

April 2, 2018

**BY FEDERAL EXPRESS, SIGNATURE REQUIRED and
ELECTRONIC MAIL, RETURN RECEIPT REQUESTED**

Jay Smith
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Re: Appeal of Chancellor's Decision Regarding Faculty Grievance

Dear Professor Smith and Chancellor Folt:

This letter constitutes the decision of the Board of Trustees regarding Professor Smith's appeal of the Chancellor's decision declining to make an adjustment in his favor following his amended grievance to the Faculty Grievance Committee.

The Board's decision is the most recent step in the faculty grievance process under Section 607 of the UNC Policy Manual. On July 11, 2017, Professor Smith filed an initial grievance with the Faculty Grievance Committee alleging violations of his academic freedom. Professor Smith alleged that various University administrators pressured his departmental chair to keep his course (HIST 383 – identified as “Big-Time College Sports and the Rights of Athletes, 1956-present”) off the teaching schedule for the 2017-2018 academic year because they did not like the content of the course or the way he taught the course. Professor Smith submitted an amended grievance dated August 22, 2017, acknowledging that he had been allowed to teach HIST 383 in the Spring 2018 but that this decision did not cure the alleged academic freedom violations. In his amended grievance, Professor Smith requested a number of items of relief, including a public affirmation that he “be able to teach HIST 383 whenever he chooses subject to departmental or College curricular needs.” (Faculty Grievance Committee Report, p. 2).

On or around August 22, 2017, the Chair of the Faculty Grievance Committee determined that the committee would proceed with a hearing into Professor Smith's amended grievance, but determined that some of Professor Smith's requested items for relief fell outside of the Committee's purview. The Faculty Grievance Committee limited their review to whether the scheduling decisions concerning HIST 383 conformed to University and departmental policies and customs. Following a hearing on September 8, 2017, the Faculty Grievance Committee found no evidence of personal bias against Professor Smith by any of the respondents, but concluded that the initial departmental decision to keep HIST 383 off of the 2017-2018 curriculum resulted from perceived pressure by College administrators and was inconsistent with the course scheduling practices of the History Department and the University's commitment to academic freedom. As a recommended adjustment, the Faculty Grievance Committee advised in part that "University officials should not interfere in individual course selection decisions made by departmental officials nor should they pressure department officials in favor of or against particular courses." (Faculty Grievance Committee Report, p. 9).

In a letter dated November 30, 2017, Provost Blouin rejected the Faculty Grievance Committee's report and recommended adjustment. In a letter dated February 26, 2018, the Chancellor concurred with the Provost's decision rejecting the Faculty Grievance Committee's report and recommended adjustment. Professor Smith timely sought appeal to the Board of Trustees (the "Board").

The Board considered Professor Smith's appeal under the Board of Trustees Procedures for Appeals (the "Procedures"). Chairman Haywood Cochrane reviewed Professor Smith's appeal petition pursuant to the Procedures, determined that it stated a valid ground for appeal under the Procedures, and notified the parties of this decision by letter dated March 16, 2018. As permitted by the Procedures, the Chancellor submitted a response to the appeal petition on March 20, 2018.

As provided in the Procedures, Chairman Cochrane appointed a three-member panel of the Board to consider and make a recommendation to the Board on the question of whether the Chancellor committed clear and material error in reaching her decision. Under UNC Policy Manual, Section 101.3.2., in order to prevail before the Board, the faculty member must demonstrate that the Chancellor's decision was clearly erroneous, that it violated applicable federal or state law or university policies or regulations, or that the process used in deciding the grievance was materially flawed. The panel reviewed the written transcript and record provided to the panel, including Professor Smith's grievances and correspondence submitted to the Faculty Grievance Committee, the Faculty Grievance Committee's report, the Provost's decision, and the Chancellor's decision concurring in the decision of the Provost. The panel also reviewed Professor's Smith's appeal petition to the Board, the Chancellor's response to the appeal petition, and Chairman Cochrane's letter accepting the appeal for review. Having reviewed these materials and deliberated about their contents, the panel made a unanimous recommendation for the Board's consideration on March 29,

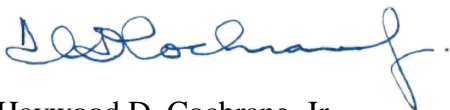
2018. The Board had access to the full record in this matter when it considered and voted to accept the panel's unanimous recommendation.

The Board determined that the Chancellor did not commit clear and material error when she concurred with the Provost's decision declining to accept the Faculty Grievance Committee's report and recommended adjustment. Specifically, the Board finds that the Chancellor's decision was not clearly erroneous, materially flawed, or in violation of applicable policies or law.

As the Board's rationale for this determination, it adopts the reasoning contained in the Chancellor's letters dated February 26, 2018 and March 20, 2018 letter (copy enclosed) in response to the appeal petition. Specifically, we affirm and strongly agree with her finding that the Faculty Grievance Committee's recommended adjustment would undermine the authority of the Dean to oversee curriculum and would be contrary to the University's institutional standards and accreditation requirements.

This decision constitutes the final institutional determination of this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "H. Cochrane, Jr.", with a stylized flourish at the end.

Haywood D. Cochrane, Jr.
Chair

cc: Mary H. Crosby, University Counsel

Enclosure: Chancellor's March 20, 2018 letter