

Appeals and Appearances Before the Board

I. Purpose

The purpose of this policy is to set the conditions and procedures for appeals to the TBR Chancellor or Board. This policy adheres to TBR Policy 01:02:11:00.

II. Scope

Not applicable.

III. Policy

Appeals of the Chancellor

A student or employee at DSCC may appeal a final decision of the President to the Chancellor, except for decisions resulting from a UAPA hearing. UAPA hearings as outlined in TBR Policy 01:06:00:05 are not appealable to the Chancellor. Appeals to the Chancellor shall be limited to alleged violations of state or federal law or institutional/board policy where the complainant has not filed a federal/state administrative appeal or a lawsuit in state or federal court. If, at any time during the pendency of the appeal, a complainant files a lawsuit or administrative action based on the same subject matter as the appeal, the appeal will be dismissed without further action. The following decisions will only be appealable if there is a violations of state or federal law alleged:

1. Termination of executive, administrative, professional, clerical and support employees during or at the end of the initial probationary period or pursuant to the terms of the contract of employment;
2. Non-renewal of a tenure-track faculty appointment during the first four years of the probationary period;
3. Denial of tenure unaccompanied by notice of termination of the fifth year of the probationary period;
4. Non-renewal of a temporary faculty appointment;
5. Salary determinations;
6. Student academic matters, e.g., grade appeals, failure to meet retention policies, etc.;
7. Performance evaluations of faculty (including application for promotion) or staff; and
8. Residency classification of students for tuition and fee purposes.

Appeals and supporting documents must be submitted in writing to the Chancellor within 20 calendar days following the date of a written decision by the President.

The appeal must state the decision being appealed, the law and/or policy which is alleged to have been violated, and the redress desired.

The Chancellor shall review the decision on the basis of the record developed at the institution, with any new evidence which for good cause shown was not previously considered.

The Chancellor may request a student or employee to appear and present arguments in support of an appeal.

Complaints from students or prospective students regarding accreditation or violation of state or federal law may be submitted to the Chancellor's office for appropriate review and action as required by 34 CFR\$ 600.9 (a) 1).

Any available institutional complaint procedure must be exhausted prior to consideration by the Chancellor or his/her designee.

Appeals to the Board

A student or employee who is dissatisfied with the decision of the Chancellor on his or her appeal may petition the Board of Regents for permission to appeal the decision of the Chancellor to the Board. The petition must be submitted in writing to the Secretary of the Board within 20 calendar days following the date of the Chancellor's written decision.

The petition for appeal must present:

1. A brief statement of the issues to be reviewed including a statement of the redress desired;
2. A brief statement of the facts relevant to the issues to be reviewed, with appropriate reference to where such can be found in the record;
3. A statement of applicable law/policy;
4. A brief argument; and
5. Citations of any applicable authorities, (such as policies, statutes, and cases).

The petition for appeal must be limited to ten (10) pages, typed, doubled spaced, and on 8 1/2 X 11" paper. The appropriate standing committee of the Board shall review the decision of the Chancellor on the basis of the record considered by the Chancellor. New

evidence may only be submitted if good cause shown was not previously considered. The committee shall determine whether the petition to appeal will be granted.

The Board committee, in determining whether to grant an appeal, may consider the following:

1. Whether Board policy or procedures have been followed;
2. Whether or not there is material evidence to substantiate the decision appealed from; and/or
3. Whether or not there has been a material error in the application of the law, which prima facie results in substantial injustice.
4. The listing in 1 – 3 above is not exhaustive and, in the discretion of the Board committee, other considerations may be taken into account.

If the petition to appeal is granted, the committee shall hear the appeal at a subsequent regularly scheduled meeting of the committee and may request the person appealing to appear and present arguments on his or her behalf. The committee shall recommend action on the appeal to the Board of Regents. The decision of the Board shall be final and binding for all purposes.

Record

The record on an appeal to the Chancellor or Board shall consist of all relevant documents, statements, and other materials submitted by the person appealing and by the president or director of the institution involved.

New evidence may only be submitted if good cause is shown for why the evidence was not submitted previously.

In the event that the person appealing does not submit sufficient information to allow review of the decision being appealed, the Chancellor or the Board may require the person appealing to furnish any additional information which may be necessary.

Standard of Review

The following provisions shall govern the review by the Chancellor and Board of an appeal under this policy:

1. A decision may be remanded for further consideration upon a finding that it was not made in accordance with applicable state or federal law or Board, institutional procedures; provided, however, that the decision should not be remanded if the procedural error was not material to the decision and therefore constituted harmless error;
2. A decision may be modified or reversed only upon a finding that the decision constituted an abuse of discretion or was made in violation of

applicable state or federal law or Board, institutional policies; provided, however, that the decision should not be modified or reversed if the violation of policy was not material to the decision and therefore constituted harmless error;

3. A decision should be affirmed in the absence of a finding of abuse of discretion or material violation of applicable state or federal law or Board, institutional policies, or procedures.

Notwithstanding any provision herein to the contrary, any decision may be remanded by the Chancellor or Board for a resolution of the matter which is mutually acceptable to the parties or which is, in the best judgment of the Chancellor or Board, a fair and equitable resolution.

IV. Compliance

All DSCC students and employees must adhere to this policy.

V. Definitions

None.

VI. Revision History

Policy written October 2016; approved by Administrative Council on October 28, 2016. Revised June 2024 and approved by Administrative Council email vote June 17, 2024.