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REG - 10.16.1 - Grievance Procedure for Undergraduate Students Regulation

Authority: Chancellor

Responsible Office: Academic Affairs

Number: REG - 10.16.1 - Grievance Procedure for Undergraduate Students Regulation

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Related Policies/Sources:

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1. INTRODUCTION

1.1 This regulation provides a procedure for undergraduate students to make claims that their rights under law or university policy have been violated. This procedure is to be used to resolve grievances against decisions or actions that have been made by employees or agents of North Carolina Central University (NCCU).

2. WHAT MAY BE GRIEVED

2.1 Student grievances are limited to matters that:

2.1.1 Adversely affect the student in a personal or academic capacity; and

2.1.2 Involve a misapplication or misinterpretation of university policy, or a violation of state or federal law.

2.2 Grievances may not be used to challenge policies or procedures of general applicability.

2.3 Claims of Discrimination. If a student claims a violation of the NCCU--Equal Opportunity and Non-Discrimination Policy Statement as a basis for a grievance, the matter shall be referred to the NCCU Equal Employment Opportunity (EEO) Officer in the Department of Human Resources for review.

3. WHAT MAY NOT BE GRIEVED

3.1 The following items may not be the basis for a grievance:

3.1.1 Test grades or partial grades;

3.1.2 Claims based on purchases or contracts;

3.1.3 Claims not directly related to the status of a faculty member or administrator as an employee at NCCU;

3.1.4 Student disciplinary decisions, since there is a separate procedure for them. (These matters are handled by the Office of Student Rights and Responsibility); or

3.1.5 Complaints, grievances or appeals that are subject to another university procedure (e.g. residency status, Family Educational Rights and Privacy Act (FERPA), research misconduct).

4. COVERAGE

The procedures set forth below may be used by persons who are enrolled as undergraduate students, or who are participating in a NCCU-sponsored educational event (hereinafter "students"). The person filing the grievance must be the alleged victim of unfair treatment that is related to his or her status as a student or program participant. A grievance may not be filed on behalf of another person.

5. OTHER REMEDIES

The existence of this procedure does not bar a student from filing a claim in other forums to the extent permitted by state or federal law.

6. TIME LIMITS

Any complaint/grievance must be filed within thirty (30) calendar days from the decision, action, or event forming the basis of the grievance. Filing occurs when the written grievance is provided to the department head, dean, or vice chancellor. This time limit may be extended by the applicable department head, dean, or vice chancellor for good cause shown if the grievant makes a request for extension within the thirty (30) day period.

7. INFORMAL RESOLUTION

7.1 Grade Grievances. Students who are interested in filing a grade grievance should see the "Grade Appeal Policy" of the Undergraduate catalog beginning on page 99 or view online at http://www.nccu.edu/formsdocs/proxy.cfm?file_id=1676.

7.2 Other Grievances. Before submitting a written grievance, the student should first attempt resolution of the issue with the person(s) responsible for

the action or decision being grieved, and

with that person's supervisor (or higher administrative authority), if feasible. If the parties are interested in mediation, they may contact the Department of Human Resources (Employee Relations) about the use of mediation as part of an informal resolution process.

8. GRADE GRIEVANCES - FORMAL RESOLUTION

8.1 These procedures apply to grievances of final grades only. Test grades or partial grades cannot be the basis of a grievance. If a student grieves a grade on the basis that it was given in violation of state or federal law, the formal resolution procedures set out in sections 9 through 13 below will apply.

8.2 Otherwise, a student may file a written grievance with the department head. The grievance must state that informal resolution was attempted and resulted in an unsatisfactory outcome. The department head (or designee) shall review the matter and issue a written decision to the student and faculty member. If the student is not satisfied, (s) he may submit a written appeal to the dean or vice chancellor for academic affairs with supervisory authority over the department head. The dean or vice chancellor shall inform the instructor of the student's appeal, and allow the instructor to file a written response to the appeal within five (5) business days of the instructor's receipt of notice. The dean or vice chancellor shall review the appeal, any response, and the department head's decision. The dean or vice chancellor may designate another administrator to review the appeal. The dean or vice chancellor (or designee) shall prepare a written decision and send it to the student, faculty member, and department head. All documents and any recordings that are part of the dean's or vice chancellor's review will become part of the official record. If the matter is appealed beyond the offices of the dean or vice chancellor, the appeal will follow the procedures outlined in sections 12 and 13 below.

8.3 In no event shall persons who review a grade grievance substitute their subjective judgment about academic quality for the judgment of the instructor. However, grievances may be substantiated if it is determined on the basis of the evidence that the grade was based on a factor other than academic merit, or if there was a clear error in grading based on objective criteria.

9. OTHER GRIEVANCES - FORMAL RESOLUTION

9.1 Step One: Filing a Grievance

9.1.1 If informal resolution is not successful, a student may file a grievance by sending a written request for a hearing to the dean or vice chancellor with supervisory authority over the person(s) named in the grievance. The grievance must include the following information:

9.1.1.1 A statement that informal resolution was attempted and resulted in an unsatisfactory outcome;

9.1.1.2 A statement as to how the decision or action is unfair and has adversely affected the grievant, including a list of the university policies, regulations or rules, or state or federal laws that have been violated, if known;

9.1.1.3 The name(s) of the person(s) against whom the grievance is filed ("respondent(s)");

9.1.1.4 A statement as to how the respondent is responsible for the action or decision;

9.1.1.5 The remedy sought.

9.1.2 If the grievant claims violation of the NCCU - Equal Opportunity and Non-Discrimination Policy Statement as a basis for all or part of the grievance, the grievance will be held in abeyance while the Equal Employment Opportunity Officer (EEO) reviews the matter. The dean or vice chancellor who receives a written grievance from a student shall send the grievance to the EEO Officer if the grievance includes a discrimination claim. The EEO Officer shall notify the dean or vice chancellor when EEO Officer's review of the matter is concluded. The EEO Officer will also provide the parties with notification of its findings. Within ten (10) business days from receipt of the EEO Officer report, the dean or vice chancellor shall ask the grievant if he/she wishes to continue with the grievance in light of the EEO Officer review and any administrative action taken pursuant to that review. If the grievant wants to continue with the grievance, the student may request a hearing; either party may offer the EEO Officer notification of findings into evidence.

9.1.3 The written grievance must be filed within the time limit, pertain to a matter that may be grieved under this procedure, and be from a person with grievance rights under this procedure. If such information is not in the grievance, the dean or vice chancellor shall dismiss the grievance. If the grievance is not dismissed, the dean or vice chancellor (or a designee) shall appoint a panel of four persons (comprised of two students and two faculty or staff/administrator members) to hear the grievance. The panel shall be provided with a copy of these procedures and the written grievance. At least half the panel members shall come from a department or administrative unit that is different from the respondent's department or administrative unit.

9.1.4 If the respondent is a dean or vice chancellor, the grievance process should be administered by a designee of the Provost and Vice Chancellor of Academic Affairs.

9.1.5 Panel members should have no personal interest in the outcome of the proceeding, and should not have any personal involvement in or knowledge about the earlier stages of the matter.

9.2 Step Two: Initial Meeting

9.2.1 The panel shall meet, elect a chair, and send the written grievance to the respondent(s), within ten business days of being appointed. The chair shall

offer the respondent(s) an opportunity to provide a written response to the allegations within ten (10) business days of the respondent's receipt of the grievance. The chair should instruct the parties that they must provide each other and the chair with:

9.2.1.1 Copies of any exhibits they wish to introduce as evidence, and

9.2.1.2 A list of witnesses that each party will call with a brief summary of each witness' proposed testimony by a specified date. The chair may extend the deadlines for submitting a response and for exchanging proposed exhibits when appropriate upon receipt of a written request to do so.

9.2.2 The chair shall notify the parties of the hearing date, time, and place at least ten (10) business days in advance of the hearing. The panel may schedule additional days for the hearing if needed, as long as all parties receive reasonable advance notice of the additional dates. The respondent's response to the grievance must be distributed to the panel and all parties at least ten (10) business days prior to the hearing.

9.3 Step Three: Grievance Hearing

9.3.1 The purpose of the hearing is to provide the parties with the opportunity to present their respective cases to the panel. The hearing must be recorded so that all persons can be clearly heard, or recorded by a court reporter.

9.3.2 Each party may choose to have one observer present at the hearing who is not a witness. Observers may not provide representation or otherwise participate in the proceeding, but may speak to their respective parties off the record so long as it does not interfere with the hearing.

9.3.3 The panel may request procedural advice from an attorney in the Office of General Counsel. If the grievant has an attorney as an observer, the respondent(s) may request an attorney from the Office of General Counsel, other than the one advising the panel, to act as their observer. Respondents may not otherwise have an attorney for their observer. Availability of attorneys from the Office of General Counsel is subject to staffing levels and any conflicts.

9.3.4 The chair of the panel shall oversee the hearing, and shall make all rulings regarding the hearing process. The Chair of the panel has the authority to rule on procedural matters not otherwise addressed in university policies and procedures. The chair may decline to consider evidence for reasons of excessive redundancy, immateriality, irrelevance, abusive nature, and other good cause. If evidence is offered but the chair/panel decides not to consider it, the chair should include the evidence in the official record for purposes of potential appeal.

9.3.5 Formal rules of evidence do not apply and the panel may consider any information presented by the parties that it believes to be relevant and reliable.

9.3.6 Each party may make an opening and closing statement (grievant first and respondent(s) second in opening; respondent(s) first, and grievant last in

closing) of a time duration to be determined by the chair. After any opening statements, the grievant shall present his/her testimony and exhibits, and any witness testimony. The respondent(s) shall have an opportunity to ask questions of the grievant and witnesses. At the close of the grievant's case, the panel shall recess in closed session to determine whether the grievant has met his/her burden of showing a givable issue. If the panel finds the grievant did not meet his/her burden, the grievance shall be dismissed and the hearing concluded. If the panel finds that the grievant has shown a givable issue, the next step is the respondent(s) presents any testimony, exhibits, and witnesses, to be followed by questioning from the grievant. Rebuttal and other follow-up testimony are at the discretion of the panel. Closing statements from each party conclude the hearing process. Panel members may ask questions or request additional information, documents, or witnesses at any time prior to adjournment. At the conclusion of this step of the procedure, the parties and witnesses shall be excused.

9.4 Step Four: Panel Deliberations and Report

9.4.1 The panel shall deliberate and reach a decision on the grievance in closed session. Deliberations are not recorded or transcribed. The decision must be based solely on the evidence from the hearing. The panel should be careful not to substitute its judgment for that of the respondent(s). Rather, the panel should decide if the action is being grieved was the result of a misapplication or misinterpretation of university policy, or state or federal law. The burden is on the grievant to establish by a preponderance of the evidence that the grievant has been adversely affected by a violation of his/her rights and that such violation can be remedied.

9.4.2 The chair of the panel shall compile the official record of the proceeding that includes a copy of all correspondence with the parties (including email), all evidence submitted to the panel (Documentary evidence that the panel declined to consider must be so marked and segregated), the recording or transcript of the hearing, and anything else considered by the panel in reaching its recommendation. The chair shall be responsible for ensuring that a written report is prepared that addresses all material factual issues in dispute, states a conclusion as to whether the student was subjected to misapplication or misinterpretation of university policy, or state or federal law, and a recommendation for an appropriate remedy. The report and official record shall be delivered to the vice chancellor or dean who appointed the panel, with copies of the report to be sent to the parties within sixty (60) calendar days after the hearing. A dissenting panel member may file a minority report, which is attached to the primary panel report.

9.5 Step Five: Final Written Decision

The dean or vice chancellor (or designee) who appointed the panel shall issue a written decision within twenty (20) business days of receipt of the panel's report and official record. The dean, vice chancellor (or designee) may adopt the panel report in whole, modify it in part, or reject the report and reach different findings or conclusions for reasons expressly stated. The dean or vice chancellor (or designee) may also remand the matter if clarification of the

panel's report is necessary or additional proceedings to clarify the record or to cure procedural error are needed. This decision shall be sent to the parties (certified mail return receipt or personal delivery with a signed and dated receipt to the grievant) and to the panel members.

10. CONFIDENTIALITY

Panel members, witnesses, parties, and all other persons involved in the grievance proceeding are expected to maintain confidentiality regarding the proceeding. State and federal laws govern the privacy rights of students and employees. Any questions about the disclosure of information should be directed to the panel in writing, and the panel should consult with the Office of General Counsel.

11. EX PARTE CONTACTS

Once a hearing (formal resolution) has been requested, there should be no ex parte communication between parties and panel members concerning the merits of the case. An ex parte contact or communication occurs when one party shares information with a panel member without including all other parties. To prevent this from occurring, all communications that (a) occur outside the recorded hearing, and (b) are between one or more parties and one or more panel members, should be in written form and distributed simultaneously to all parties and panel members. Discussion of the merits of the case or presentation of evidence outside the hearing should be avoided. The rule against ex parte contacts also applies to communication with the final decision-maker and everyone who is responsible for deciding appeals.

12. APPEAL ROUTES

All student grievances may be appealed to the Provost and Vice Chancellor of Academic Affairs.

13. APPEAL PROCEDURES

13.1 The aggrieved party may appeal the decision by delivering written notice of appeal to the Provost and Vice Chancellor of Academic Affairs with a copy to the respondent and panel (if applicable), within ten (10) business days after receipt of the decision. Appeals received more than ten (10) days after receipt of the decision or attempted delivery of the decision will be dismissed.

13.2 The written notice of appeal must:

13.2.1 Identify the person whose decision is being appealed;

13.2.2 Provide a brief statement of the grounds for appeal, which at minimum should contain a list of alleged errors in the decision or decision-making process;

13.2.3 Indicate what remedy is requested;

13.2.4 Be signed and dated by the person filing the appeal; and

13.2.5 Include a copy of the decision being appealed.

13.2.2 Grounds for an appeal are limited to showing that the decision was clearly erroneous and that the alleged errors violated applicable university policies, or federal or state law. The appeal should state which university policies, or federal or state laws were violated by each of the alleged errors.

13.3 Once notice of appeal has been delivered, the responsible university administrator whose decision is being appealed shall forward the official record to the Provost and Vice Chancellor for Academic Affairs. The record shall consist of all information considered in the decision-making process, the panel's recommendation, and the decision(s) of the applicable dean or vice chancellor. The record shall be compiled in chronological order to the extent feasible, and shall include a table of contents.

13.4 The Provost and Vice Chancellor for Academic Affairs may ask the parties to submit written statements of their respective positions on the appeal. There is no right to a hearing or oral presentation in appeals. The Provost and Vice Chancellor for Academic Affairs will render a decision based solely on review of the record of the case and any written statements submitted by the parties. The Provost's decision on appeal shall be final, and no further appeal is permitted.

14. MODIFICATION

The Chancellor may approve modification of the foregoing procedures in a particular case if the modification (a) is for good cause, and (b) does not violate due process rights, policies of the North Carolina Central University Board of Trustees, or policies, regulations and rules including federal or state laws.