

ADMINISTRATIVE MEMORANDUM

SUBJECT

Amendment of Board of Governors Policies
on Leave for Certain EPA Employees

NUMBER

342

DATE

February 22, 1994

The Board of Governors on February 18, 1994, amended its policies on leave provisions for permanent EPA employees who are entitled to leave. The amended policies are attached and are effective immediately:

1. The policy for Senior Administrative Officers is amended at Section 4.b. to read:

b. Sick leave and other authorized leave

A senior administrative officer shall be entitled to such sick leave, maternity leave, civil leave, military leave and child involvement leave as may be prescribed for employees subject to the State Personnel Act.

A new Section 4.e. is added:

e. Voluntary Shared Leave

A permanent senior administrative officer shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

2. The policy for Employees Exempt from the State Personnel Act is amended by the addition of a new Section VII.F.:


F. Voluntary Shared Leave

Permanent employees in covered positions shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

Child Involvement Leave is added to Section VII.C. of this policy.

C. Sick leave, maternity leave, civil leave, military leave and child involvement leave

Employees in covered positions shall be subject to the same provisions concerning sick leave, maternity leave, civil leave, military leave and child involvement leave as are applicable to employees subject to the State Personnel Act.



C. D. Spangler, Jr.

Adopted 11/14/86
Amended 2/18/94

SENIOR ADMINISTRATIVE OFFICERS

The duties and responsibilities of the President and the Chancellors, and of their respective senior staff members, and their relationships to one another, to the Board of Governors, to the Boards of Trustees, and to all other officers and agencies within and without the University are set forth in Chapter Five of the Code of The University of North Carolina. To complement the provisions of Chapter Five and further to clarify these duties, responsibilities, and relationships, the following regulations are adopted by the Board of Governors:

1. Definition of "Senior Administrative Officers"

Senior administrative officers of The University of North Carolina consist of the President [N.C.G.S. 116-14(a)]; those members of the presidential staff designated as senior administrative officers and elected by the Board of Governors on nomination of the President [N.C.G.S. 116-14(b)]; the Chancellors of the constituent institutions [N.C.G.S. 116-11(4)]; and the vice chancellors, provosts, deans, and such other officers of equivalent rank and responsibility as may be designated by the Board of Governors as senior academic and administrative officers of the constituent institutions [N.C.G.S. 116-11(5)].

2. Appointments and discontinuation of appointments of senior administrative officers

All senior administrative officers are employed in their administrative positions pursuant to these policies. No contract or other writing (except for the Code) may vary these terms, nor may any oral agreement modify these provisions. The appointments of all senior administrative officers are subject to the approval of the Board of Governors, or of such other officers or agencies of the University as the Board of Governors may designate by delegation of authority. Such officers do not have tenure in their administrative positions. They serve at the pleasure of their employer and are not appointed to serve for specified periods of time. "Employer" in this context means, respectively, the official or entity designated in paragraphs a. through d., below. The continuance of these administrators in office therefore is at all times subject to determination by the appropriate authority, as follows:

a. The President's continuance in office is determined by the Board of Governors.

b. The continuance in office of members of the President's senior staff is determined by the President.

c. The continuance in office of the Chancellor of a constituent institution is determined by the Board of Governors, which may act to terminate such an appointment upon its own initiative or upon recommendation of the President. The Board of Governors in all instances shall consult the

appropriate Board of Trustees prior to terminating the appointment of a Chancellor.

d. The continuance in office of vice chancellors, provosts, deans and other senior academic and administrative officers of the constituent institutions shall be determined by the Chancellor of the institution; however, these officers may have recourse from the Chancellor's action to the appeal of grievances set forth in Section 501C(4) of the Code.

e. Notwithstanding the provisions of b. and d. above, the Board of Governors, in accordance with the provisions of Section 501B(6) of the Code, reserves the right to initiate action to terminate appointment of those officers when it deems such action to be necessary in the best interests of the University.

Senior academic and administrative officers of a constituent institution are subject to the direction and control of the Chancellor and serve at his pleasure. They are employees at will; thus, the Chancellor may not purport to confer on any such officer a period of employment of fixed duration or otherwise confer any property interest in such employment. However, such an officer may be appointed to a period of employment not to exceed a specified number of years, so long as the instrument accomplishing such an appointment states clearly that the incumbent officer is subject to removal at any time, during that period, at the option of the Chancellor.

Tenure status as a member of the faculty of a constituent institution, held concurrently by any senior administrative officer of the University, is separate and distinct from the administrative office, and such tenure status is governed by the provisions of Chapter Six of the Code and by the tenure policies of the relevant constituent institution. Those tenure policies have no bearing upon and do not govern the administrative appointments covered by these policies.

3. Compensation

The compensation of senior administrative officers shall be set by the Board of Governors.

4. Annual leave, sick leave, and leaves of absence

a. Annual leave

A senior administrative officer shall be entitled to 24 work days of annual leave each year. The maximum number of unused days of annual leave that may be accrued and carried forward from one year to the next shall be 30 work days. A senior administrative officer who has accrued such unused annual leave as of the date of discontinuation of employment shall be paid for such unused annual leave, subject to the prescribed maximum of 30 days.

b. Sick leave and other authorized leave

A senior administrative officer shall be entitled to such sick leave, maternity leave, civil leave, military leave and child involvement leave as may be prescribed for employees subject to the State Personnel Act.

c. Miscellaneous leaves of absence

A senior administrative officer who desires a leave of absence for an interval of 90 days or less must obtain the approval of the President, who shall report all such arrangements to the Board of Governors. A leave of absence for a period exceeding 90 days shall require the approval of the Board of Governors.

d. Retirement

Senior administrative officers of the University shall be retired from those appointments on July 1 coincident with or next following their seventieth birthday.

e. Voluntary Shared Leave

A permanent senior administrative officer shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

Adopted 2/13/81
Amended 9/14/84
Amended 5/8/87
Amended by AM 254
Amended 2/18/94

EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT

I. Scope and Applicability of Employment Covered by These Policies

A. Scope of category

Employment positions with constituent institutions of the University that are covered by these Policies (hereinafter "covered positions") are those positions that are not subject to the State Personnel Act (G.S. Chapter 126) and are not otherwise categorized. This category does not include: (1) faculty positions subject to institutional tenure regulations; (2) positions within administrative categories of employment subject to G.S. 116-1 1(4), G.S. 116-11(5), or G.S. 116-14; (3) positions within the "physicians or dentists" category under G.S. 126-5; and (4) University students who are employed incident to their status as students, as in graduate teaching assistantships or work-study positions.

Those areas of institutional activity (as identified in the UNIFORM CHART OF ACCOUNTS) that may include covered positions are:

Instruction
Organized Research
Agricultural Research
Agricultural Extension Service
Public Service
Academic Support Student Services
Institutional Support
Area Health Education Centers
Library

B. Applicability of policies

These Policies apply to all permanent covered positions.

II. Appointments to Covered Positions

- A. Every appointment to a covered position within a constituent institution shall be made by the Chancellor by means of a letter of appointment that fulfills the requirements of this Section II.
- B. Every letter of appointment to a covered position shall include: (1) the title of the position; (2) the initial salary; (3) provision for periodic

review of compensation¹ ; (4) provision consistent with Sections II.C. and II.D., below, if contingencies based on availability of funding are applicable; (5) the annual leave entitlement of the employee; (6) notice that the employment conferred is either for a stated definite term or is an "employment at will" subject to continuation of discontinuation at the discretion of the Chancellor; and (7) notice that the employment is subject to these Policies (viz., institutional policies adopted pursuant to Section IX of these Policies), as originally adopted and as they may be periodically revised from time to time, and a copy of the institutional policies shall be attached to the letter of appointment.

C. When a covered position is funded in whole or substantial part from sources other than continuing State budget funds or permanent trust accounts, the letter of appointment shall state that continuation of the employee's service in that position is contingent upon the continuing availability of funds from such other sources to support that position, shall specify the source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Section III.A., III.B., and III.C.; provided, that the affected employee shall be informed at the earliest practicable date of the occurrence of such a funding contingency.

D. 1. When an employee is to serve simultaneously in both a covered position and a position of University employment not covered by these Policies, with the result that two different prescriptions may appear to obtain with respect to a particular condition of employment or a right or responsibility of the employee, one position shall be designated the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a covered position occurs subsequent to appointment to a position not covered by these Policies, the letter of appointment to the covered position shall embody the required designation of base employment; conversely, if appointment to a covered position precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

2. Any funding contingency of the type referred to in Section II.C. shall be set forth separately for the covered position and for the other position, since the operation of any such contingencies may be independent.

3. When an appointment to a covered position is to be accompanied by appointment to a faculty position that is intended to be nominal or honorary, or to create a faculty affiliation not entailing

¹ Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

significant duties or compensation, the term "adjunct," or similar nomenclature, shall be used to identify the faculty appointment.

III. Discontinuations of Employment in Covered Positions

A. Discontinuation of appointment, with notice

Employment within a covered position that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion of the Chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section III.D.) shall be subject to advance timely notice of discontinuation, as follows: (1) During the first year of service, not less than 30 days notice prior to discontinuation of employment; (2) during the second and third years of service, not less than 60 days notice prior to discontinuation of employment; and (3) during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment.

B. Expiration of term appointment

Employment within a covered position that is established by the letter of appointment to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be renewed or extended at the option of the employer, by written notice satisfying the requirements of Section II. If the employer intends not to renew or extend the term contract, (1) with respect to a term of one year or less, no notice of intent not to renew shall be required; (2) with respect to a term of more than one year but less than four years, notice of intent not to renew shall be transmitted in writing at least 60 days prior to this expiration date of the term; (3) with respect to a term of four years or more, notice of intent not to renew shall be transmitted in writing at least 90 days prior to the expiration date of the term. Failure to provide written notice as required in subsections (2) and (3) shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the scheduled expiration date of the term. III-B-4

C. Termination of employment because of financial exigency or program curtailment or elimination

Employment within a covered position that is established by the letter of appointment to be for a stated definite term may be terminated prior to expiration of the stated term because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a program. "Financial exigency" is defined to mean a significant decline in financial resources of the University that compels a reduction in the institution's budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or an elimination of a program shall be made by the Chancellor, with advance notice to and approval by the President and the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the contractual obligation to an employee within a covered position cannot

be met, the employment of the individual may be terminated, subject to the following notice requirements; (1) during the first year of service, not less than 30 days notice prior to termination; (2) during the second and third years of employment, not less than 60 days notice prior to termination; and (3) during the fourth and all subsequent years of service, not less than 90 days notice prior to termination.

D. Discharge for cause

Any employee occupying a covered position may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section III.A.), automatic expiration of term (Section III.B.) and termination (Section III.C.). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the grievance procedures of Section IV. of these Policies. When an employee occupying a covered position has been notified of the intention to discharge him for cause, the Chancellor may suspend his employment at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein; the power to suspend shall be invoked only in exceptional circumstances and such suspension shall be with full pay.

IV. Review of Employment Decisions and Grievances

Each constituent institution shall adopt and publicize procedures under which employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these Policies; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections III.A., III.B., or III.C., may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section V. or VI. of these Policies. Review of Decisions reached pursuant to such grievance procedures may be had in accordance with the provisions of Section 501C(4) of the University Code.

V. Equal Employment Opportunity

It is the policy and intention of The University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within The University. There shall be no discrimination in covered positions on the basis of race, color, national origin, sex, religion, handicap, or age.² Employment in covered positions shall be conducted in accordance with all provisions of state or federal

² Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to covered positions.

law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

VI. Protected Activity

Employment in covered positions shall not be adversely affected by the exercise of rights guaranteed by the First Amendment to the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in covered positions shall be subject to any limitations on political activity established by Article 5 of G.S. Chapter 126. The Board of Governors' Policy in this regard, as adopted on January 16, 1976 and as it may be revised from time to time, shall apply to covered positions.

VII. Holiday and Leave Entitlement

A. Holidays

Employees in covered positions shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

B. Annual leave

1. Basic leave policy

The amount of annual leave to which employees in covered positions shall be entitled is to be determined in accordance with the schedule set forth in Attachment A to these Policies. The scheduling of an employee's annual leave shall be subject to the approval of his or her supervisor. The maximum number of unused days of annual leave that may be accrued and carried forward from one year to the next shall be 30 work days; an employee in a covered position who has accrued such unused annual leave as of the date of discontinuation of employment shall be paid for such unused annual leave, subject to the prescribed maximum of 30 such days.

2. Exceptions to basic leave policy

- a. With respect to an incumbent employee occupying a covered position as of the date on which these Policies are adopted by the Board of Governors, if the employee's currently effective contract of employment specifies a period of annual leave more extensive than that to which the employee would be entitled under the provisions of Attachment A, the contractual commitment shall be honored; provided, that in no case shall maximum annual leave exceed 26 work days per year ("year" to mean the 12-month period dated from the employee's date of initial employment).
- b. With respect to a person first employed in a covered position after the date on which these Policies are adopted by the Board of Governors, an exception may be made to grant annual leave entitlement in excess of that prescribed by the terms of Attachment A; such an exception must be based on an express finding that the extent of previous related professional

experience of the affected employee or other compelling circumstance warrants such an exception; the granting of the exception must be recommended by the Chancellor and approved by the Board of Trustees or its designated committee; and such exceptional leave entitlement may not exceed either 26 work days per year or the amount of annual leave to which the employee was entitled in the employment held immediately preceding appointment to the University covered position, whichever is less.

- c. Each exception granted pursuant to either subsection a. or subsection b. shall be reported to the President, in accordance with administrative directions to be issued by the President.

C. Sick leave, maternity leave, civil leave, military leave and child involvement leave

Employees in covered positions shall be subject to the same provisions concerning sick leave, maternity leave, civil leave, military leave and child involvement leave as are applicable to employees subject to the State Personnel Act.

D. Leave of absence without pay

Employees in covered positions may request leave of absence, without pay, subject to approval of such leave by the Chancellor.

E. Educational entitlement

Employees in covered positions are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by N.C. G.S.116-143.

F. Voluntary Shared Leave

Permanent employees in covered positions shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

VIII. Statutory and Other Rules of Employment

A. Privacy of personnel records

Employees in covered positions enjoy the protections of and are subject to the provisions of Article 7 of G.S.126, entitled "The Privacy of State Employee Personnel Records."

B. Employment preference for veterans

Employees in covered positions enjoy the protections of and are subject to the provisions of G.S. 128-15 and 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

C. Employment of related persons

Employees in covered positions are subject to the Policy concerning employment of related persons as adopted by the Board of Governors on April 13, 1972, and as it may be revised from time to time.

D. Retirement

Employees in covered positions may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes ("Retirement System of Teachers and State employees").

IX. Implementation

The Board of Trustees of each constituent institution shall adopt for the institution personnel policies for covered positions within the institution that are consistent with all provisions of these Policies. Any proposed provision in an institutional policy statement that in any manner adds to or modifies the provisions of these Policies must be submitted for review and approved by the President prior to its adoption and implementation.

X. Effective Date

The effective date of institutional policies adopted pursuant to Section IX. shall be September 1, 1981.

ATTACHMENT A

Annual Leave Entitlement for Covered Positions

All permanent employees shall earn entitlement to annual paid leave in accordance with the following schedule, which is stated in terms of regular full-time employment and which is to be adjusted proportionately for part-time employment:

<u>Years of Aggregate Service</u> <u>in State Employment</u>	<u>Work Days</u> <u>Earned in One Year</u>
Less than two years	12
Two but less than five years	14
Five but less than ten years	17
Ten but less than fifteen years	20
Fifteen but less than twenty years	23
Twenty years or more	26