behalf of the board concerning appeals of faculty grievances submitted pursuant to section 607 of *The Code*.
- c. Timeline for Appeals
  - i. A grievant who seeks to appeal the chancellor's disposition of his grievance must file written notice of appeal with the board of trustees, by submitting such notice to the chancellor, with adequate evidence of delivery, within 10 days after the grievant's receipt of the chancellor's decision. The notice shall contain a brief statement of the basis for the appeal. If the board agrees to consider the appeal, it will do so on a schedule established by the chancellor, subject to any instructions received from the board or from a committee of the board which has jurisdiction of the subject matter of the grievance. The board will issue its decision as expeditiously as is practical. If the grievant fails to comply with the schedule established for perfecting and processing the appeal, the board in its discretion may extend the time for compliance or it may dismiss the appeal.
  - ii. If the chancellor's decision is appealable, the chancellor's notice of the disposition of a grievant's case must inform the grievant: (1) of the time limit within which the grievant may file a petition for review by the board of trustees, (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 grievant by a method which produces adequate evidence of delivery.

iii. To insure full understanding by the faculty, the appropriate informational document regularly published by the institution (e.g., the faculty handbook), shall include a statement of the time limits established by the Board of Governors or Board of Trustees policy.

d. Standard of Review: Unless a board of trustees provides by policy for a broader scope of review, in order to prevail before the board of trustees, the faculty member 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.

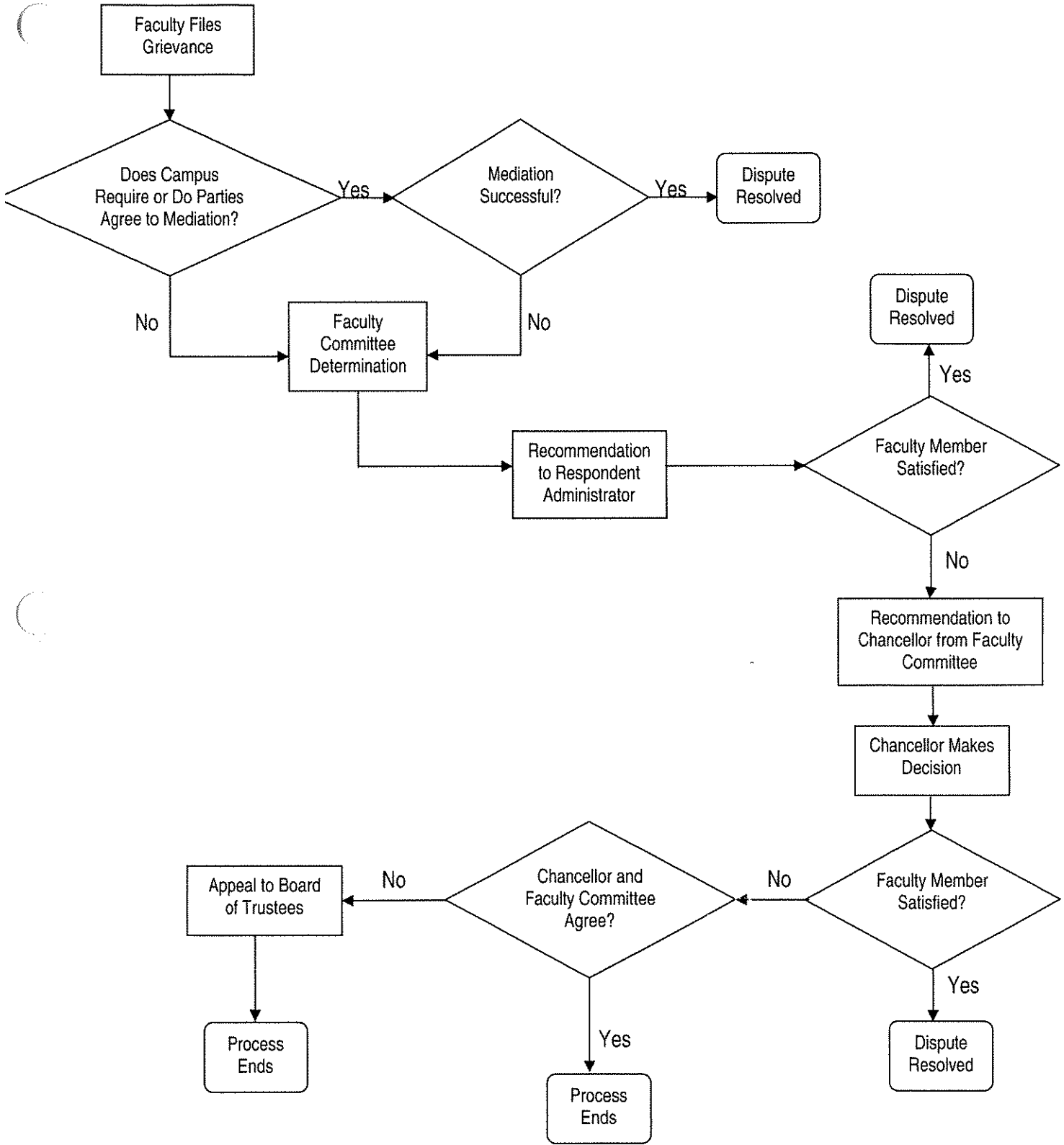
## **VI. Regulations and Guidelines**

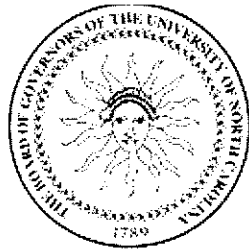
The President may promulgate appropriate regulations or guidelines to implement this policy.

**Effective Date: This policy shall apply to all faculty grievances submitted on or after July 1, 2003.**

# Appendix for Policy 101.3.2

## Process for Faculty Grievances





# POLICIES

The University of North Carolina  
*Board of Governors*

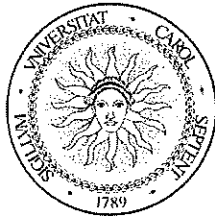
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100.3.1

Adopted 04/21/95  
Repealed 03/21/03

APPELLATE REVIEW UNDER SECTION 501C(4) OF *THE CODE*

Effective July 1, 2003, this Policy is repealed.



# GUIDELINES

The University of North Carolina  
*Office of the President*

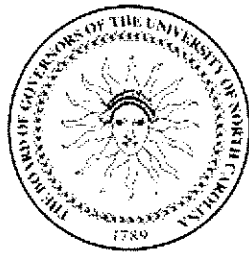
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100.3.1.1[G]

Repealed 03/21/03

Guidelines on Determining Proper Routes of Appeal

Effective July 1, 2003 this Guideline is repealed.



# POLICIES

The University of North Carolina  
*Board of Governors*

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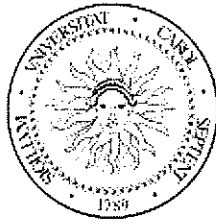
100.3.2

Adopted 09/14/84  
Amended 06/14/85  
Repealed 03/21/03

## TIME LIMITS ON APPEALS

Effective July 1, 2003, this Policy is repealed.





# REGULATIONS

The University of North Carolina  
*Office of the President*

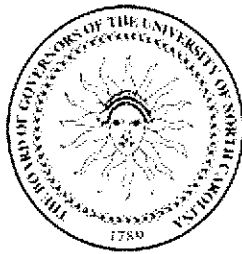
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100.3.2.1[R]

Repealed 03/21/03

Regulations on Time Limits on Appeals

Effective July 1, 2003, this Regulation is repealed.



# POLICIES

The University of North Carolina  
*Board of Governors*

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100.3.3

Adopted 04/21/95  
Repealed 03/21/03

## POLICY SUSPENDING ESTABLISHED TIME LIMITS ON APPEALS

Effective July 1, 2003, this Policy is repealed.