

Approved October 13, 2001

RULES GOVERNING APPEALS TO THE BOARD OF TRUSTEES

1. **Scope of Rules.** These rules govern appeals to the Board of Trustees pursuant to Section 457(a) of Title 17 of the Virgin Islands Code. The Board may dismiss any appeal not in conformity with these rules.
2. **Suspension of Rules.** In the interest of expediting decision or for other good cause shown, the Board may modify or suspend the requirements or provisions of any of these rules in a particular case on application of the President, an employee dismissed or suspended by the President, or on its own motion.
3. **Appeal –How Taken.** Any employee of the University dismissed or suspended by the President may file an appeal. An appeal must be taken by filing a written notice of appeal, stating the name of the appellant, the decision of the President being appealed and the date of that decision. The notice of appeal shall be filed with the Chairman of the Board and a copy shall be served on the President within the time allowed by Rule 4. The Chairman and the President may be served in care of the University of the Virgin Islands, No. 2 John Brewer's Bay, St. Thomas, Virgin Islands 00802.
4. **Filing of the Notice of Appeal.** The notice of appeal must be filed within 20 calendar days after receipt of notice of the decision of the President, which decision shall be served on the employee by hand delivery or certified mail. The Board, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal. Otherwise the failure to timely file an appeal to the Board shall mean that the decision of the President shall become final.
5. **The Content and Time of Filing of Appellant's Brief.** Within 30 days after filing of the notice of appeal, the employee, as appellant, shall file a brief containing a statement of the issue or issues the Board should consider, a statement of facts necessary to understand the subject matter of the appeal, and a statement of reasons why the decision of the President should be modified or reversed. The brief shall consist of not more than thirty (30) double-spaced 8 ½" by 11" typewritten pages, consisting of black type on white paper, bound together with a secure binding. The brief and 19 copies shall be served on the President, who shall be responsible for delivering a copy to each member of the Board, and to the University's legal counsel.
6. **The Content and Time of Filing of Appellee's Brief.** The President or his designee, as appellee, shall have 30 days after filing of the appellant's brief to file a brief containing a statement of the issue or issues the Board should consider, a statement of facts necessary to understand the subject matter of the appeal, and a statement of reasons why the decision of the President should not be modified or reversed. Prior

to filing a brief, the appellee shall attempt to agree with the appellant on the statement of the issue or issues, and on the statement of facts. If agreement is reached on these matters, then the appellee's brief need not contain them. The appellee's brief shall consist of not more than thirty (30) double-spaced 8 ½" by 11" typewritten pages, consisting of black type on white paper, bound together with a secure binding. The original of the appellee's brief shall be served by the President or his designee on the Chairman of the Board and a copy shall be served on the appellant and on each member of the Board and the University's legal counsel.

7. **The Record On Appeal.** The Appellant shall file with its brief an appendix in support of its brief consisting of all documents, transcripts and exhibits that were considered by the President in connection with his decision. The original appendix and 19 copies thereof shall be served on the President, who shall be responsible for delivering a copy to each member of the Board and to the University's legal counsel. The appendix shall consist of 8 ½" by 11" double-spaced typewritten pages, consisting of black type on white paper, bound together with a secure binding. Prior to filing the appendix, the appellant shall attempt to agree with the appellee on the documents, transcript and exhibits to be included in the appendix. In the event that they cannot agree, the appellee may file a supplemental appendix in support of the appellee's brief.
8. **The Form of Appellant's Brief.** The brief of the appellant must contain, under appropriate headings and in the order here indicated:
 - A table of contents with page references;
 - A statement of facts;
 - A statement of the issues presented for review by the Board; and
 - A statement of the reasons why the decision of the President should be modified or reversed.
9. **The Form of Appellee's Brief.** The brief of the appellee must conform to the foregoing requirements applicable to the appellant's brief, except that none of the following need appear in the appellee's brief unless the appellee is dissatisfied with their statement by the appellant:
 - A statement of facts; and
 - A statement of the issues presented for review by the Board.
10. **The Content and Time of Filing of Appellant's Reply Brief.** The appellant may file a brief in reply to the brief of the appellee not later than fifteen (15) days after the filing of the appellee's brief. No further brief of the appellant or appellee shall be filed except with leave of the Board. The brief shall consist of not more

than twenty (20) double-spaced 8 ½" by 11" typewritten pages, consisting of black type on white paper, bound together with a secure binding. The brief and 19 copies shall be served on the President, who shall be responsible for delivering a copy to each member of the Board and to the University's legal counsel.

11. **Filing By Hand Delivery Or By Mail.** The notice of appeal, briefs and the appendix shall be filed by hand delivery or by mail. Service by mail shall be complete upon mailing, postage prepaid. Each document shall contain a certificate of service signed by the party filing it, stating the date and manner by which it was filed. If a brief has been filed by mail, the time limit for filing a responsive brief shall be extended by three days.
12. **Appearance Before The Board.** Unless expressly authorized by a vote of the Board at a duly constituted meeting of the Board, oral argument or the presentation of evidence before the Board shall not be required. If, however, the Board votes to require an appearance before the Board, the appellant may appear with counsel to speak on behalf of the appellant, and if authorized, to present evidence on behalf of the appellant. The appellee shall be given the same opportunity to speak and present evidence as is given to the appellant. The Chairman of the Board shall determine the applicable procedure in appearances before the Board.
13. **The Decision of the President.** The decision of the President shall remain in effect during the pendency of an appeal unless it is modified by the Board.
14. **The University's Legal Counsel:** The University's legal counsel shall represent the appellee on appeal. During its deliberations, when necessary, the Board shall retain independent legal counsel to advise it on matters relating to appeals.
15. **Standard of Review.** The appellant shall have the burden of persuading the Board that the decision of the President must be modified or reversed because of a substantial error that was made in interpreting Board policy, applicable rules and regulations of the University, or because of a clear abuse of authority or applicable law. The Board shall uphold the decision of the President unless a review of the record on appeal indicates that the President's decision was based on such an error.