

ADMINISTRATIVE MEMORANDUM

SUBJECT Amendments to Board Policy Concerning
Political Activities of University Employees:
Candidacy for and membership in General
Assembly

NUMBER 214

DATE February 13, 1985

At its meeting on February 8, the Board of Governors adopted amendments to its policy of January 20, 1976 concerning political activities of University employees. The full text of the policy, with interlineations and deletions reflecting the changes made by the Board, is attached. Notice of these revisions should be disseminated to all employees, promptly.

The purpose of the changes is to permit a more flexible response to cases in which an employee becomes a candidate for or is elected to membership in the General Assembly. The basic consequences of the changes are these:

1. An employee elected to the General Assembly is presumed thereby to have created a conflict in time or interest that precludes his or her continued employment with the University. That presumption is irrebuttable with respect to any semester during which the General Assembly is in session; thus, the employee either must resign from University employment or must seek and be granted a full leave of absence, without pay, for that semester, if such a leave is deemed practicable by the Chancellor and the Board of Governors. By contrast, with respect to any semester during which the General Assembly is not in session, the presumption of conflict continues to be applicable, but that presumption may be rebutted through a showing by the employee that it is possible and practicable for him or her to discharge the non-session responsibilities of a member of the General Assembly and simultaneously perform satisfactorily all or a portion of his or her University responsibilities; typically, an affected employee might request a partial leave of absence, without pay, during such a semester; it would be the responsibility of the Chancellor and the Board of Governors to determine whether in fact such a leave would be practicable and ought to be granted (or should be denied, with the consequence that the employee would be required to resign). Thus, for each of the semesters falling within the two-year term of officeholding, a separate timely petition referable to each would have to be submitted by the employee, in advance of the beginning of the semester, and acted upon ultimately by the Board of Governors.
2. Similar changes with respect to the consequences of candidacy for membership in the General Assembly have been effected by the Board amendments and must be addressed accordingly, under Section 3 of the policy.

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Any questions concerning the interpretation and application of the amended Board policy may be addressed to this office.



William Friday

Attachment

RESOLVED, that the Board of Governors hereby amends its policy adopted on January 16, 1976 and entitled "Political Activities of University Employees," as follows:

1. Section 2.a. is amended by striking from the second line the parenthetical phrase "(including membership in the General Assembly)."

2. Section 2.b. is amended by inserting in the third line, following the word "nominal," the parenthetical phrase "(including membership in the General Assembly)."

3. Section 2.b. is amended by inserting in line 19, following the word "officers," the parenthetical phrase "(and by all other employees if the petition is for service in the General Assembly)."

4. Section 2.b. is amended by inserting in line 25, following the word "officers," the parenthetical phrase "(with the exception of petitions for service in the General Assembly)."

5. Section 3.a. is amended by striking from the second line the parenthetical phrase "(including membership in the General Assembly)."

6. Section 3.b. is amended by inserting in the second line, following the word "nominal," the parenthetical phrase "(including membership in the General Assembly)."

7. Section 3.b. is amended by inserting in line 16, following the word "officers," the parenthetical phrase "(and by all other employees if the petition concerns candidacy for the General Assembly)."

8. Section 3.b. is amended by inserting in line 22, following the word "officers," the parenthetical phrase "(and petitions concerning candidacy for the General Assembly)."

POLITICAL ACTIVITIES OF UNIVERSITY EMPLOYEES

WHEREAS, as private citizens all University employees retain the rights and obligations of citizenship, including freedom to engage in political activities; and

WHEREAS, certain types of activities by University employees related to governmental and political processes may be incompatible with the general responsibilities of public employment or with the particular responsibilities of University employment; and

WHEREAS, the Board of Governors on September 13, 1974, adopted policies concerning political activities pertaining only to certain designated employees of the University; and

WHEREAS, the Board deems it desirable to have one set of policies on this subject that will apply to all University employees, with exception only of those who are subject to the State Personnel System;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA:

1. Definitions. For purposes of this Resolution, the following words and phrases shall have the meanings indicated:

a. "Employees" means all employees of The University of North Carolina and of the constituent institutions who are exempt from the State Personnel System (Article 1 of Chapter 126 of the General Statutes).

b. "Senior Administrative Officers" means the President and all employees on the President's staff and the Chancellors and senior officials of the constituent

institutions, including persons at the rank of vice chancellor, provost, dean, and other positions of equivalent rank and responsibility.

c. "Public Office" means any national, state, or local governmental position of public trust and responsibility, whether elective or appointive, which is created, prescribed, or recognized by constitution, statute, or ordinance (other than within The University of North Carolina).

d. "Compensation Which Is More Than Nominal" means compensation over and above (1) payments in the nature of reimbursements for expenses incurred by the officeholder incident to holding office (whether calculated on an average per diem basis or on an actual-expense basis) plus (2) the amount of per diem compensation prescribed by G. S. 138-5(a)(1) (currently established to be \$15 per diem).

2. Holding Public Offices Concurrent With University Employment.

a. Full-Time Public Offices.

Upon election to or acceptance of appointment to a public office requiring full-time service ~~(including membership in the General Assembly)~~, an employee of the University will be deemed to have resigned from his or her University employment; provided, that if deemed practicable by the University, an affected employee may be granted a full leave of absence from University employment, without pay, to coincide with the period of public service, with such period of leave not to exceed two years in any case; such a request for leave shall be addressed to and resolved by the Board of Governors, shall be transmitted through the President, and shall be accompanied by a recommendation

from the appropriate Chancellor in any case pertaining to an institutional employee (if the request for leave pertains to a Chancellor, it shall be accompanied by a recommendation of the Board of Trustees).

b. Part-Time Public Offices For Which Compensation Is More Than Nominal.

If a University employee is elected to or accepts appointment to a public office requiring part-time service, for which compensation is more than nominal (including membership in the General Assembly), ~~nominal/ it shall be presumed that holding such public office creates a conflict of time or interest which interferes with responsibilities owed the University and which requires the affected employee either to procure an appropriate leave of absence or to resign from University employment. If prior to assuming the public office the affected employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, holding such public office in fact will not create a conflict of time or interest which interferes with responsibilities owed the University, the resignation requirement shall not be applicable; if consistent with the presumption the resignation requirement is found to be applicable, upon request by the affected employee and if deemed practicable by the University the employee may be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, applicable to the period of public service (if a full leave of absence is deemed necessary and is granted, it shall not exceed two years in any case; if a partial leave of absence is deemed necessary and is granted, the period of leave shall be at the discretion of the University).~~ Such petitions ~~and/or requests~~ for leave by senior administrative officers shall (and by all other employees if the petition is for service in the General Assembly)

be addressed to and resolved by the Board of Governors, shall be transmitted through the President, and shall be accompanied by a recommendation from the appropriate Chancellor in any case pertaining to an institutional employee (if the request for leave pertains to a Chancellor, it shall be accompanied by a recommendation of the Board of Trustees); such petitions~~-and/or-requests-~~ for leave by University employees other than senior administrative officers (with the exception of petitions for service in the General Assembly) shall be addressed to and resolved by the appropriate Board of Trustees and shall be transmitted through the Chancellor. With respect to each such decision rendered by a Board of Trustees, the Chancellor shall transmit to the Committee on University Governance of the Board of Governors a report, containing such information as the Committee may specify, concerning the action of the Board of Trustees.

c. Part-Time Public Offices For Which Compensation Is Only Nominal.

Election to or acceptance of appointment to a public office requiring part-time service, for which no compensation is paid or for which the compensation paid is only nominal, shall be presumed not to create a conflict of time or interest which interferes with responsibilities owed the University; provided, that if the President (with respect to senior administrative officers) or the Chancellor (with respect to other employees) believes that, contrary to the presumption, there will be a conflict of time or interest in the particular case, the question may be referred for resolution by either the Board of Governors or the appropriate Board of Trustees (depending on whether or not the employee is a senior administrative officer). Any employee who files as a candidate for or intends to accept appointment to such a public office must file promptly with his or her immediate

supervisor a written statement setting forth the amount of any payments to which the holder of such office is entitled as officeholder.

3. Candidacy For Elective Public Office.

a. Full-Time Offices.

The candidacy of a University employee for election to a public office requiring full-time service ~~(including membership in the General Assembly)~~ is presumed to create a conflict of time which interferes with the performance of responsibilities owed the University and requires the affected employee either to procure an appropriate leave of absence or to resign from University employment. If prior to announcing his or her candidacy the affected employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, such candidacy in fact will not create a conflict of time which interferes with responsibilities owed the University, the resignation requirement shall not be applicable; if consistent with the presumption the resignation requirement is found to be applicable, upon request by the affected employee and if deemed practicable by the University the employee may be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, to be coextensive with the period of candidacy. Such petitions and/or requests for leave shall be addressed to and resolved by the Board of Governors, shall be transmitted through the President, and shall be accompanied by a recommendation from the appropriate Chancellor in any case pertaining to an institutional employee (if the request for leave pertains to a Chancellor, it shall be accompanied by a recommendation of the Board of Trustees).

b. Part-Time Offices For Which Compensation Is More Than Nominal.

The candidacy of a University employee for election to a public office requiring part-time service, for which compensation is more than nominal, (including membership in the General Assembly), is presumed to create a conflict of time which interferes with the performance of responsibilities owed the University and requires the affected employee either to procure an appropriate leave of absence or to resign from University employment. If prior to announcing his or her candidacy the affected employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, such candidacy in fact will not create a conflict of time which interferes with responsibilities owed the University, the resignation requirement shall not be applicable; if consistent with the presumption the resignation requirement is found to be applicable, upon request by the affected employee and if deemed practicable by the University the employee may be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, to be coextensive with the period of candidacy. Such petitions and/or requests for leave by senior (and by all other employees if the petition concerns candidacy for the General Assembly) administrative officers shall be addressed to and resolved by the Board of Governors, shall be transmitted through the President and shall be accompanied by a recommendation from the appropriate Chancellor in any case pertaining to an institutional employee (if the request for leave pertains to a Chancellor, it shall be accompanied by a recommendation of the Board of Trustees); such petitions ~~and/or requests~~ for leave by University employees other than senior administrative officers shall be addressed to and resolved by the appropriate (with the exception of petitions concerning candidacy for the General Assembly)

Board of Trustees and shall be transmitted through the Chancellor . With respect to each such decision rendered by a Board of Trustees , the Chancellor shall transmit to the Committee on University Governance of the Board of Governors a report, containing such information as the Committee may specify, concerning the action of the Board of Trustees .

c. Part-Time Offices For Which Compensation Is Only Nominal.

The candidacy of a University employee for election to a public office requiring part-time service, for which no compensation is paid or for which the compensation paid is only nominal, is presumed not to create a conflict of time which interferes materially with responsibilities owed the University; provided, that if the President (with respect to senior administrative officers) or the Chancellor (with respect to other employees) believes that, contrary to the presumption, there will be a material conflict of time in the particular case, the question may be referred for resolution by either the Board of Governors or the appropriate Board of Trustees (depending on whether or not the employee is a senior administrative officer). Any employee who files as a candidate for such a public office must file promptly with his or her immediate supervisor a written statement setting forth the amount of any payments to which the holder of such office is entitled as officeholder.

4. Political Campaign Activities.

With respect to his or her own candidacy for election to public office or to any other person's candidacy for election to public office, no University employee shall:

a. Use University funds, services, supplies, vehicles, or other property to support or oppose the candidacy of any person for elective public office;

b. Make any promise of preferential treatment (or actually confer such preference) or make any threat of detrimental treatment (or actually impose such detriment) to any person, with respect to any condition or incident of employment over which the employee has authority, control, or influence, for purposes of inducing support of or opposition to any candidate for elective public office.

Violation of the prohibitions contained in subparagraphs a and b, above, shall be cause for appropriate disciplinary action, including discharge from employment.

5. Other Leaves of Absence for Senior Administrative Officers.

A senior administrative officer who desires a leave of absence for purposes other than political candidacy or officeholding may petition the University for such a leave in the following manner: (a) with respect to periods of leave not to exceed 90 days, the petition shall be addressed to and resolved by the President, who shall report to the Board of Governors all such leave arrangements as he may grant; (b) with respect to periods of leave to exceed 90 days, the petition shall be addressed to and resolved by the Board of Governors, shall be transmitted through the President, and shall be accompanied by a recommendation from the appropriate Chancellor in any case pertaining to an institutional employee (if the request for leave pertains to a Chancellor, it shall be accompanied by a recommendation of the Board of Trustees).

6. Appeals.

With respect to any decision reached by a Board of Trustees as prescribed in Sections 2 and 3 of this Resolution, an employee aggrieved by the decision may appeal to the Board of Governors only on the basis of an allegation that such decision was contrary to the provisions of this Resolution. Any such appeal shall be addressed to the Chancellor for transmission to the President, who in turn will transmit the appeal to the Board of Governors.

7. Effective Date.

The requirements of this Resolution shall be applicable prospectively only, on and after the date of adoption by the Board of Governors. No change in the employment status of an employee who was an incumbent in a public office as of the adoption date of this Resolution shall be required under the terms of this Resolution for the balance of the term of office being served on the effective date of this Resolution.

8. Relation to State Laws.

The foregoing regulations as adopted by the Board of Governors are designed to supplement, and do not purport in any way to supplant or modify, those statutory enactments which may govern or limit the political activities of employees of the State of North Carolina.

9. Repeal of Prior Enactments.

With respect to the resolution of the Board of Governors entitled "Policies Concerning Senior Administrative Officers of The University of North Carolina" which was adopted under date of September 13, 1974, paragraphs 1, 2, and 3

of said resolution are repealed; additionally, the resolution of the Board of Trustees of The University of North Carolina entitled "Statement of Policy on Elective Office-Holding" which was adopted under date of November 14, 1969, is repealed.

Adopted by the Board of Governors
January 16, 1976