

ELIZABETH CITY STATE UNIVERSITY
Grievance Procedures for Employees Exempt from the State Personnel Act (EPA)

Preamble

The duties and responsibilities of the Chancellor and respective senior staff members and their relationships to one another, to the Board of Governors, to the Board of Trustees, and all other officers and agencies within and without Elizabeth City State University (ECSU) are set forth in *The Code* of the University of North Carolina (UNC). ECSU Policy 200.3.8 for Senior Academic Administrative Officers (SAAO) at ECSU was adopted pursuant to the requirements of UNC Policy 300.1.1. ECSU Policy 200.3.4 for Employees Exempt from the State Personnel Act (EPA) at ECSU was adopted pursuant to the requirements of UNC Policy 300.2.1 for EPA employees.

ECSU fosters an environment of fair and equitable treatment for all employees without fear of intimidation or retaliation. The ECSU Grievance Procedures for employees Exempt from the State Personnel Act (EPA) was adopted as set forth in Chapter Six, Section 611 of *The Code* to provide a means of grievance and/or appeal for EPA Non-Faculty and SAAO employees, who are not subject to the Faculty Grievance Procedure (ECSU Policy 300.2.3), to secure a good faith review and attempted resolution of decisions concerning violations of ECSU Policy 200.3.4 and 200.3.8, only upon allegations of violations of (1) applicable notice requirements for discontinuations, expiration of term appointments or terminations of employment with notice, (2) provisions of equal employment opportunity/freedom from unlawful discrimination and protected activity limitations, and (3) discharge for cause or other disciplinary action, or for interpretation and application of a policy provision.

1. Policy Statement

- A. ECSU encourages an informal means of resolution prior to the use of these procedures. Employees and supervisors are encouraged to discuss matters freely and fully and attempt to resolve matters during confidential conversation. ECSU also encourages formal mediation, as the first step, if both parties agree. Requests for mediation should be directed to the Division of Human Resources for implementation.
- B. An employee using this procedure shall file his or her grievance within ten (10) calendar days of the receipt or notice of the decision that forms the basis for the grievance. Within the ten (10) day period, the grievant may request, in writing, an extension of the time limit for initiating the grievance procedure in order to facilitate an informal resolution of the grievance.

2. Procedures for Filing a Grievance Concerning Violations of Notice, Equal Employment Opportunity and Protected Activity

- A. To file a grievance concerning violations of ECSU Policy 200.3.4 and 200.3.8, an employee must provide a signed and dated written statement to the Director of Human Resources within ten (10) calendar days of the alleged action. The statement must include information concerning any informal attempts made to resolve the matters, the exact nature of the grievance, the identity of the party against whom the grievance is filed and the desired outcome sought by the employee. Decisions on extensions of time will be determined by the Director of Human Resources. An employee may file a grievance and/or appeal concerning discontinuations, expiration of term appointment, or terminations of employment with notice only upon allegations of violations of applicable notice requirements as set forth in ECSU Policy 200.3.4 and 200.3.8. If the employee does not timely file a written request for review, then the personnel action is final without recourse to any institutional review, appeal or grievance procedure.
- B. Upon receipt of the grievance, the Director of Human Resources shall review the grievance statement to determine whether it alleges a grievable matter. If the matter is grievable, the Director shall forward the statement to the EPA Grievance Committee. The committee is appointed by the Chancellor and consists of EPA Non Faculty peers who pledge to consider grievances with fairness and impartiality. All procedures of the committee are considered confidential. The committee does not have the authority to reverse administrative decisions. It is the responsibility of the committee to recommend a reassessment of an administrative decision which may have given rise to the grievance, if it is found that the decision was reached improperly. If the grievance statement does not constitute permissible grounds as specified by the provisions of the ECSU Policy 200.3.4 or 200.3.8, the Director of Human Resources shall inform the employee in writing that the matter is not subject to the grievance procedure according to the provisions of the policy.
- C. The committee should attempt to hear the grievance within thirty (30) calendar days of receipt of the written statement. The hearing shall be transcribed by a court reporter. The parties will be allowed to provide opening statements, to testify, to provide witness(es) testimony, cross examine witnesses, present documentary evidence, and give closing statements.
- D. Active participation by legal counsel is not allowed. The grievant shall be allowed to have one third party observer present for moral support. If the grievant chooses to have an observer present, the respondent may also have an observer present for the same purpose.

- E. Upon conclusion of the hearing, the committee shall deliberate and decide whether to sustain all or part of the grievance. The committee shall only consider evidence that was presented at the hearing in oral or written format. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the “greater weight of the evidence”). A report of the findings and any recommendations should be provided to the Vice Chancellor or Senior Unit Head and the Director of Human Resources within fifteen (15) calendar days from the conclusion of the hearing. If consideration by the committee is incomplete by the end of the fifteen-day period, both parties will be notified in writing of the reason for the delay. If the Vice Chancellor or Senior Unit Head is a material party in the grievance, the committee shall provide their report of the findings and any recommendations to the Director of Human Resources. The Director shall forward the complete grievance file, along with a transcript of the hearing and any documentary evidence, the findings and recommendations to the Chancellor for review.
- F. If the committee concurs in a recommendation that is favorable to the employee, and the Vice Chancellor/Senior Unit Head agrees with the committee’s findings and recommendations, the Director of Human Resources will be contacted within ten (10) calendar days and will communicate with the respective parties and facilitate the implementation of the resolution. At that point, ECSU will have completed its obligation to the grievant.
- G. If the Vice Chancellor/Senior Unit Head 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 Director of Human Resources will be contacted within ten (10) calendar days. The Director of Human Resources shall forward the complete grievance file, along with a transcript of the hearing and 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 decision in the matter and ECSU will have completed its obligation to the grievant. The Chancellor’s written decision shall be made within thirty (30) days of receiving the grievant file. Under extenuating circumstances wherein the written decision is delayed, the grievant shall be notified in writing of the reasonable time frame in which to expect the decision to be delivered. The reasonable time shall not exceed ninety (90) days of the receipt of the grievant file.
- H. If the Chancellor concurs in a recommendation of the committee that is favorable to the employee, the Chancellor’s decision shall be final. If the Chancellor either declines to accept a committee recommendation that is favorable to the employee or

concur in a committee recommendation that is unfavorable to the employee, the employee may appeal within fourteen (14) calendar days after receiving the Chancellor's written decision, by filing with the Chancellor for transmission to the ECSU Board of Trustees. A written notice of appeal, including a brief statement of the basis for the appeal, shall be sent by certified mail, return receipt requested, or by another means that provides proof of delivery. The decision of the Board of Trustees is final with no further appeal.

- I. At the conclusion of the grievance, all materials reviewed by the committee in preparing the report and any related documents shall be transferred to the Division of Human Resources for retention.
- J. In the event that the Chancellor is a material party in the grievance, the Director of Human Resources shall consult with General Counsel to determine who shall render the final decision to ensure impartiality.

3. Procedures for Filing a Grievance Concerning Discharge for Cause, Disciplinary Actions, and/or Policy Interpretation/Application

- A. To file a grievance concerning discharge for cause, disciplinary actions, and/or policy interpretation/application, an employee must provide a written signed statement to the Director of Human Resources within ten (10) calendar days of receipt of the notification of intent to discharge. If the employee makes no written request within the ten (10) day period, ECSU may proceed with the dismissal without offering further institutional procedures. A grievance may be filed only if the discharge for cause, disciplinary action and/or policy interpretation/application was illegal or violated ECSU Policy 200.3.4 or 200.3.8.
- B. If the employee elects to file a grievance, the procedures in 2B – 2E of these procedures shall be followed.
- C. When the report of findings and recommendations are provided to the Director of Human Resources, a meeting may be held with committee members, the Director of Human Resources and the appropriate Vice Chancellor/Senior Unit Head to discuss the findings.
- D. If the committee findings are favorable to the grievant and the Vice Chancellor/Senior Unit Head agrees, the Director of Human Resources will communicate with the respective parties and facilitate the implementation of the resolution. At this point, ECSU will have completed its obligation to the grievant.

- E. If the Vice Chancellor/Senior Unit Head 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 Director of Human Resources shall forward the complete file, including transcripts of the hearing and all 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 written decision should be made within thirty (30) days of receiving the grievant file and constitutes ECSU's final decision. Under extenuating circumstances wherein the written decision is delayed, the grievant shall be notified in writing of the reasonable time in which to expect the decision to be delivered. The reasonable time shall not exceed ninety (90) days of the receipt of the grievant file.
- F. If the Chancellor concurs in a recommendation of the committee that is favorable to the employee, the Chancellor's decision shall be final. If the Chancellor 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 fourteen (14) calendar days after receiving the Chancellor's written decision, by filing with the Chancellor for transmission to the ECSU Board of Trustees. A written notice of appeal, including a brief statement of the basis for the appeal, shall be sent by certified mail, return receipt requested, or by another means that provides proof of delivery. The decision of the ECSU Board of Trustees is final with no further appeal.
- G. At the conclusion of the grievance, all materials reviewed by the committee in preparing the report and any related documents shall be transferred to the Division of Human Resources for retention.