

UNC-CHAPEL HILL FACULTY HEARINGS COMMITTEE

GENERAL PROTOCOL FOR CONDUCT OF HEARINGS

DECISION TO DISCHARGE

2010

[NOTE: THIS IS A GENERAL DOCUMENT INTENDED TO GIVE A SUMMARY TO ALL PARTIES OF HOW THE UNC FACULTY HEARINGS COMMITTEE PREFERS TO STRUCTURE HEARINGS THAT INVOLVE A UNIVERSITY DECISION TO DISCHARGE A FACULTY MEMBER. THE EXACT PROTOCOL FOR ANY GIVEN HEARING MAY VARY, DEPENDING ON THE MATTERS TO BE DECIDED AND REQUESTS BY THE PARTIES. A SPECIFIC PROTOCOL DOCUMENT FOR A PARTICULAR HEARING WILL BE DRAFTED AFTER THE HEARING IS SCHEDULED AND THE PARTIES HAVE HAD A CHANCE TO REQUEST CHANGES IN THIS DOCUMENT. PLEASE FORWARD ANY REQUESTS FOR CHANGES TO THE COMMITTEE CHAIR.]

THE SCOPE OF REVIEW /BURDEN OF PROOF

Section 603(8) of the Code of the Board of Governors provides that the University has the burden of proof and that, in evaluating the evidence, the Faculty Hearings Committee should use the standard of “clear and convincing” evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action.” The Faculty Hearings Committee adopts this burden of proof and standard in its hearing protocol for 2009-2010.

WITNESSES AND EXHIBITS

In the spirit of avoiding unfair surprise, and to facilitate the hearing process, the parties must provide a list of witnesses and copies of exhibits they intend to introduce at the hearing to each other by delivery to the street address of counsel for each party or, if the discharged faculty member is proceeding *pro se*, to the home address for the faculty member, and to the committee chair *c/o* the receptionist at the UNC School of Government (with five copies for other committee members), by or before 5:00 pm of a day at least two business days prior to the date set for the hearing. The failure to list a witness, or to provide advance copies of all exhibits, will not preclude a party from calling the witness or from introducing a document. However, the opposing party may be granted a temporary adjournment of the hearing if the committee deems a delay necessary for that party to respond adequately to the new evidence. If an adjournment is granted, the committee will reconvene at a time convenient to its members. It is important to note that the committee has no authority to compel the attendance of witnesses. However, the chair may request that all witnesses who are employees of the university are given permission to attend the hearing.

THE HEARING

CALL TO ORDER—QUORUM

The chair will call the hearing to order, determine whether a quorum exists, and explain procedures. A quorum consists of at least three members of the total committee membership.

PARTICIPATION IN THE HEARING

Continuing participants in the hearing will include the members of the Faculty Hearings Committee, the University General Counsel as adviser to the Faculty Hearings Committee, the faculty member and her/his counsel, and the officer of administration who made the decision and her/his counsel. The hearing will be closed to others, with the exception of witnesses when they are testifying and a court reporter or other transcriber.

OPENING REMARKS

Each party will be provided with the opportunity to make opening remarks limited to five minutes each. The purpose of opening remarks is to orient the committee to the nature of the case and to the facts the party intends to establish. Opening remarks are not evidence.

THE UNIVERSITY'S CASE

At the conclusion of opening remarks, the University may present evidence (witnesses, documents, testimony, etc.) in support of its decision to discharge. All witnesses may be questioned by the representatives of the University and the faculty member, and by members of the committee. Under ordinary circumstances, the University will be limited to a total of two hours to present its case.¹ The University (and counsel) may reserve a portion of those two hours for rebuttal at the conclusion of the faculty member's evidence. If the University wishes to reserve rebuttal time, the University must notify the committee chair of that fact at the beginning of the hearing.

THE FACULTY MEMBER'S CASE

The faculty member may present evidence (witnesses, documents, testimony, etc.) in his/her defense and to rebut the contentions of the University. All witnesses may be questioned by the representatives of the faculty member and the University, and by members of the committee. The faculty member will be limited to a total of two hours to present his/her case.¹

THE UNIVERSITY'S CASE IN REBUTTAL

At the close of the faculty member's case, the University may submit evidence limited to the rebuttal of the faculty member's evidence, if the University has reserved a portion of its time as prescribed above.

CLOSING REMARKS

After presentation of all the evidence, the University may make closing remarks to the committee, followed by the closing remarks of the faculty member. Because the University bears the burden of proof, the University may also make brief final remarks in response to the faculty members' closing. Closing remarks shall not exceed fifteen minutes per side, including any response by the University.

¹ There is no obligation to use the full two hours and both parties are encouraged to be parsimonious in their presentations. Conversely, the committee has discretion to extend the time limit in extraordinary circumstances such as where the factual background of the charge or charges is complex. Committee questions and cross-examination will not be charged against this time. Both parties will be given approximately equal time to present their case.