



TRANSMITTAL LETTER

The University of North Carolina
Office of the President

Transmittal Number 26

February 6, 2004

Subject:

600.3.4 Granting of Management Flexibility to Appoint and Fix Compensation

Changes to the Code:

100.1 Chapter III Section 302 Subsection C: Meetings of Standing Committees

100.1 Appendix 1 Section III: Academic Degrees and Grading

This transmittal letter forwards the above named policy and two revisions to *The Code*, approved by the Board of Governors on January 9, 2004 and not previously transmitted:

Policy on Granting of Management Flexibility to Appoint and Fix Compensation. Policy Number 600.3.4 was approved by the Board of Governors on January 9, 2004. Please contact Gretchen Bataille, Senior Vice President for Academic Affairs at 919-962-4614 with any questions

Meetings of Standing Committees. Policy 100.1 "The Code" Chapter III Section 302 Subsection C was amended by the Board of Governors on January 9, 2004. Please contact Leslie Winner, Vice President for Legal Affairs at 919-962-4588 with any questions.

Academic Degrees and Grading. Policy 100.1 "The Code" Appendix 1 Section III was amended by the Board of Governors on January 9, 2004. Please contact Leslie Winner, Vice President for Legal Affairs at 919-962-4588 with any questions.

GRANTING OF MANAGEMENT FLEXIBILITY TO APPOINT AND FIX COMPENSATION**A. Purpose**

Pursuant to the provisions of Chapter 116 of the General Statutes of North Carolina and in an effort to enhance the administrative efficiency of the University, the Board of Governors hereby delegates to the Boards of Trustees for institutions designated as Special Responsibility Constituent Institutions with management flexibility the authority to administer personnel actions as described in this policy. The authority granted by the Board of Governors is subject to the *Code* of the University of North Carolina, policies of the Board of Governors and all applicable federal and state laws, policies, regulations, and rules. This provision requires each Special Responsibility Constituent Institution to comply with, along with other rules, all rules and regulations concerning equal employment opportunity, to act in recognition of funding availability and constraints within each institution's budget, and to take into account the actions of the Governor, the Office of State Budget and Management, and the General Assembly.

B. Institutional Plans For Management Flexibility For Personnel Appointments

The Board of Governors shall review and approve plans for management flexibility for personnel appointments. Upon approval the Board of Trustees of a Special Responsibility Constituent Institution¹ shall have the authority delegated by this policy. An institutional plan shall include the following:

1. Policies and procedures for the recruitment and selection of senior academic and administrative officers. A campus policy for promotion and tenure² that complies with the *Code* of the University of North Carolina and current federal law, provides for periodic pre-tenure, tenure and promotion review at multiple levels, and provides clear requirements for promotion and the conferral of permanent tenure.
2. A schedule and process for periodic review of promotion and tenure policies and a process for amending promotion and tenure policies that includes a review by the Office of the President.
3. Salary ranges, based on relevant data, for vice chancellors, provosts, deans, and other similarly situated administrators³ that are not included in the annual Board of Governors' study establishing salary ranges.
4. Evidence of comprehensive salary studies that establish salary ranges for tenured faculty within different disciplines based on relevant data.⁴

¹ In order for an institution to have management flexibility for personnel appointments, the institution must be designated and maintain the status of a Special Responsibility Constituent Institution.

² As applied to the North Carolina School of the Arts, the terms "tenure policy" or "policy for promotion and tenure," as used herein, refer to the institution's policy governing the appointment of faculty.

³ This would include directors of major administrative, educational, research, and public service activities.

⁴ When used in this policy, the phrase "relevant data" indicates that the institution shall draw comparisons to peer institutions as approved by the Board of Governors. Data from peer institutions will be used when available except in

5. Policies governing the compensation of faculty and non-faculty EPA (exempt from the State Personnel Act) from non-state sources such as grants, endowment funds, practice plan funds, etc.

6. Policies governing any non-salary compensation of faculty and non-faculty EPA.

7. Documentation that the campus has not had audit findings related to personnel practices, salary or payroll for the previous three years or evidence that any findings have been remedied.

8. Evidence of appropriate accountability procedures in the event that the Board of Trustees delegates the authority granted pursuant to this policy to the chancellor.

C. Delegation of Authority to Boards of Trustees of Institutions With Management Flexibility

1. Simultaneous with approval by the Board of Governors of an institution's plan for management flexibility in personnel, the Board of Trustees of an institution with management flexibility is delegated the authority, which it may not delegate until further action by the Board of Governors, to:⁵

a. Upon recommendation of the chancellor, appoint⁶ and fix the salary and non-salary compensation⁷ for all vice chancellors and senior academic and administrative officers (as defined in Section I.A. of policy 300.1.1 titled "Senior Academic and Administrative Officers") for which the Board of Governors establishes salary ranges. Any salary set by the Board of Trustees shall be established consistent with the salary ranges and the policies of the Board of Governors and the regulations and guidelines established by the Office of the President. Once appointed, all vice chancellors and senior academic and administrative officers will be responsible to the chancellor or the chancellor's designee and will serve at the pleasure of the chancellor.

b. Upon recommendation of the chancellor, establish salary ranges for deans and other similarly situated administrators that are not included in the annual Board of Governors' study establishing salary ranges. These salary ranges must be based upon available relevant data.

c. [Deleted]

~~Upon recommendation of the chancellor, to review and approve "retreat rights" of vice chancellors and provosts. ("Retreat rights" describes the~~

instances in which a campus can demonstrate legitimate labor market differences that justify the use of a supplemental or alternative set of peer institutions.

⁵ The delegation authorized by this policy is in addition to the delegation by the Board of Governors to the Boards of Trustees contained in the Appendix to the *Code of the University of North Carolina*.

⁶ For the purpose of this policy the term "appoint" means the initial appointment, reappointment, or an appointment that constitutes a promotion or a significant change in position responsibilities.

⁷ Throughout this policy, all actions of a Board of Trustees of a Special Responsibility Constituent Institution to "fix the compensation" of employees are subject to the limitations contained in Section D of this policy, the policies of the Board of Governors, guidelines and regulations established by the Office of the President, and institutional plans, policies and procedures.

~~conditions of employment should the administrator leave his/her position and generally applies to those administrators with tenured faculty positions.)~~

- d. Upon recommendation of the chancellor and consistent with the approved tenure policies and regulations of each institution, confer permanent tenure.

2. Simultaneous with approval by the Board of Governors of an institution's plan for management flexibility in personnel, upon recommendation of the chancellor and consistent with the approved tenure policies and regulations of each institution, the Board of Trustees is delegated the authority set forth below. Any of the authority set forth below may be delegated to the chancellor.

- a. Establish salary ranges within different disciplines based on relevant data, and fix the compensation for faculty with permanent tenure;
- b. Appoint and fix the compensation for faculty awarded the designation of Distinguished Professors.
- c. Appoint and fix salary and non-salary compensation of deans and other similarly situated administrators that are not included in the annual Board of Governors' study establishing salary ranges. These salary ranges must be based upon available relevant data. The compensation shall be consistent with established ranges, equity studies, and relevant policies, regulations, and guidelines.
- d. Award compensation from non-state sources consistent with policies established by the Board of Governors.

3. The Board of Trustees of each institution with management flexibility:

- a. Shall, prior to the effective date of implementation, file with the Office of the President the salary ranges and relevant documentation for the administrators for whom the campus has authority for setting ranges or salaries. Such documentation shall be based on relevant data.⁸
- b. Shall provide an annual summary to the Board of Governors on personnel actions covered by this delegation. That annual report shall include information regarding:
 - i. The EPA appointments of all:
 - a. vice chancellors and provosts
 - b. senior academic and administrative officers for which the Board of Governors establishes salary ranges
 - c. deans, and other similarly-situated administrators
 - ii. The conferral of tenure;
 - iii. The salary and non-salary compensation for all positions listed in subpart C.(3)(b)(i) above;
 - iv. The most recent analysis of equity issues relevant to the employment of faculty and administrators;

⁸ See footnote 4.

- v. Audit findings related to weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations or any other instances where significant findings are identified. The report should specifically detail any findings regarding personnel practices, salary or payroll for the previous year and remedial action taken in response to audit findings.
- c. Shall submit to the Board of Governors for review, at least 30 days prior to a regularly scheduled meeting, all new or modified compensation policies and salary ranges established for faculty with permanent tenure and senior academic and administrative officer positions.

D. Responsibility of the Board of Governors and the President

1. In consultation with the President, the Board of Governors shall:

- a. Issue a resolution each year interpreting legislative action regarding salaries. Annually set salary ranges for chancellors, vice chancellors, and members of the Office of the President senior staff. These ranges will be based upon relevant available data.
- b. Establish the salary range of any new vice chancellors. Any significant changes in the organizational structure of a constituent institution, such as re-organization resulting in the creation of a new vice-chancellor, dean or equivalent administrative position, shall be approved by the President.
- c. Annually review the salaries set by the medical schools at the University of North Carolina at Chapel Hill and East Carolina University to ensure that the salaries are coordinated and are consistent with relevant data in a national medical labor market.
- d. Review and approve proposed salary increases in instances in which the salary of any employee exempt from the State Personnel Act or faculty member exceeds the established salary range or exceeds by fifteen percent or more the salary in effect at the end of the last fiscal year.⁹
- e. Establish chancellors' salaries and salaries of the President's senior staff based on recommendations from the President.
- f. Provide periodic faculty salary studies based on peer data.
- g. Approve contracts for the chancellors and the President.
- h. Consistent with the Board of Governor's responsibility for ensuring accountability, conduct performance audits on policies, practices, and other

⁹ Except to current employees appointed to a new position after a competitive process or to current employees promoted to higher rank consistent with campus policies or conversion from nine (9) months to a longer annual term.

matters related to Management Flexibility implementation and operation at constituent institutions to which this flexibility has been granted.

2. For institutions designated as institutions with management flexibility the President and the Board of Governors shall have the same responsibilities and authority as set forth in the policy on Selection Criteria and Operating Guidelines for Special Responsibility Constituent Institutions.¹⁰

3. The Personnel and Tenure Committee of the Board of Governors reserves the right to withdraw the granting of management flexibility to any institution that does not adhere to the policies and procedures set forth in this policy. Should this occur, the Board of Governors will notify the institution of the discrepancies, and if they are not adequately addressed, in the judgment of the Board of Governors, then the management flexibility shall be withdrawn. This will mean another review process will have to be conducted and flexibility reinstated under the original procedure.

E. Implementation of the Delegated Authority

1. Special Responsibility Constituent Institutions seeking to obtain management flexibility may submit a plan to the Senior Vice President for Academic Affairs for review and approval by the Board of Governors or the Personnel and Tenure Committee of the Board on any date after March 1, 2002.

2. The delegation authorized by this policy is not effective until the date set upon the approval of the institution's plan for management flexibility for personnel appointments.

3. The Personnel and Tenure Committee of the Board of Governors is hereby authorized to approve plans submitted by a Special Responsibility Constituent institution and to grant management flexibility for personnel appointments. The committee shall report to the Board of Governors, prior to the effective date of the delegation, those institutions approved for management flexibility for personnel appointments by the Committee.

¹⁰ See §600.3.1 of the University of North Carolina Policy Manual and in particular §600.3.1.A.2.

Changes to *The Code*

The following changes to the code were adopted by the Board of Governors on January 8, 2004.

Chapter III

302 C. Meetings of Standing Committees.

Each standing committee shall meet at such times as either the chair of the standing committee or the Board of Governors shall designate. Written notice of each meeting of a standing committee shall be mailed to members of the Board of Governors by the Secretary of the University at least five days in advance of the meeting date; but any notice which complies with the North Carolina Open Meetings Law may be given by telephone or other reliable means when, in the judgment of the chair of the committee or the chair of the Board of Governors, a necessity exists. The agenda for a meeting of a standing committee shall be prepared by the President with the approval of the chair of the committee, and, if practicable, a copy shall be mailed to the members of the Board of Governors, or transmitted by other reliable means, at least five days in advance of the meeting date; however, if such advance notice is not practicable in the judgment of the chair, the agenda shall be presented to the members of the committee and other members of the Board of Governors who are attending the meeting at the commencement of the meeting. Such materials as the committee may designate by standing rule, or as the chair of the committee may designate in the absence of a standing rule, shall be sent with the agenda and notice of the meeting.

If notice of an agenda item is not provided to the members of the Board of Governors at least 48 hours before the committee meeting, then any recommended action resulting from that item shall not be placed on the consent agenda of the Board of Governors. In the Committee report the chair shall state that the recommended action was added to the committee agenda.

A majority of the elected committee membership shall constitute a quorum for the conduct of business of a standing committee. The chair of the standing committee shall preside at all committee meetings; in the absence of the chair, the vice chair shall preside. The procedures and rules of order governing the conduct of committee business shall be the same as those applicable to meetings of the Board of Governors. Minutes of every meeting of a standing committee shall be kept by the Secretary of the committee.

Appendix 1 Section III

III. ACADEMIC DEGREES AND GRADING

Subject to authorization by the Board of Governors of the nature and general content of specific degree programs which may be offered by an institution, each institution shall determine whether an individual student shall be entitled to receipt of a particular degree. Each institution also shall determine what grade a student will be assigned in a particular course. No appeal from any of these decisions or any other academic determination is allowable to the president or to the Board of Governors.