



**INTERNAL G.A. POLICY : 01.410**  
**GRIEVANCE POLICY FOR EMPLOYEES EXEMPT FROM THE STATE**  
**HUMAN RESOURCES ACT (EHRA)**

<b>Authority:</b>	President
<b>Source of Authority:</b>	Sections 611 of <i>The Code</i> of The UNC-GA of North Carolina
<b>Responsible Office:</b>	Human Resources

**I. Purpose**

The University of North Carolina General Administration (UNC GA) is committed to fair and equitable treatment for all employees. Therefore, UNC GA has established this Grievance Policy for the fair, orderly, and prompt resolution of work-related disputes for EHRA Non-Faculty employees. This policy provides for a formal process in order to address allegations that actions taken by management are impermissible under University policies. The strict legal standards of evidence do not apply in the use of this process, and the burden is on a Complainant to establish by a preponderance of the evidence that s/he is entitled to relief and that there is an appropriate and reasonable remedy available to address his/her Grievance.

**II. Definitions**

- A. **“Committee Chair” or “Chair”** means the Chairperson of the UNC GA Grievance Committee as appointed by the President.
- B. **“Committee Panel” or “Panel”** means a subset of the membership of the UNC GA Grievance Committee selected by the Chair for the purpose of hearing matters brought before the Committee.
- C. **“Complainant”** means a Covered Employee who files a written Grievance under the provisions of this policy.
- D. **“Covered Employee”** means a permanent employee of UNC GA who is exempt from the State Human Resources Act and is covered by the Employment Policies for EHRA Non-Faculty Instructional, Research, and Public Service Staff (UNC Policy 300.2.1) and Tier I and Tier II Senior Academic and Administrative Officers of UNC GA (UNC

Policy 300.1.1). This excludes Senior Officers at the level of President, Secretary of the University, Senior Vice President and Vice President.

- E. **“Deadline”** means 5 p.m. on the date on which a specific timeline as set forth in this policy is reached. In instances where a deadline falls on a non-University business day, the deadline shall mean 5 p.m. on the first business day following the original deadline date.
- F. **“EHRA Complainant Reply Form”** means the standard UNC GA form that is used by a Complainant to appeal certain grievance decisions, amend the initial Grievance, or reply to proposed outcomes.
- G. **“EHRA Non-Faculty Grievance Filing Form”** means the standard UNC GA form that is used by a Complainant to document his/her Grievance of an allegedly impermissible employment decision as covered under this policy.
- H. **“EHRA Respondent Reply Form”** means the standard UNC GA form that is used by a Respondent to respond to a Complainant’s Grievance, appeal certain grievance decisions, or respond to certain actions as covered under this policy.
- I. **“Grievance(s)”** means a formal complaint against an administrator or other official of UNC GA by a Covered Employee alleging that a decision or action has adversely affected his/her conditions of employment due to impermissible reasons and for which the Covered Employee is seeking one or more specifically identified outcomes.
- J. **“Grievance Committee”** or **“Committee”** means a group of employees appointed by the President as members of the UNC GA Grievance Committee for the purpose of hearing Grievances brought under this policy.
- K. **“Grievance Coordinator”** or **“Coordinator”** means the UNC GA administrator in the Division of Human Resources who is designated to coordinate the EHRA Non-Faculty grievance process and to provide support to the Grievance Committee in carrying out its responsibilities.
- L. **Observer/Support Person”** or **“Support Person”** is a person who is not acting as an attorney and who is not a necessary witness for either party, and who may assist either the Complainant or the Respondent during hearings or meetings in taking notes, organizing documentation, providing advice during breaks, or at the option of the parties, assisting with presentation of opening and closing statements in a Step 2 Hearing.
- M. **“Panel Lead”** means the individual designated by the Grievance Coordinator in consultation with the Committee Chair, to lead a Panel appointed to hear evidence and

rule on a specific Grievance filing. The “Committee Chair” and “Panel Lead” may be the same individual when permitted by this policy.

- N. **“Preponderance of the Evidence”** means a judgment based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. It does not rely on establishing facts beyond reasonable doubt, which is a higher standard of evidence than preponderance.
- O. **“Respondent”** is generally the next-level UNC GA official who exercises oversight of the individual whom a Complainant alleges made a decision or took an action that adversely affected his or her conditions of employment and that is alleged to have had an impermissible basis. If the decision was made or action taken by multiple UNC GA officials, the principal official who most directly serves as the next-level decision maker with respect to the actions or decisions in question will be the Respondent. When specifically permitted by this policy or its associated procedures, the Respondent may be a designee who has been assigned to act on behalf of the next-level UNC GA official. The Grievance Coordinator shall determine the appropriate Respondent and confirm the appropriateness of any Respondent designees, when permitted.
- P. **“University Counsel”** means an attorney who is a member of the UNC GA Division of Legal Affairs.

### **III. Non-Retaliation**

Covered Employees have the right to use or participate in this procedure free from threats or acts of retaliation, interference, coercion, restraint, discrimination, or reprisal. Retaliation against a person who in good faith files a Grievance, or who cooperates or otherwise participates in an investigation of a Grievance, is in violation of this policy and is strictly prohibited. Any person who retaliates against another person for exercising rights in good faith under this policy will be subject to appropriate and prompt administrative action by UNC GA.

### **IV. Applicability**

This policy applies only to Covered Employees as defined in Policy Section II.D. It does not apply to EHRA temporary employees or SHRA employees.

### **V. Consideration of Grievances**

UNC GA provides a formal multi-step process by which a Grievance shall be considered once it is submitted within the deadlines established in Section VII of this policy:

- A. “Step 1” provides an opportunity for a next-level UNC GA official to investigate and reply in writing to a Grievance within fourteen (14) calendar days of being provided the Grievance by the Grievance Coordinator. In the event the dispute is not satisfied at this

step to the Complainant's satisfaction, the Complainant has the opportunity to pursue an appeal to Step 2 of the process within fourteen (14) calendar days of being provided the reply from the Respondent. Grievances in regard to discharge for cause or subsequent to the completion of a harassment or discrimination administrative review shall bypass the Step 1 procedure and proceed immediately to Step 2.

- B. "Step 2" provides an opportunity for the Complainant to have a hearing before a Grievance Committee with the Respondent present and any relevant witnesses called. The Complainant and the Respondent both have the option to have a Support Person present. Step 2 also provides an opportunity for the Respondent to formally reply to any recommendations made by the Committee favorable to the Complainant resulting from the hearing process. In such instance, if the Complainant is not satisfied with the Respondent's reply to the Committee's recommendations, the matter is automatically referred to Step 3 unless the Complainant chooses to otherwise withdraw the Grievance. In the event the Committee makes no recommendations favorable to the Complainant or otherwise does not find a basis for the Grievance, the Complainant has the opportunity if desired to pursue an appeal to Step 3 of the process within fourteen (14) calendar days of receiving the Committee's report.
  
- C. "Step 3" provides an opportunity for the President to review the matter(s) in dispute. No new evidence is introduced in Step 3, but rather, it is a consideration of all information already on record from Steps 1 and 2 of the process. If the President either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the President's written decision, by filing with the President for transmission to the Board of Governors a written notice of appeal, including a brief statement of the basis for appeal, by certified mail, return receipt requested, or by other means that provides proof of delivery, and alleges information as set out in Section VI.A., below.
  
- D. "Board of Governors (BOG) Appeal" provides an opportunity for the Board of Governors to review the matter(s) in dispute only where the President's decision declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee. No new evidence is introduced in the BOG Appeal, but rather, it is a consideration of all information already on record from Steps 1 through 3 of the process. The decision of the Board of Governors is final with no further appeal.

Human Resources shall publish and update as necessary specific procedures by which the steps of the grievance process are carried out by all of the parties. This office shall also designate a Grievance Coordinator who shall be available to explain and answer questions regarding the grievance process and procedures to the Complainant and other involved parties. The preparation

of a Grievance and the presentation of such Grievance at any hearing is the specific responsibility of the Complainant.

## **VI. Scope of Grievance Process**

Grievances submitted at all steps of this process are subject to the standards set out below, which define matters which may or may not be reviewed under this policy. The Vice President for Human Resources may choose to offer a proposed resolution to a dispute without such offer conferring jurisdiction under this Policy where such jurisdiction is not otherwise present.

### *A. Matters within the scope of the Grievance Policy:*

1. Contested discharge for cause.
2. Alleged violations of the employee's rights guaranteed by the First Amendment to the United States Constitution or Article I of the North Carolina Constitution (subject to any limitations on political activity as established under North Carolina law and relevant UNC Board of Governors policies).
3. Harassment or discrimination as set forth in UNC GA's Unlawful Workplace Harassment policy.
4. Discontinuation without appropriate notice or without temporary extension of appointment in the absence of such notice as provided for in the relevant EHRA Non-Faculty Employment Policies.
5. Any other decision or action by a UNC GA official that adversely and materially affects the Covered Employee's terms and conditions of employment and that is alleged to have violated a specific university rule, regulation, or policy or violated a state or federal law pertaining to the employment relationship between the Complainant and UNC GA.
6. Alleged violation of the non-retaliation protections as defined in Policy Section III.

### *B. Matters outside the scope of the Grievance Policy:*

1. Dissatisfaction by a Covered Employee with the general application of a UNC GA policy, regulation, or practice or with a UNC GA official's decision-making on the grounds it is undesirable or inadvisable absent a specific action over which the Committee has jurisdiction under Policy Section VI.A., above.

2. Discontinuation with notice, non-renewal, non-reappointment, or non-extension of an EHRA non-faculty appointment, unless the Complainant sufficiently alleges that the decision was based on a factor reviewable under Policy Section VI.A., above. Absent such a demonstration by the employee, the Committee has no jurisdiction to review the general advisability or soundness of a UNC GA official's decisions.
3. Terminations of employment because of the exercise of a funding contingency or financial exigency or program curtailment or elimination.

## **VII. Grievance Filing Deadline; Coordination with Other Dispute Resolution processes**

- A. *Grievance Submission and Deadline:* A Covered Employee must submit a completed "EHRA Non-Faculty Grievance Form" to the Grievance Coordinator no later than thirty (30) calendar days from the date of the specific action giving rise to the Grievance. If there are multiple related actions in dispute, the Grievance must be filed no later than thirty (30) calendar days following the last or most recent of such actions. Once a Grievance is filed, claims regarding subsequent actions by the Respondent that are substantially similar to those already in the original Grievance will not serve to further extend the submission deadline nor may they be the subject of additional Grievances. At the sole option of the Grievance Coordinator in consultation with the Grievance Committee, such subsequent actions may be consolidated into the Grievance already filed by the Complainant.
- B. *Late Filing:* If the Grievance Coordinator determines a Grievance is not filed within the submission deadline, the Coordinator shall notify the Complainant of this fact and the Grievance shall not continue. The Grievance Coordinator has the discretion to extend the filing period if s/he determines that unusual and extenuating circumstances warrant such an extension, provided that the Complainant requests the extension before the end of the normal filing period, except as provided below. The Grievance Coordinator's decision on extensions of the filing period is final and cannot be appealed.
- C. *Accessing Other Means of Dispute Resolution:* Covered Employees are encouraged to seek informal resolution of employment-related disputes through Human Resources prior to seeking formal resolution under this policy. In matters involving prohibited harassment and discrimination, employees are encouraged to seek resolution first through the administrative review process as provided under UNC GA's Unlawful Workplace Harassment Policy.
  1. *Human Resources Mediation:* For issues other than discharge for cause, a Covered Employee who requests mediation through Human Resources within thirty (30) calendar days of a specific action or decision that gives rise to a Grievance is provided an extension of the normal Grievance submission deadline. This extension enables the employee to file a Grievance within ten

(10) calendar days following completion of the mediation by Human Resources or the normal Grievance filing deadline established in Policy Section VII.A., above, whichever shall be later. If the employee does not make use of the mediation program within the timeframe noted, the normal Grievance submission deadline shall apply. Documentation from Human Resources confirming the mediation and establishing the relevancy of the mediation to a Grievance must be included with the Grievance filing in order to utilize the extended deadline.

2. *Administrative Review Process for Prohibited Harassment and Discrimination:* A Covered Employee who initiates a complaint under the administrative review process of UNC GA's Unlawful Workplace Harassment Policy within thirty (30) calendar days of a specific action or decision that gives rise to the Grievance is provided an extension of the normal Grievance submission deadline. This extension enables the employee to file a Grievance within ten (10) calendar days following completion of the administrative review process. Should a Grievance not be brought within this deadline, the administrative review process remains available as provided under the Unlawful Workplace Harassment Policy, but without further recourse under this Grievance Policy. A copy of the completed administrative review must be included with the Grievance filing in order to utilize the extended deadline. If the provisions of Policy Section VII.C.1. , are exercised in combination with provisions of Policy Section VII. C. 2. , the single longest applicable extension in favor of the employee shall apply, but the deadline extensions shall not be combined in any manner.

- D. *Permitted Delay of Grievance Pending Other Related Matters or Inquiries:* The Grievance Coordinator in consultation with the Grievance Committee, at their discretion and upon written notice to the Complainant and the Respondent, delay the consideration of any Grievance filed under this Policy pending resolution of another UNC GA investigation, review, inquiry or proceeding when the outcome is estimated to have a material effect on the outcome of the Grievance. In no case shall such a delay extend beyond a period of one hundred eighty (180) calendar days unless approved by the President or his/her designee.

## **VIII. Grievance Committee and Conduct of Business**

- A. *Composition.* The UNC GA Grievance Committee is composed of five (5) employees of UNC GA, NC SEAA and UNC-TV who are under this policy appointed by the President on the Recommendation of the Vice President for Human Resources. The President will designate an appointed member as the Chair of the committee.

- B. *Terms of Appointment:* All members of the Committee, including the Committee Chair, will serve three (3) year staggered terms and such individuals may be reappointed for additional terms by the President as deemed appropriate.
- C. *Replacement of Members:* Any member who is unable to continue his/her term will be replaced for the remainder of his/her term by a new member appointed by the President on the recommendation of the Vice President for Human Resources. The President may also remove a member of the Committee if, in the President's judgment, the member is unable to carry out his/her responsibilities in accordance with this Policy.
1. *Conduct of Business:* Any business of the Grievance Committee may be conducted by the Committee as a whole or as a three (3) member Panel at the discretion of the Chair. At least three (3) members of the Committee or of a Panel, as applicable, must be in attendance in order for business to be conducted or evidence to be heard and considered. The Committee Chair will be responsible for the conduct of any Committee meetings. When a Panel is convened, a panel member will be designated by the Grievance Coordinator in consultation with the Committee Chair as the Panel Lead and will be responsible for the conduct of all Panel meetings. If the Committee Chair is serving on the Panel, he/she may serve as the Panel Lead. In the event a member of a convened Panel shall become unavailable for any reason, the Grievance Committee Chair shall designate a new member to the Panel in replacement.
  2. *Conflicts of Interest:* Any Committee member who has a direct or potential conflict of interest in any Grievance shall disclose the conflict to the Committee Chair. If the Chair has a conflict, s/he shall disclose it to the Grievance Coordinator, and a member of the Grievance Committee will be appointed to serve in his/her place for the Grievance in question. Conflicts of interest may include having a personal relationship with a party to the Grievance or having had a role in the decision-making or actions that related to the Grievance. In such instances, the Committee member will be removed from any participation in the matter for which the conflict exists.

**IX. Grievances Filed or in Progress by a Covered Employee Subject to Termination, Suspension or Expiration of a Term Appointment or Voluntary Resignation**

- A. Grievances that are filed or in progress by a Covered Employee who is pending discharge for cause or suspended with or without pay may be temporarily put on hold at the discretion of the President or his/her designee pending the decision to discharge or suspend. If a Covered Employee is discharged for cause and files a Grievance for discharge, then any other Grievances filed or in progress for matters unrelated to the discharge will be dismissed.



- B. Grievances that are filed or in progress by a Covered Employee whose UNC GA employment is subject to a fixed term appointment and whose appointment expires before resolution of the Grievance may be dismissed unless resolution of the Grievance in the Covered Employee’s favor would otherwise result in an extension or renewal of his/her appointment. Likewise, Grievances will be dismissed in the same manner when brought by either an at-will or fixed-term employee who has been otherwise notified of discontinuation of his/employment under the Employment Policies unless resolution of the Grievance in the Covered Employee’s favor would otherwise result in his/her continued employment.
- C. Grievances that are in progress by a Covered Employee who voluntarily resigns or retires from their position will no longer have access to the UNC GA Grievance Policy and pending Grievances shall be immediately withdrawn.

**X. Supplemental Forms and Procedures to this Policy**

Human Resources shall publish on its publicly accessible web site, and update as appropriate, the following documents that facilitate the Grievance process. These documents shall also be made available in printed form to any Covered Employee on request:

- A. Procedures, by which any Grievance shall be pursued and handled by all parties to such a Grievance.
- B. Grievance Form, which must be used by Complainants to initiate Grievances under this process.
- C. Respondent Reply Form, which must be used by Respondents during the process.
- D. Complainant Reply Form, which must be used by the Complainant to reply to decisions during this process.
- E. Other materials as deemed appropriate by the Vice President for Human Resources.

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**Related Links**

- [The Code of the Board of Governors of the University of North Carolina](#)
- [UNC Policy 300.1.1](#)
- [UNC Policy 300.2.1](#)
- [EHRA Non-Faculty Grievance Procedures](#)

- UNC GA Unlawful Workplace Harassment

**Related Forms**

- [EHRA Non-Faculty Grievance Filing Form](#)
- [EHRA Non-Faculty Complainant Reply Form](#)
- [EHRA Non-Faculty Respondent Reply Form](#)