**NON-REAPPOINTMENT REVIEW (SECTION 604) CHECKLIST**

This checklist is designed to provide guidance to the Chair of the Review Panel and other Panel members for a Non‐reappointment Review (Section 604 of the UNC Code). The checklist is intended as a helpful guide; the Panel Chair should review and consult NCSU POL 05.25.01 (Faculty Grievance and Non-Reappointment Review Policy) and NCSU REG 05.25.04 (Faculty Grievance and Non-Reappointment Review Procedures) for official requirements.

Once the Review Panel is finalized and has been contacted by the Faculty Grievance/Review Committee Chair (who will also provide the Panel Chair with a copy of the Non-reappointment Review Petition), the Panel Chair will contact the other Panel members to schedule the Initial Meeting.

**Initial Meeting of Review Panel**

\_\_\_\_ The Chair of the Review Panel (“Panel Chair”) shall conduct the Initial Meeting of the Review Panel (may be in person or via conference call). Minutes from the meeting should be kept, noting the date of the meeting, the meeting participants, and generally what was discussed.

\_\_\_\_ The Panel Chair shall remind all members of the Panel that the review process is confidential.

\_\_\_\_The Panel Chair shall remind all members of the Panel that no *ex parte* communications with the parties or with other Panel members outside of the process shall take place.

*\_\_\_\_* Legal counsel for the Review Panel should be consulted regarding any procedural issues or questions involving standards for determining jurisdiction. (It is strongly recommended that legal counsel for the Panel attend or participate via conference call in the Initial Meeting.)

\_\_\_\_ The Panel reviews the petition to determine if the petition was (1) timely filed—see POL 05.25.1-Section 3.2; and (2) if the petitioner has stated proper grounds under Section 604 of the UNC Code and NCSU POL 05.25.1—see Section 3.1. Also see Appendix B of NCSU REG 05.25.04 (Faculty Grievance and Non-Reappointment Review Procedures) for guidance.

Ask the following questions to determine if the petition presents a reviewable issue:

* Does the petition allege that the non-reappointment decision was based on one or more of the following:

+ The procedures to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision;

+ Violation of the faculty member’s rights guaranteed by the First Amendment to the U.S. Constitution or by Article I of the North Carolina Constitution;

+ Discrimination based on the faculty member’s age (40 or older), color, disability, gender identity, genetic information, national origin, race, religion, sex (including pregnancy), sexual orientation, or veteran status

+ Personal malice meaning dislike, animosity, ill-will or hatred based on personal characteristics that are not relevant to valid university decision-making

\_\_\_\_ If there is no jurisdiction over the petition, the Panel Chair shall compile the record and submit a report to the Chancellor recommending dismissal of the petition (copies of report go to the parties and to the Faculty Grievance/Review Chair). [Disregard remainder of this checklist; use official record checklist for compilation of record and Non-reappointment Review Report template to write report.]

 \_\_\_\_If there is jurisdiction over some or all of the petition, the Panel Chair will notify the parties in writing of the jurisdictional decision, and shall notify the respondent(s) to file a written response to the petition with the Panel Chair within ten (10) calendar days of respondent’s receipt of the decision on jurisdiction.

\_\_\_\_ The Panel Chair should consult with the parties (petitioner and respondent(s)) to finalize an agreeable date and time for the pre-hearing meeting.

\_\_\_\_ After time and date of pre-hearing meeting is confirmed, the Panel Chair should notify the parties of the time, date and location of the pre-hearing meeting.

**Pre-Hearing Meeting**

\_\_\_\_The Panel Chair shall confirm with each party whether he/she will be having an observer at the hearing, obtain the name of the observer (if applicable) and have the party indicate whether the observer is an attorney

\_\_\_\_The Panel Chair shall identify a number of potential hearing dates and times for which all Review Panel members and parties are available for the hearing (The identified dates should include several days and several weeks.)

\_\_\_\_The Panel Chair shall inquire of the parties whether there are any facts or other information that may be agreed upon and reduced into written stipulations signed by the parties

\_\_\_\_The Panel Chair shall instruct the parties to exchange a copy of the proposed exhibits (with a copy to the Chair) at least five (5) calendar days prior to the first date set aside for the hearing. Proposed exhibits may be provided in hard copy or in another format agreeable to the parties and the Panel Chair (i.e. pdf version sent over e-mail, thumb drive, CD-Rom, etc.) Proposed exhibits should also be numbered sequentially and identified by the party (i.e. “Petitioner Exh. 1” or “Respondent Exh. 1”). In addition, the pages of each exhibit should be numbered for easy reference.

\_\_\_\_ The Panel Chair should notify the parties that it is their responsibility to secure the availability of each party’s respective witnesses for the hearing.

\_\_\_\_ The Panel Chair shall instruct the parties to bring at least five (5) hard copies of all documents to be introduced at the hearing *(at least 1 copy for opposing party, 1 copy for Official Record; 3 copies for Panel Members).*

\_\_\_\_The Panel Chair shall address any procedural issues at the pre-hearing meeting (i.e. limitations on the number of witnesses, time limitations to present case, order of presentation of evidence, etc.)

 \_\_\_\_ The Panel Chair shall notify the Faculty Senate Office *(will arrange for hearing room)* and the Office of General Counsel (OGC) of hearing date(s) *(OGC will arrange for Court Reporter)* .

**Procedure for the Hearing**

General Considerations:

\_\_\_\_Other than during the Review Hearing itself, Panel members shall not communicate with the parties or prospective witnesses, directly or indirectly, orally or in writing, concerning the merits or substance of the subject case.

 \_\_\_\_\_The Panel Chair shall have authority over the Review Hearing – *(including but not limited to considering or admitting oral or written evidence, the relevance of particular testimony, immateriality, or unduly repetitious information or evidence) –* the Panel Chair may consult with the Legal Counsel to the Panel on procedural issues or questions regarding the process. Only such evidence as the Panel Chair believes is fair and reliable shall be considered.

\_\_\_\_\_ All documentary evidence must be marked and made part of the Official Record. Evidence excluded from consideration shall be marked as such, maintained and included in the Official Record in a separate section.

\_\_\_\_Unless a party to the proceedings, witnesses shall be sequestered and kept from the Hearing Room until called to testify.

Actual Hearing:

\_\_\_\_ Hearings shall begin with Panel Chair reading a brief summary of the non-reappointment decision and the faculty member’s challenge and bases for the request for a hearing; the petition for non-reappointment review shall be introduced into the record.

 \_\_\_\_ The petitioner must demonstrate by a preponderance of the evidence that the non-reappointment was based upon material deviations in the process or was based upon an impermissible reason for non-reappointment (See Section 604 of the UNC Code and NC State POL 05.25.1—see Section 3.1).

\_\_\_\_Both parties are entitled to make an opening statement. The Panel Chair may set a time limit for opening statements by the parties. The petitioner shall make an opening statement first followed by the respondent(s)’ opening statement.

\_\_\_\_ The petitioner has the burden of proving his/her contentions by a preponderance of the evidence presented (more likely than not). The faculty member shall begin, and present his/her contentions which shall be limited to those grounds specified in the request for a hearing and supported by such proof or evidence as he/she shall provide. If the petitioner chooses to testify or speak on his/her behalf, respondent(s) may cross-examine the petitioner. If witness testimony is offered, the respondent(s) may cross examine the petitioner’s witnesses. ***The Panel may also pose questions directly to witnesses and the parties.***

 \_\_\_\_ Following the petitioner’s presentation of evidence, the Review Panel shall excuse all others present and shall consider whether the petitioner has established a prima facie case.

\_\_\_\_If the petitioner has not met his/her burden, then the Review Panel shall notify the parties and terminate the proceedings (such a determination would result in a confirmation of the non-reappointment decision). The Panel Chair shall compile the Official Record and submit a report to the Chancellor recommending dismissal of the petition (copies of report go to the parties and to the 604/607 Chair). [Disregard remainder of this checklist; use checklist for compilation of record and template report form.]

 \_\_\_\_If the petitioner has met his/her burden, the hearing shall proceed with the presentation of the respondent(s)’ rebuttal or explanation.

 \_\_\_\_\_ The respondent(s) shall present testimony and evidence as is relevant to rebut or address the petitioner’s allegations. If the respondent(s) choose to testify, the petitioner may cross-examine the respondents. The petitioner may then cross examine the respondent’s witnesses. Redirect may be conducted; rebuttal and sur-rebuttal are also permitted. ***The Panel may also pose questions directly to witnesses and the parties.***

\_\_\_\_ Both parties are entitled to closing statements. The Panel Chair may set a time limit. The petitioner shall make a closing statement first followed by the respondent(s)’ closing statement.

 **Closed Session**

\_\_\_\_\_ At the conclusion of the Review Hearing, the Panel Chair shall dismiss all others present and the Review Panel shall meet in Closed Session and deliberate to reach their determination.

\_\_\_\_ The Review Panel must decide whether the petitioner met the burden of proof based solely on the evidence presented at the hearing.

 \_\_\_\_ The Review Panel shall make findings of fact on the allegations presented in the petition and the responses thereto and make recommended conclusions on whether the petitioner has proven by the preponderance of the evidence that the non-reappointment decision resulted from improper grounds as set out in Section 604 of the UNC Code and section 3.1 of NC State POL 05.25.1.

 \_\_\_\_Within fourteen (14) calendar days after the conclusion of the hearing (that is not considered concluded until the final transcript is received from the court reporter), the Panel Chair shall provide the Official Record and the Panel’s Report to the Chancellor. The parties and the Faculty Grievance/Review Committee Chair are also provided with a copy of the Panel Report.