

## Student Grievance Policy and Procedures University of North Carolina at Chapel Hill

(adopted November 1994, amended June 2004, April 2008, July 2009, May 2010, March 2012)

The Student Grievance Committee of The University of North Carolina at Chapel Hill hears student grievances and appeals in cases arising under the following laws and policies:

The UNC-Chapel Hill Policy Statement on Non-Discrimination establishes that it is “the University’s policy not to discriminate in offering access to its educational programs and activities or with respect to employment terms and conditions on the basis of race, color, gender, national origin, age, religion, creed, disability, veteran’s status, sexual orientation, gender identity or gender expression.” The complete text of the Policy Statement on Non-Discrimination, including a list of contacts to whom concerns and questions may be presented, can be found at <http://www.unc.edu/campus/policies/nondiscrim.html>.

The UNC Chapel Hill Policy on Prohibited Harassment and Discrimination ([http://www.unc.edu/campus/policies/prohib\\_harass\\_and\\_discrim.html](http://www.unc.edu/campus/policies/prohib_harass_and_discrim.html)) provides an avenue for any University student who feels that he/she has been harassed or discriminated against based on his/her race, color, gender, national origin, age, religion, creed, disability, veteran’s status, sexual orientation, gender identity or gender expression; his/her good faith reporting of allegations of prohibited harassment or discrimination; or his/her participation in an investigation of alleged prohibited harassment or discrimination. Because of the sensitive nature of alleged prohibited harassment or discrimination, students are encouraged to make reasonable efforts to have their concerns addressed and resolved either informally or through the Administrative Review Process set out in the Policy on Prohibited Harassment and Discrimination. Students may obtain information regarding the Policy on Prohibited Harassment and Discrimination from the Office of the Dean of Students or from the EEO/ADA Office.

A University student who has pursued the Administrative Review Process but believes that his/her complaint has not been appropriately resolved through that process may appeal the outcome of the Administrative Review to the University’s Student Grievance Committee.

Alternatively, a University student who feels that he/she has been harassed or discriminated against based on one or more of the grounds listed above may proceed directly through this Student Grievance Policy and Procedures without first pursuing Administrative Review..

The federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g, et seq.) provides in part that an educational institution shall provide a student “an opportunity for a hearing by such agency or institution...to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students....” The Student

Grievance Committee is also charged with conducting these hearings. Students may obtain information regarding FERPA from the FERPA officer in the Office of University Counsel.

This document establishes the jurisdiction, membership, and procedures of the Student Grievance Committee.

## I. Jurisdiction

The procedures herein shall be used only when a student at UNC-Chapel Hill (hereinafter “grievant”) initiates a grievance against a UNC-Chapel Hill employee, including faculty, EPA non-faculty, staff, and student employees (when acting in the role of an employee) or contractor, that involves one of the following policies or laws<sup>1</sup>:

- A. The UNC Chapel Hill Policy on Prohibited Harassment and Discrimination
- B. The Family Educational Rights and Privacy Act of 1974 (FERPA)

## II. Membership

### A. Composition

The Student Grievance Committee shall be composed of the following:

1. three faculty members;
2. three staff members;
3. four student members; and
4. the Committee Chair.

In the event of a grievance within the jurisdiction of the Committee, the Committee Chair shall appoint three members to serve as a hearing panel, as established in section III.D., herein. The Committee Chair may serve as one of the panel members.

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<sup>1</sup> If a student has a grievance against another student who was not acting in the role of a University employee at the time of the incident in question, the matter should be reported to the Office of the Dean of Students for handling in accordance with the Instrument of Student Judicial Governance.

All other grievances of students against University faculty, EPA non-faculty, or students will be handled in accordance with applicable University policy (e.g., grade appeals).

## B. Selection

The Committee Chair and the faculty and staff members of the Student Grievance Committee shall be appointed by the Chancellor and shall serve at the pleasure of the Chancellor. In addition to the above-listed required members of the Committee, the Chancellor may also appoint faculty and staff alternate members. Alternate members serve in the event that there are insufficient available members of either group to appoint a panel.

The student members of the Committee shall be the students who currently hold the following positions in Student Government:

1. Student Body President;
2. President of the Graduate and Professional Student Federation;
3. Speaker of the Student Congress; and
4. Chief Justice of the Student Supreme Court.

## C. Training

All new Committee members will receive training in the laws and policies applicable to the matters within the Committee's jurisdiction, including this policy.

## III. Grievance Procedures

### A. Filing a Grievance

#### 1. Substance of Grievance

Any grievance filed must be in writing and signed by the grievant. A grievance must contain, at a minimum:

- (a) a specification of how the law or policy identified in Section I of this policy was allegedly violated;
- (b) a brief summary of the evidence supporting the allegations and a brief summary of the arguments that the grievant would present at a hearing;
- (c) the date of the last incident involved in the alleged violation(s);
- (d) information about the grievant's attempts to resolve the grievance with the department head, dean, or administrative official most directly empowered to make adjustments, and

information about the results of those attempts, including a copy of the Administrative Review findings, if applicable; and

(e) identification of the individual respondent or respondents against whom the grievance is directed.

## 2. Timeliness of Grievance

(a) Policy on Prohibited Harassment and Discrimination: A student who first elected to proceed under the Policy on Prohibited Harassment and Discrimination has thirty (30) calendar days from the date of notification of the Administrative Review findings to file a grievance if he/she feels that the Administrative Review failed to produce a satisfactory resolution.

(b) FERPA: With regard to FERPA issues, a student has thirty (30) calendar days, from the date of notification that the University has decided not to amend his/her education records, to file a grievance.

The Student Grievance Committee will not consider a grievance based on incidents that occurred more than 180 days before the grievant informed the administrative official most directly concerned of the allegation of prohibited harassment or discrimination. If the last incident involved in the alleged violation occurred less than 180 days before the filing of the grievance, the Committee may consider one or more of the prior incidents involved in the alleged violation if there is a demonstrated connection between the incidents.

## 3. Where to file

Grievances alleging a policy violation, as set out in section I.A. above, should be filed with the Dean of Students' office (CB# 5100, 450 Ridge Road, Suite 1106, Student Academic Services Building, Chapel Hill, NC 27599-5100). FERPA grievances should be filed with the FERPA officer (CB# 9105, 110 Bynum Hall, 222 East Cameron Avenue, Chapel Hill, NC 27599-9105) as set out in section I.B. above. Upon receipt, the Dean of Students or applicable officer shall forward the grievance to the Chair of the Student Grievance Committee within seven (7) calendar days, absent exigent circumstances. In the event of any delay, the grievant shall be notified.

#### 4. Response to a Grievance

Upon receipt of a grievance, the Chair will send a copy of the grievance to the respondent, along with a letter requesting the respondent's written response. The respondent must file a response with the Chair within ten working days after receipt of the Chair's letter. For good cause shown, the Chair may grant an extension of time for the respondent to file a response and will notify the grievant in writing of the approved extension.

It is permissible to transmit correspondence related to a grievance by email. However, hard copies of the following essential documents must also be sent by U.S. or campus mail or delivered by hand or by a package delivery service such as FedEx or UPS: the original grievance, the letter notifying the respondent of the grievance with a copy of the grievance; the respondent's response to the grievance; the grievant's rebuttal of the response, if any; and the panel's written decision.

#### B. Committee Hearings

When a grievance is referred to the Committee through its Chair, the Chair shall appoint a panel of three members of the Committee to hear the grievance. When the Committee Chair serves as a panel member, he or she may vote in the panel's decision-making process. If the Committee Chair is not participating on a particular panel, he or she will designate a panel member to chair the panel, and that panel member shall also be allowed to vote in the panel's decision-making process. A decision of any panel shall be considered a decision of the Committee. If possible, the panel shall include one staff, one faculty, and one student member. In every case there will be one student on the panel.

If the panel finds, upon reviewing the grievance, either that the grievance does not fall within the jurisdiction of the Student Grievance Committee or that the grievance does not contain the minimum elements set forth in Section III.A., at least one member of the panel will contact the grievant to discuss the grievance. If, after this discussion, the panel still finds that the grievance does not fall within the jurisdiction of the Student Grievance Committee, the panel will decline to hear the grievance and will notify the grievant in writing of its decision. If, after this discussion, the panel concludes that the grievance does fall within the jurisdiction of the Student Grievance Committee but that the grievance does not contain the minimum elements set forth in Section III.A., the panel will advise the grievant of the need to amend his/her grievance to include the minimum elements set forth in Section III.A. that were previously omitted. The panel's decision regarding whether a grievance falls within the jurisdiction of the Student Grievance Committee is not appealable.

If the panel finds that the grievance does fall within the Committee's jurisdiction and contains the minimum elements set forth in Section III.A., the panel chair will

schedule a hearing on the grievance. If the panel chair experiences significant difficulty in finding a time when the grievant, respondent, and panel members are all available for a hearing, he or she will notify the grievant and respondent of the delay.

1. The panel Chair is responsible for the conduct of the hearing, including, among other things, limiting questioning and testimony to relevant issues.
2. During a hearing, the grievant and the respondent shall have the following rights:
  - (a). The right to be represented and/or advised by legal counsel and the right to have a non-lawyer support person present;
  - (b). The right to present the testimony of witnesses and other evidence relevant to the grievance;
  - (c). The right to cross-examine witnesses; and
  - (d). The right to examine all submitted documents and other evidence, subject to confidentiality protections that may apply.
3. The panel may ask questions of the grievant, the respondent, and any witnesses in order to gather additional information about the grievance.
4. The panel is not bound by federal or state rules of evidence, but shall make all decisions based on the relevant evidence submitted and/or presented as part of the proceeding.
5. A recording or other official record shall be kept of all proceedings in which evidence is presented.
6. When hearing grievances alleging
  - a. disability, where the circumstances alleged would be covered by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act;
  - b. gender, where the circumstances alleged would be covered by Title IX;
  - c. race, color or national origin, where the circumstances alleged would be covered under title VI of the Civil Rights Act;
  - d. age, where the circumstances alleged would be covered by the Age Discrimination Act of 1975; or
  - d. FERPA violation(s)

the panel shall observe all procedures contained in the specific law or regulations. To the extent that this document conflicts with the specific law or regulations, the law or regulations shall control.

### C. Decisions

1. Upon the conclusion of the hearing, the panel shall decide whether the preponderance of the evidence submitted or presented as part of the proceeding demonstrates that the respondent has violated the law or policy at issue.
2. If the majority of the panel finds that no law or policy has been violated, the panel shall dismiss the grievance and inform the grievant and the respondent of the outcome.
3. When applicable, if a majority of the panel finds that the Policy on Prohibited Harassment and Discrimination has been violated, the panel shall consult with the EEO/ADA Officer for additional information about the respondent's past record, if any, in similar situations and may consider that information in reaching its decision about the recommendations to be made to administrative officials. A summary of such information shall be included in the panel's recommendations of appropriate adjustments. The panel's recommendations shall also be decided by majority vote. Negative academic decisions, such as course and assignment grades, may be introduced as evidence of discrimination. While the Committee is not empowered to order that an academic decision be reversed, or that a course or assignment grade be changed, the Committee may recommend that the decision or grade be reviewed in light of the Committee's findings.
4. The panel shall forward its written report of the matter and its findings to the appropriate University official who is most directly empowered to make any adjustment. If that official does not make a decision regarding the appropriate corrective action to be taken within a reasonable time frame not to exceed twenty (20) calendar days from his or her receipt of the report (absent exigent circumstances), the panel Chair shall forward the recommendations to the Chancellor, who will then have up to twenty (20) calendar days from his or her receipt of the report to either accept or reject the recommendations contained in the report.
5. Following the hearing, the panel shall provide written notification of its findings and recommendations to the respondent and other appropriate parties. Due to the requirements of State law concerning privacy of personnel records, the panel shall provide the grievant with written notification of its findings that does not include the summary of any prior reports about the respondent set out in section III.D.1. above, if applicable. For the same reason, the grievant shall be informed whether the panel

recommended disciplinary action against the respondent but shall not be provided any specific information about the recommended action.

#### D. Time Frame

The consideration of a grievance, including solicitation and receipt of responses and rebuttals, if any, formal hearings, and notification of recommendations, ordinarily will be completed within sixty days after the Chair's receipt of the formal complaint. Said sixty-day period shall not include Spring Break or semester breaks. Should the grievance be brought at a time when the sixty-day period will extend into summer, the committee will attempt to proceed on a normal schedule, but if this cannot be accomplished due to protracted summer absences of the Chair, grievant, respondent(s), material witnesses, and/or panel members, the Chair will notify all parties that the process will be held in abeyance until the beginning of the fall academic term.

#### E. Further Proceedings

##### 1. Employees

Respondents who wish to pursue an appeal from the results of the grievance proceeding may consult the Office of the Provost (faculty) or the Office of Human Resources (SPA or EPA non-faculty employees) for information about the appropriate appeal route, if any.

##### 2. Students

- Students with grievances alleging discrimination on the basis of
- a. disability, where covered by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act;
  - b. gender, where covered by Title IX;
  - c. race, color or national origin where covered under the Civil Rights Act;
  - d. age, where covered by the Age Discrimination Act of 1975; or
  - e. FERPA

may also have the right to file a complaint with designated federal agencies. For more information about applicable federal complaint procedures, students should consult the Chair of the Committee.

##### 3. Appeals

With the exceptions noted in subsections 1 and 2 above, there is no further appeal from a decision of the Student Grievance Committee.