

## **INSTRUCTIONS TO GENERAL COUNSEL**

### **DISPOSITION OF APPEAL**

Appeals are from time to time directed to the Board of Trustees from a decision of the Chancellor or of another campus officer or body pursuant to The Code of the University of North Carolina, The University of North Carolina Policy Manual, and/or various UNC Charlotte University Policies. Several steps must be taken to develop the record and arguments on appeal for review by the full Board or by the standing committee that has been delegated authority to act on behalf of the full Board. In order to avoid a series of meetings and votes by the Board or its committee on various preliminary matters, the Board of Trustees, for itself and for each of its standing committees, authorizes and instructs the General Counsel to take the actions listed below with respect to such appeals. The term “day” as used in this document is defined by whichever University Policy is relevant to the appeal. The term “respondent” is defined as the university administrator who made the decision that is being appealed to the Board of Trustees.

1. Assign one attorney from the General Counsel’s staff to manage the procedural aspects of the appeal, advise the Board or its committee, and perform the actions listed below. The General Counsel may assign a second attorney from the General Counsel’s staff to advise the respondent and to assist the respondent in responding to the appeal.
2. Determine whether notice of intent to appeal has been filed in accordance with the requirements of the Board of Governors and/or the relevant University Policy and determine whether the appeal should be directed to the full Board or to one of its standing committees. Notice must be written and must be received in the Office of the Chancellor within the number of days prescribed by the relevant University Policy. If no timeline is prescribed by the relevant policy, the notice must be received in the Office of the Chancellor within seven days.
3. If an appeal is advanced that was not properly or timely filed, notify the Chair of the Board of Trustees or the chair of the appropriate standing committee.
4. If the appeal has been properly filed, send a letter to the appellant on behalf of the Board of Trustees, with copies to the respondent (the University official or body whose decision has given rise to the appeal) and the Chair of the Board of Trustees or of the appropriate standing committee. The letter may be sent to the official University email address of the appellant, but if it is sent via regular mail, a return receipt should be requested. The letter is considered received when it is delivered by email or on the date indicated by a U.S. mail return receipt, or within three days of placing the letter in the mail, as presumed by law. The letter should cover the following points:
  - a. The Board or its committee is required to complete its disposition of the appeal within 120 days after it receives the notice of intent to appeal, except that if the appellant fails to comply with the schedule established by the Board or its committee or thereby precludes a decision within 60 days, the Board or its

committee in its discretion may extend the period for decision or may dismiss the appeal.

- b. The appeal will be based on the written record of the preceding level of review ("Record on Appeal"). As a general rule, the Board or its committee will rely exclusively on the Record on Appeal and the written arguments of the appellant and respondent in reaching its decision on the appeal; oral argument is not scheduled and additional evidence is not taken. However, the Board or its committee reserves the right to schedule oral arguments, take additional evidence, or both, in order to make a fully informed decision.
- c. The letter to the appellant must be accompanied by the proposed Record on Appeal as organized by the General Counsel after discussion with the respondent. The letter will notify the appellant that (i) he/she has seven days after receiving the proposed Record on Appeal to make objections to the proposed Record on Appeal and (ii) that any such objections to the proposed Record on Appeal must be addressed in writing to the General Counsel. If all documents required for the proposed Record on Appeal are not available, the General Counsel may send an initial letter indicating receipt of appellant's notice of appeal and information regarding the process and an expected date when the proposed Record on Appeal will be available. Once the proposed Record on Appeal is compiled, a second letter accompanying the proposed Record on Appeal with the required instructions will be sent to the appellant.
- d. If the appellant notifies the General Counsel in writing that he/she concurs in the Record on Appeal accompanying the letter or if the General Counsel receives no response from the appellant by the end of the seventh day following the receipt of the proposed Record on Appeal, the Record on Appeal is established by consent. If the parties cannot agree on the Record on Appeal, the dispute will be submitted to and resolved by the chair of the committee or the Chair of the Board, as appropriate; that official is authorized, but not required, to consult individually or to meet collectively with the committee or the Board to resolve disputes related to the Record on Appeal.
- e. The appellant has 14 days after giving notice of consent or of receiving a ruling on the establishment of the Record on Appeal to submit to the Board or its committee, with a copy to the respondent, a written statement not to exceed 12 double-spaced typewritten pages. The statement must clearly set forth each ground for appeal and must support each ground by reference to the established Record on Appeal.
- f. The General Counsel will advise the appellant of the appropriate standard of review that the Board or its committee will use to decide his/her appeal.
- g. The respondent has 14 days after receiving the appellant's written statement to file with the Board or its committee, with a copy to the appellant, a statement not to exceed 12 double-spaced typewritten pages in response to the appellant's statement.

5. The decision on the appeal and the reasons for the decision will be sent to the appellant and the respondent in writing and will, if appropriate, include information about any further right of appeal to the Board of Governors provided under The Code of The University of North Carolina or The University of North Carolina Policy Manual. The decision may be sent to the official University email addresses of the appellant and the respondent, but if it is sent via regular mail, a return receipt should be requested.