

APPENDIX N

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SENIOR ACADEMIC AND 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:

I. Definition of "Senior Academic and Administrative Officers"

- A. Senior officers of the University of North Carolina who are subject to the provisions of Section II of this policy are: the President [N.C.G.S. 116-14(a)]; the vice presidents, associate vice presidents, assistant vice presidents, and other members of the President's professional staff designated by the Board of Governors on recommendation of the President [N.C.G.S. 116-14(b)]; the chancellors of the constituent institutions [N.C.G.S. 116-11(4)]; the vice chancellors, provosts, and deans of the constituent institutions, and the directors of major administrative, educational, research and public services activities of the constituent institutions designated by the Board of Governors [N.C.G.S. 116-11(5)].
- B. Other senior officers of the University of North Carolina who are subject to the provisions of Section III of this policy are: (1) members of the President's professional staff other than those identified in subparagraph A above [N.C.G.S. 116-14(b)]; and (2) associate and assistant vice chancellors; associate and assistant deans; and other administrative positions within the constituent institutions, other than those identified in subparagraph A above, that have been designated by the President. [N.C.G.S. 116-11(5)].¹

¹ Other officers include (a) members of the chancellor's professional staff; (b) those responsible for the administrative direction of separately designated divisions or departments of institutional activity commonly associated with institutions of higher education; (c) those positions whose primary responsibility is to attract external funds for and/or market the University; and, (d) other officers holding positions characterized by active,

II. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.A. above, Shall Be Subject to the Following Regulations.

A. Appointments and Discontinuation of Appointments

1. All senior officers as defined in Section I.A. above, are employed in their administrative positions pursuant to this policy. Except with regard to the appointment of the President and the Chancellors, no contract or other writing (except for *The Code*) may vary these terms, nor may any oral agreement modify these provisions. The appointments of these senior officers are subject to the approval of the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors. Such officers do not have tenure in their administrative positions. Except for the President and the Chancellors, they serve at the discretion 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 professional 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 directors of major educational, research and public services activities of the constituent institutions shall be determined by the chancellor of the institution.
- (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.

2. Senior officers of a constituent institution are subject to the direction and

continuing involvement in formulating, interpreting, and implementing institutional policy and exercising substantial independence of administrative authority and discretion in areas such as program planning and design and allocation of resources.

control of the chancellor and serve at the chancellor's discretion. 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.

3. Tenure status as a member of the faculty of a constituent institution, held concurrently by any senior 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 this policy.

4. Appointment of Chancellors

- a. The appointment of chancellors shall be made by the Board of Governors upon the recommendation of the President, in accordance with N.C.G.S §116-11(4).
- b. The Board of Governors may approve a contract with a chancellor as recommended by the President. The contract may specify the chancellor's term of employment, salary, benefits, and performance based deferred or supplemental compensation; provisions for the termination of the chancellor's employment; and any other terms recommended by the President.
- c. In all other regards, the employment of chancellors is subject to *The Code*, the Policies of the Board of Governors, and the North Carolina General Statutes.
- d. Except as specifically otherwise provided in the contract, and except as provided in ¶ II.A.1(c) of this policy, after the Board of Governors has approved a contract with a chancellor, it will be the sole responsibility of the President to implement the terms of the contract.

B. Compensation

The compensation of senior officers shall be set by the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors.

No chancellor and no senior academic and administrative officer may be paid, in addition to his or her salary as established pursuant to the foregoing requirements, for any services rendered to any institution-related foundation, endowment, or other University-related enterprise.

C. 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 positions covered by this

policy on the basis of race, color, creed, national origin, sex, religion, disability, age, or honorable service in the armed services of the United States.² Employment in positions covered by this policy shall be conducted in accordance with all provisions of State or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

D. Political Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §§300.5 *et seq.*, as they may be revised from time to time, shall apply to positions covered by this policy.

E. Holiday and Leave Entitlement

1. Holidays

A senior officer shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

2. Annual Leave

A senior officer shall be entitled to 26 work days of annual leave each year.³ 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. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year. A senior 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 a maximum of 30 days.

Subject to institutional policy and approval by the employee's supervisor, a senior officer may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period.

3. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, and Community Service Leave, and Special Annual Leave Bonus

A senior officer shall be entitled to such sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and

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

³ For the purposes of determining leave under this policy, "year" shall be defined by the employing institution as either a "fiscal year" (July 1 - June 30) or a "calendar year" (January 1 - December 31). Institutions currently defining a "year" as a "contract year" may continue to do so.

special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However, with respect to sick leave, subject to institutional policy and approval by the employee's supervisor, a senior officer may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

4. Miscellaneous Leaves of Absence

A senior 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.

5. Voluntary Shared Leave

A senior 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.

F. Educational Entitlement

A senior officer is entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by N.C.G.S. § 116-143.G.

G. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

A senior officer enjoys the protections of and is subject to the provisions of Article 7 of N.C.G.S. 126, entitled "The Privacy of State Employee Personnel Records."

2. Employment Preference for Veterans

A senior officer enjoys the protections of and is subject to the provisions of N.C.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.

3. Employment of Related Persons

A senior officer is subject to the policy concerning employment of related persons, Policy §300.4.2, as it may be revised from time to time.

H. Retirement

A senior officer may retire in accordance with the provisions of Chapter 135 of the

North Carolina General Statutes ("Retirement System of Teachers and State Employees").

III. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.B. above, Shall Be Subject to the Following Regulations.

A. Appointments

1. All senior academic and administrative officers as defined in Section I.B. above, are employed in their administrative positions pursuant to this policy. The authority to make appointments and determine salaries for positions within Section I.B. (1) is exercised by the Board of Governors, on recommendation of the President, or a Board of Trustees delegated such authority by the Board of Governors; for positions within Section I.B. (2), such authority is delegated by the Board of Governors to the chancellors and the respective Boards of Trustees of the constituent institutions.
2. Every appointment within a constituent institution covered by this policy shall be made by the chancellor, or the chancellor's delegate, by means of a letter of appointment that fulfills the requirements of this Section III.
3. Every letter of appointment to a position covered by this policy shall include:
 - (a) the title of the position;
 - (b) the initial salary;
 - (c) provision for periodic review of compensation⁴;
 - (d) provision consistent with Sections III.A.4. and III.A.5. below, if contingencies based on availability of funding are applicable;
 - (e) the annual leave entitlement of the employee;
 - (f) notice that the employment conferred is either for a stated definite term or is an "employment at will" subject to continuation or discontinuation at the discretion, respectively, of the President or of the chancellor; and
 - (g) notice that the employment is subject to this policy as originally adopted and as it may be periodically revised from time to time, and a copy of the policies shall be attached to the letter of appointment.
4. When a position covered by this policy 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

⁴ Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Sections III.B.1., III.B.2., and III.B.3.; provided, that the affected employee shall be informed at the earliest practicable date of the occurrence of such a funding contingency.

5. When an employee is to serve simultaneously in both a position covered by this policy and a position of University employment not covered by this policy, 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 position covered by this policy occurs subsequent to an appointment to a position not covered by this policy, the letter of appointment to the position covered by this policy shall embody the required designation of base employment; conversely, if appointment to a position covered by this policy 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.

Any funding contingency of the type referred to in Section III.A.4. shall be set forth separately for the position covered by this policy and for the other position, since the operation of any such contingencies may be independent.

When an appointment to a position covered by this policy 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 significant duties or compensation, the term "adjunct," or similar nomenclature, shall be used to identify the faculty appointment.

B. Discontinuation of Employment

1. Discontinuation of appointment, with notice or severance pay

Employment within a position covered by this policy that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion, respectively, of the President or of the chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section III.B.4.) shall be subject to advance timely notice of discontinuation or the payment of severance pay, in calendar days, as follows:

- (a) during the first year of service, not less than 30 days notice prior to discontinuation of employment or the payment of severance pay for 30 days;
- (b) during the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of

severance pay for 60 days; and

- (c) during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 calendar days.

The determination of whether the employee shall receive notice of discontinuance of the appointment or severance pay shall be in the sole discretion of the respective chancellor or the president.

2. Expiration of term appointment

Employment within a position covered by this policy 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 III.A. 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, notices 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 notices 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.

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

Employment within a position covered by this policy 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 university's or 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, respectively, by the President or by the chancellor, with advance notice to and approval by 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 position covered by this policy cannot be met, the employment of the individual may be terminated, subject to the following notice requirements;

- (a) during the first year of service, not less than 30 days notice prior to termination;
- (b) during the second and third years of employment, not less than 60 days

notice prior to termination; and

- (c) during the fourth and all subsequent years of service, not less than 90 days notice prior to termination.

4. Discharge for Cause

Any employee occupying a position covered by this policy may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section III.B.1.), automatic expiration of term (Section III.B.2.), and termination (Section III.B.3.). 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 III.C. of this policy. When an employee occupying a position covered by this policy has been notified of the intention to discharge for cause, the President or chancellor, as applicable, may suspend the 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.

C. Review of Employment Decisions and Grievances

The Office of the President and each constituent institution respectively shall adopt and publicize procedures applicable to relevant cohorts of employees, under which covered employees 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 this policy; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections III.B.1, III.B.2., and III.B.3, may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section III.D. or III.E. of this policy. Decisions reached pursuant to such grievance procedures concerning the discontinuation or termination of employment may be had in accordance with the provisions of Section 609 C of *The Code*.

D. 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 positions covered by this policy on the basis of race, color, creed, national origin, sex, religion, disability, age, or honorable service in the armed services of the United States.⁵ Employment in positions covered by this policy shall be conducted in accordance with all provisions of

⁵ Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to positions covered by this policy.

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

E. Political Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §§300.5, *et seq.* as they may be revised from time to time, shall apply to positions covered by this policy.

F. Holiday and Leave Entitlement

1. Holidays

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

2. Annual Leave⁶

(a) Basic Leave Policy

The amount of annual leave to which a permanent full-time employee (1.00 FTE) in a position covered by this policy shall be entitled to accrue is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more (.50 - .99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. An employing institution shall define a year as either "fiscal year" (July 1 - June 30) or "calendar year" (January 1 - December 31). (Note: Employing institutions that have previously defined a year as "contract year" may continue to do so.) The scheduling of an employee's annual leave shall be subject to the approval of the employee's supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at the current rate.

The maximum number of unused days of annual leave that may be carried forward from one year to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.

⁶ Effective July 1, 2001.

(b) Transfer of Accrued Annual Leave

An employing institution must establish campus-wide uniform guidelines regarding the transfer of accrued annual leave from a UNC constituent institution or State or local governmental agency whose leave is currently transferable in accordance with the policy prescribed for employees subject to the State Personnel Act [See State Personnel Manual, Section 5-1]. Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see (d) below] or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency's approval.

(c) Advancement of Annual Leave

Subject to institutional policy and approval by the employee's supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employing institution must determine the amount of leave that the employee must repay to the institution and make deductions from the employee's final salary check accordingly.

(d) Payout of Accrued Annual Leave

An employee in a position covered by this policy who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave. The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. Each institution shall establish guidelines for payout of leave if a change in employment status occurs and such employee is no longer covered by this policy.

3. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave, and Special Annual Leave Bonus

Employees in positions covered by this policy shall be subject to the same policies concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be

prescribed for employees subject to the State Personnel Act. However with respect to sick leave, subject to institutional policy and approval by the employee's supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

4. Leave of Absence Without Pay

Employees in positions covered by this policy may request a leave of absence without pay, subject to approval of such leave by the President or by the chancellor, as applicable.

5. Voluntary Shared Leave

Employees in positions covered by this policy 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.

G. Educational Entitlement

Employees in positions covered by this policy 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.

H. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

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

2. Employment Preference for Veterans

Employees in positions covered by this policy enjoy the protections of and are subject to the provisions of N.C.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.

3. Employment of Related Persons

Employees in positions covered by this policy are subject to the policy concerning employment of related persons. Policy §300.4.2 as it may be revised from time to time.

I. Retirement

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