

Academic Freedom & Tenure
Don Alexander



The University of North Carolina

GENERAL ADMINISTRATION

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Appalachian State
University

East Carolina
University

Elizabeth City
State University

Fayetteville State
University

North Carolina
Agricultural and
Technical State
University

North Carolina
Central University

North Carolina
School of
the Arts

North Carolina
State University
at Raleigh

University of
North Carolina
at Asheville

University of
North Carolina
at Chapel Hill

University of
North Carolina
at Charlotte

University of
North Carolina
at Greensboro

University of
North Carolina
at Pembroke

University of
North Carolina
at Wilmington

Western Carolina
University

Winston-Salem
State University

MEMORANDUM

TO: Chairman Cameron and Members of the Board of Governors
FROM: Roy Carroll *RC*
DATE: April 2, 1998
RE: Proposed revision of the Tenure Policies of
The University of North Carolina at Chapel Hill

Mr. Irvin Aldridge, Chair of the Committee on Personnel and Tenure, has asked that I transmit to you the attached proposed revision of the Tenure Policies of the University of North Carolina at Chapel Hill which was approved by the committee at its meeting on March 12, 1998.

As noted in the attached memorandum and accompanying background information, the change would modify a portion of Section 3 of the policies that prescribes procedures to be followed in discharging or otherwise seriously sanctioning faculty members.

On behalf of the committee, Mr. Aldridge will place the proposed revisions before you for consideration at the April meeting.

Attachments



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MEMORANDUM

TO: The Committee on Personnel and Tenure
FROM: Roy Carroll *RC*
DATE: March 6, 1998
RE: Proposed revision of UNC-CH Tenure Policies

Chancellor Hooker has transmitted to President Broad a proposed amendment (see attachment) to the *Trustee Policies and Regulations Governing Academic Tenure* that received trustee endorsement as recommended by the chancellor. The president recommends approval of the requested change.

If approved by the Board of Governors upon your favorable recommendation, the change would modify a portion of Section 3 of the policies, that prescribes procedures to be followed in discharging or otherwise seriously sanctioning faculty members. In the attachment, the revised text is presented with new material underlined and deleted material struck through. To assist your analysis, the full text of Section 3 also is enclosed.

The purpose of the change is to permit the responsible faculty hearing committee and the chancellor an opportunity to reconsider their respective findings and conclusions when the chancellor disagrees with the recommendation initially conveyed by the committee. For example, if the committee were to recommend that the faculty member not be discharged, based upon its conclusion that the record evidence was not sufficient to establish the charge of "neglect of duty": (1) If the chancellor intends to reject the committee recommendation, the chancellor so notifies the committee, with a statement of reasons; (2) the committee reconsiders, with or without receipt of additional evidence; (3) the committee then conveys its response to the chancellor, either concurring in the chancellor's position, reiterating its initial recommendation or offering a modified recommendation; and (4) the chancellor makes a final administrative decision in the case after receiving the additional advice from the committee.

Enclosures

RR - RECD 1/30/98
77



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
Office of the Chancellor

Michael Hooker
Chancellor

January 27, 1998

103 South Building
Campus Box 9100
Chapel Hill, NC 27599-9100
(919) 962-1365 FAX: (919) 962-1647

President Molly C. Broad
The University of North Carolina
General Administration
CB# 9000, 910 Raleigh Road
Carolina Campus

Dear President Broad:

In accordance with Section 602(8) of The Code of The University of North Carolina, I am transmitting with this letter a proposed amendment to the Trustee Policies and Regulations Governing Academic Tenure in The University of North Carolina at Chapel Hill, which proposed amendment was approved by our Board of Trustees on January 22, 1998. I am submitting the proposal to you for your review and approval, and I am asking that, if you approve it, you transmit it to the Board of Governors for its consideration and approval.

Sincerely,

Michael Hooker

MH:jjn

Enclosure

cc: Chairman Richard Y. Stevens
Professor Richard N. Andrews

Proposed Amendment

Trustee Policies and Regulations Governing Academic Tenure in
The University of North Carolina at Chapel Hill

Section 3(b)(8) of the Trustee Policies and Regulations Governing Academic Tenure in The University of North Carolina at Chapel Hill is proposed to be rewritten as follows:

“(8) In reaching a decision, the Chancellor shall consider only the written transcript of the hearing and the report of the hearing committee. ~~The Chancellor’s decision shall be conveyed in writing to the affected faculty member and to the hearing committee.~~ If the Chancellor rejects a ~~finding, conclusion, or intends to reject the~~ recommendation of the hearing committee, the Chancellor shall ~~state the reasons for doing so in the written decision.~~ communicate that intention to the affected faculty member and to the committee along with his or her reasons and provide an opportunity for committee response before taking final action. In such a case the committee shall reconsider its recommendation, taking account of the Chancellor’s stated objections and receiving new evidence if the committee deems it necessary. The committee shall transmit its response to the Chancellor within ten days of the committee’s receipt of the Chancellor’s communication. After considering the committee response, the Chancellor shall issue a decision either concurring in or declining to accept the committee’s recommendation. The Chancellor’s decision shall be

conveyed in writing to the affected faculty member and to the hearing committee. If the Chancellor concurs in a recommendation of the hearing committee that is favorable to the faculty member, his or her decision shall be final. If the Chancellor either declines to accept a hearing committee recommendation that is favorable to the faculty member or concurs in a hearing committee recommendation that is unfavorable to the faculty member, the faculty member may seek review of the Chancellor's decision by the Board of Trustees as provided in Section 8."

SECTION 3. SUSPENSION, DIMINISHMENT IN RANK, AND DISCHARGE OF FACULTY MEMBERS

During any fixed or probationary term appointment and while on permanent tenure, a faculty member may be suspended, diminished in rank, or discharged from employment only on the grounds and in accordance with the procedures herein provided.

a. **Grounds for suspension, diminishment in rank, or discharge**

The permissible grounds for suspension, diminishment in rank, or discharge are misconduct of such a nature as to indicate that the faculty member is unfit to continue as a member of the faculty, incompetence, and neglect of duty.*

b. **Procedures for discharge**

- (1) The Chancellor or his or her delegate shall send the faculty member by registered mail, return receipt requested, a written statement of intention to discharge him or her. The statement shall include notice of the faculty member's right, upon request, to both written specification of the reasons for the intended discharge and a hearing by an elected standing faculty committee on hearings.
- (2) If, within ten days* after he or she receives the notice referred to in paragraph (1) above, the faculty member makes no written request for either a specification of reasons or a hearing, he or she may be discharged without recourse to any further institutional procedure by a written letter of discharge from the Chancellor.
- (3) If, within ten days after he or she receives the notice referred to in paragraph (1) above, the faculty member makes written request, by registered mail, return receipt requested, for a specification of reasons, the Chancellor or his or her delegate shall supply such specification in writing by registered mail, return receipt requested, within ten days after receiving the request. If the faculty member makes no written request for a hearing within ten days after he or she receives the specification, the faculty member may be discharged without recourse to any further institutional procedure by a written letter of discharge from the Chancellor.
- (4) If the faculty member makes a timely request for a hearing, the Chancellor or his or her delegate shall insure that the hearing is accorded before a standing committee of the faculty composed of at least five faculty members with permanent tenure elected by the voting members of the general faculty. The

* Retirement for reason of disability shall be in accordance with North Carolina statutes and regulations governing retirement for faculty who are members of the state retirement system. A faculty member who is not a member of the state retirement system and who is mentally or physically disabled, but refuses to retire, may be discharged because of that disability only in accordance with the procedures of this Section 3.

* As used in Sections 3, 4, and 6, except when calendar day is specified, the word "day" shall mean any day except Saturday, Sunday, or an institutional holiday. In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted.

hearing shall be on the written specification of reasons for the intended discharge. The hearing committee shall accord the faculty member twenty days from the time it receives his or her written request for a hearing to prepare his or her defense. The hearing committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member. [Amended 6/20/80]

- (5) The hearing shall be closed to the public unless the faculty member and the hearing committee agree that it may be open. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, and to examine all documents and other adverse demonstrative evidence. A written transcript of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the University's expense.
- (6) The Chancellor, or his or her delegate or counsel, may participate in the hearing to present evidence, cross-examine witnesses, and make argument.
- (7) In reaching decisions on which its written recommendations to the Chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written and oral arguments as the committee, in its discretion, may allow. The committee shall make its written recommendations to the Chancellor within ten days after its hearing concludes.
- (8) In reaching a decision, the Chancellor shall consider only the written transcript of the hearing and the report of the hearing committee. The Chancellor's decision shall be conveyed in writing to the affected faculty member and to the hearing committee. If the Chancellor rejects a finding, conclusion, or recommendation of the hearing committee, the Chancellor shall state the reasons for doing so in the written decision. If the Chancellor concurs in a recommendation of the hearing committee that is favorable to the faculty member, his or her decision shall be final. If the Chancellor either declines to accept a hearing committee recommendation that is favorable to the faculty member or concurs in a hearing committee recommendation that is unfavorable to the faculty member, the faculty member may seek review of the Chancellor's decision by the Board of Trustees as provided in Section 8. [Amended 6/20/80; 1/9/87]
- (9) When a faculty member has been notified of the University's intention to discharge him or her, the Chancellor may suspend him or her at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension shall be exceptional and shall be with full pay.