

EPS Review of Personnel Actions

Purpose

This document provides an administrative framework for managing requests for reviews of certain Exempt Professional Staff (“EPS”) personnel actions and supplements the provisions of the EPS Review of Personnel Policy 602.23. For assistance in interpreting this document, contact Employee Relations in the Office of Human Resources.

Definitions

Adverse Employment Action is any action taken by an administrator in a supervisory role over the employee that materially affects the compensation, terms, conditions, or privileges of employment.

EEO Investigation is an internal process for addressing allegations of unlawful discrimination, harassment, or retaliation that may facilitate a resolution prior to proceeding with a hearing.

Exempt Professional Staff are University employees with a permanent appointment designated as Exempt Professional Staff (EPS) in accordance with *UNC Policy 300.1.1*. This category does not include SAAO positions, physicians or dentists with a faculty appointment, faculty members, temporary employees, post docs, undergraduate student employees, graduate student employees, or law enforcement officers.

Hearing Committee is a University appointed panel selected to conduct a hearing. The designated committee chair is responsible for overseeing the proceedings of the hearing and submitting a proposed recommendation to the Chancellor.

Requestor is the current or former EPS employee requesting a review of a personnel action.

University Respondent is generally the person in the supervisory chain of the employee who took the adverse employment action who is able to take action to remedy the matter. Human Resources will determine the appropriate University Respondent.

Requesting a Review of Personnel Actions

A request for review must be filed by submitting a completed Request for Review Form, within fourteen (14) calendar days of the action being reviewed. If the deadline falls on a weekend or a University holiday, the deadline will be the next business day following the weekend or holiday.

Initial Review

Employee Relations will conduct the initial review of the request to determine if the request is timely and alleges a reviewable action. During the review, Employee Relations will determine the appropriate University Respondent. Employee Relations may consult with the Requestor on possible Alternative Dispute Resolutions as appropriate for the situation.

- If the request **is accepted**, HR will notify the Requestor and University Respondent within fourteen (14) calendar days of receipt of the request in writing that it has been accepted. Both parties will be advised of next steps depending on the nature of the allegations being made.
- If the request **is not** accepted, HR will notify the Requestor within fourteen (14) calendar days of receipt of the request in writing of the determination, and the matter will be closed without any right to appeal.

EEO Investigation

In the event the request for review contains allegations of discrimination, harassment, or related retaliation pursuant to [subsections III.D. or E. of Section 300.1.1 of the UNC Policy Manual](#), the Office of Access & Equity: Equal Opportunity (“EO”) will conduct an investigation. The investigation will be completed in accordance with [EO’s applicable procedures](#).

Upon completion of the investigation, a written summary of the findings will be provided to the Requestor and respondent named in the investigation, which may be different than the University Respondent identified for the review. The final investigative report will be provided to Human Resources.

- If allegations of Policy violation **are** substantiated, the EEO Officer will inform Human Resources in writing regarding the conclusions of the investigation. Next steps will be communicated to the Requestor.
- If allegations of a Policy violation **are not** substantiated, the EEO Officer will inform Human Resources and the Requestor in writing regarding the conclusions of the investigation. Thereafter, the Requestor must communicate their desire to continue with the process in writing to Human Resources within fourteen (14) calendar days from receipt of the summary of findings, or the matter will be considered resolved.

University Hearing

A hearing is an internal effort on the part of the University to address reviewable EPS personnel actions and is not a formal legal or judicial hearing. Employee Relations will notify the Requestor of the opportunity to present the request orally to a Hearing Committee. Employee Relations will coordinate the hearing according to the following guidelines.

1. *Hearing Committee:* Employee Relations will appoint a trained Hearing Committee, who shall be EPS non-faculty professionals, ensuring that the individuals chosen to hear any matter do not have a conflict of interest. Parties must notify Employee Relations within five (5) calendar days after receiving the name(s) of the Hearing Committee, if they believe a conflict of interest exists. Employee Relations will review the request and replace members, if appropriate, and the decision will be final. Employee Relations will maintain full control over the hearing and will determine the relevance of witnesses and evidence.
2. *Schedule Hearing:* Employee Relations will make all reasonable efforts to schedule the hearing within thirty (30) calendar days from the request for a hearing. Both parties are expected to make a good-faith effort to be available at the dates and times presented.
3. *Documentation:* The Requester and the University Respondent may provide documentation supporting its position to the Hearing Committee.

- Documentation submitted after the established deadline may not be permitted or considered.
 - Documentation shall be kept confidential and only used for the purpose of the Hearing.
 - The Hearing Committee considers only documentation presented at the Hearing and such written or oral arguments as the Hearing Committee, in its discretion, may allow.
4. *Witnesses:* Witness lists must include the name of each witness and a brief summary of how their involvement is directly relevant to the personnel action being reviewed.
- No witness can be compelled to appear or provide a statement.
 - Witnesses will only be present for the duration of their statement. Witnesses will remain in a separate waiting area until they are called into the Hearing. They will then be excused after their information is presented and questions have concluded.
 - The Hearing Committee may decline to allow any witness if it appears they do not have directly related information.
5. *Hearing Participants:* The only individuals permitted to attend the Hearing are Employee Relations, Requestor, University Respondent, the Hearing Committee, and approved witnesses. No party may have an attorney or advisor at the hearing, but each may consult with an attorney or advisor outside of the hearing process. The hearing will not be recorded, and neither party is permitted to record any portion of the hearing.
6. *Hearing Proceedings:* The Hearing Committee Chair will preside over the hearing to allow the parties to present information relevant to the nature of the personnel action being reviewed, facts upon which the request is based, and the resolution sought.
- *Conduct:* The Requestor, University Respondent, and all witnesses are expected to conduct themselves in a professional manner at all times. All parties are expected to treat each other with respect and civility throughout the process.
 - *Opening Statements:* The Requester and University Respondent will have up to 30 minutes to give an opening statement. Opening statements are intended to provide a brief summary of the claims or defenses that are being presented.
 - *Case Presentation:* The Requester and University Respondent will have the opportunity to present their case using documents, exhibits, and witnesses submitted before the hearing. The Requester and University Respondent will be permitted to ask questions to any of the witnesses. The Requester and University Respondent will not be permitted to ask questions to each other directly.
 - *Closing Statement:* The Requester and University Respondent will have up to 30 minutes to give a closing statement. The Requestor has the option to reserve a portion of the established time limit to make a final statement following the University Respondent's closing statement.
7. *Burden of Proof* – The Requestor has the burden of proof in all hearings using the “preponderance of the evidence” standard (e.g. – “more likely than not”).
8. *Failure to Attend* – If the Requestor fails to attend the hearing, the initial personnel action will be immediately final without recourse to any University review, grievance, or appeal.
9. *Recommendations of Hearing Committee* – At the conclusion of the hearing, the Hearing Committee will deliberate and may consult with Human Resources or General Counsel about the

application of policy or law. The recommendation will be in writing and provided to the Chancellor within fourteen (14) calendar days of the hearing. The Committee has no power to reverse any employment action, rather, they are tasked with determining if a reassessment of the employment action is recommended.

10. *Final University Decision* – Upon receipt of the Hearing Committee’s recommendation and review of the relevant record, the Chancellor will issue a written decision to the parties as soon as practicable. The Chancellor’s decision is the Final University Decision.
11. *Appeal to the Board of Trustees* – If the Chancellor concurs with the recommendations of the Hearing Committee that is favorable to the employee, the Chancellor’s decision will be final.

If the Chancellor either declines to accept the Hearing Committee’s recommendation that is favorable to the Requestor or concurs with the Hearing Committee’s recommendation that is unfavorable to the Requestor, the Requestor may appeal the Final University Decision to the Appeal Committee of the Board of Trustees within fourteen (14) calendar days by filing with the Chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, and the underlying allegations. The decision of the Board of Trustees is final with no further appeal.