



**08.521 EPA REVIEW AND APPEAL PROCEDURES
(including SAAO I and SAAO II)**

Authority: Board of Trustees

History: Revised February 20, 2009, and effective September 1, 2009; Established April 28, 2006

Source of Authority: The Code of the UNC Board of Governors, Section 611; UNC Policy 300.1.1, Section III. C.; UNC Policy 300.2.1, Section IV; N.C.G.S. §126-25.

Responsible Office(s): Human Resources

I. Purpose

The university is committed to fair and equitable treatment for all employees. This policy and procedures provide a means of review and/or appeal for those EPA professional employees (including SAAO I and SAAO II), who are not subject to the faculty grievance procedures, to secure a good faith review and attempted resolution of decisions concerning dismissal, other disciplinary action that affects compensation, and/or matters specifically enumerated in section II.A. below.

II. Scope

- A. These procedures are intended to be used for the review and attempted resolution of the following:
1. Concerns alleging unlawful discrimination (i.e. race, religion, sex, age, disability, national origin) when an adverse employment action is taken. The specific protected classes are covered in the University's non-discrimination statement.
 2. Concerns alleging violations of the First Amendment of the U.S. Constitution in matters resulting in serious sanctions, except to the extent of limitations on political activity established by Article 5 of the N.C.G.S. Chapter 126 and by the Board of Governors' policy in this regard and as it may be revised from time to time.
 3. Requests to review decisions concerning intent to discharge for cause (includes incompetence, unsatisfactory performance, neglect of duty or misconduct that interferes with the capacity of the employee to perform effectively the requirements of the job).
 4. Complaints regarding the interpretation and application of any provision of the university's employment policies for EPA non-faculty employees.

5. Complaints to seek the removal of alleged inaccurate or misleading material contained in the employee's personnel file. An employee also has the right to place a statement in his or her personnel file relating to the material considered to be inaccurate or misleading.
- B. Complaints concerning discontinuations or terminations of employment with notice, pursuant to UNC Policy 300.2.1, Sections III.A., III.B., or III.C., may be brought only upon allegations of violations of applicable notice requirements or sections 1 and 2 above.
 - C. The use of these procedures is protected. Covered individuals and any participants in these procedures are to be free from threats or acts of retaliation, interference, coercion, discrimination, or reprisal if they choose to use these procedures or if they participate as a witness, support person, panel member, etc.
 - D. These procedures cannot be used for:
 1. Dissatisfaction with a general application of university policy challenged on the ground that the policy itself is unfair.
 2. Faculty matters. Individuals employed in faculty positions have separate grievance procedures.
 3. The attempted resolution of a matter that is already being reviewed with another established administrative procedure (e.g. harassment complaints and research misconduct allegations).
 4. Review of or attempts at overturning a duly-made administrative decision (e.g. unit reorganization).

III. Policy

- A. The university encourages informal means of resolution prior to the use of these procedures. Employees and supervisors, as well as individuals in the administrative line such as department chairs and deans are encouraged to discuss matters fully and freely and attempt resolution. Such discussions are considered confidential. Further, the university encourages formal mediation, if desired by both sides to an issue. Requests for mediation should be directed to the Employee Relations Director in the Office of Human Resources.
- B. An employee using this procedure shall file his or her complaint within ten (10) business days of the receipt or notice of the decision that forms the basis of the complaint. The use of an informal appeal as noted above or any other form of resolution does not automatically suspend this time limit. Within the ten (10) business days, the complainant may request, in writing, an extension of the applicable time limit for initiating the review procedure in order to facilitate an informal resolution of the matter. Notwithstanding the foregoing, the failure to file a timely complaint or the failure to request an extension of time shall constitute a waiver of the employee's right to use these procedures.

IV. Procedures

- A. To file a complaint under these procedures, an employee must provide a signed and dated written statement to the Director of Human Resources within the noted time limit in Section III. B. This statement must include information concerning any informal attempts made to resolve the matter, the exact nature of the review, the identity of the party against whom the complaint is filed, and the desired outcome being sought by the employee.
- B. Upon receipt of a timely complaint, the Director of Human Resources shall review the complaint statement to determine whether it alleges the matter falls within the scope of the policy and is timely. If the matter is reviewable, the director shall appoint a three person panel of peers to hear and review the matter. Panel members would pledge to consider the complaint with fairness and impartiality. Panel members are authorized by the university to interview all parties deemed necessary in the review of the complaint. All proceedings of the panel are considered confidential. A review panel has no power to reverse an administrative decision; it can only recommend a reassessment of that decision if it finds that the decision was reached improperly. If the complaint statement does not constitute permissible grounds as specified in Section II. or is untimely, the director shall inform the employee that the matter is not subject to this procedure.
- C. All attempts should be made by the panel to hear the complaint within thirty (30) calendar days. The hearing shall be taped or transcribed. The complainant will be allowed to give opening statements, to testify, to provide witness(es) testimony, cross examine witnesses, present documentary evidence, and give closing statements. The strict rules of legal evidence do not apply. The panel may accept hearsay evidence. The panel has full control of the hearing and may state who is allowed to testify, and may avoid hearing redundant, irrelevant, and repetitive evidence.
- D. No attorney is allowed to be present at the hearing. The complainant is allowed to have one third party observer present. If the complainant has an observer, the respondent may also have an observer present. The complainant must notify the Director of Human Resources within seven (7) business days prior to the hearing whether he or she intends to bring an observer. No observer may actively participate in the hearing.
- E. Upon the conclusion of the hearing, the panel shall deliberate and decide whether to sustain all or any part of the complaint. The panel shall only consider evidence (written and/or oral) presented at the hearing. A report of findings and any recommendations should be provided to the Director of Human Resources within thirty (30) calendar days from the conclusion of the hearing. In the event these target times cannot be met, the panel should report progress and the reason(s) for any delay to the director.

- F. The Director of Human Resources is responsible for forwarding the findings and potential resolution to the respective parties.
- G. If the unit leader(s) agree(s) with the panel findings and recommendations, they will contact the Director of Human Resources as soon as possible. The director, in turn will communicate with the respective parties and facilitate the implementation of the resolution, if any. At this point, the university has completed its obligation to the complainant.
- H. If the unit leader(s) disagree(s) with the panel findings and recommendations, he or she (they) will contact the Director of Human Resources as soon as possible. The director, in turn, shall forward the complete complaint file, along with transcript of the hearing and the documentary evidence, the findings and recommendations to the chancellor for review. The chancellor may choose to adopt, amend, or dismiss the recommendations. The chancellor's decision will be the final university decision in the matter, and the university will have completed its obligation to the complainant. The chancellor's written decision should be made within thirty (30) calendar days of receiving the record.
- I. At the conclusion of the review, all materials reviewed by the panel in preparing the report and any related documents shall be transferred to Human Resources for retention.
- J. The grievant has appeal rights in accordance with the Code of the Board of Governors, Section 611, as amended from time to time.