The Code

of

The Board of Governors
The University of North Carolina

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Table of Contents

CHAPTER I- ESTABLISHMENT, INCORPORATION, AND COMPOSITION OF THEUNIVERSITY OF NORTH CAROLINA
- SECTION 100. CONSTITUTIONAL ESTABLISHMENT.
- SECTION 101. INCORPORATION AND CORPORATE POWERS.
- SECTION 102. COMPOSITION OF THE UNIVERSITY.
- SECTION 103. EQUALITY OF OPPORTUNITY IN THE UNIVERSITY.

CHAPTER II- THE BOARD OF GOVERNORS
- SECTION 200. MEMBERSHIP.
  - 200 A. Initial Membership.
  - 200 B. Subsequent Membership.
    - (1) Election of Members.
    - (2) General Qualifications.
  - 200 C. Special Memberships.
    - (1) Member Ex-Officio.
    - (2) Members Emeriti.
    - (3) Members Emeriti - Former Governor.
- SECTION 201. OFFICERS.
  - 201 A. Chair, Vice Chair, and Secretary.
  - 201 B. Assistant Secretary.
- SECTION 202. MEETINGS AND BYLAWS.
  - 202 A. Meetings.
    - (1) Regular Meetings.
    - (2) Special Meetings.
    - (3) Emergency Meetings.
  - 202 B. Agenda.
  - 202 C. Conduct of Business.
    - (1) Quorum.

(2) Presiding Officer.
(3) Power to Vote.
(4) Rules of Order.
(5) Reference to Committees.
202 D. Minutes.
202 E. Closed Sessions.
202 F. Amendments and Suspensions of *Code* Provisions.
SECTION 203. POWERS AND DUTIES.
203 A. Statutory Powers and Duties.
203 B. Other Powers and Duties.
203 C. Reservation of Powers.
SECTION 204. ETHICS AND CONFLICT OF INTERESTS
SECTION 205. DELIVERY OF NOTICES

CHAPTER III- COMMITTEES OF THE BOARD OF GOVERNORS
SECTION 300. ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES.
SECTION 301. THE STANDING COMMITTEES' JURISDICTION.
SECTION 302. GENERAL PROVISIONS CONCERNING STANDING COMMITTEES.
302 A. Appointment of Members.
302 B. Officers of Standing Committees.
302 C. Meetings of Standing Committees.
302 D. Subcommittees.
302 E. Report of Standing Committees.
302 F. Closed Sessions.
SECTION 303. SPECIAL COMMITTEES OF THE BOARD OF GOVERNORS.

CHAPTER IV- BOARDS OF TRUSTEES
SECTION 400. MEMBERSHIP.
400 A. General Provisions.
400 B. Dual Membership Prohibited.
SECTION 401. OFFICERS.
401 A. Chair, Vice Chair, and Secretary.
401 B. Assistant Secretary.
SECTION 402. MEETINGS.
402 A. Frequency.
402 B. Rules of Procedure.
402 C. Keeping Board of Governors Informed.
402 D. Notice of Committee Meetings.
SECTION 403. POWERS AND DUTIES.
403 A. General Powers and Duties.
403 B. Other Powers and Duties.

CHAPTER V- OFFICERS OF THE UNIVERSITY
SECTION 500. ELECTION OF OFFICERS.
500 A. President and Staff.
500 B. Chancellors and Staffs.
SECTION 501. PRESIDENT OF THE UNIVERSITY.
501 A. General Authority.
501 B. Relation of the President to the Board of Governors.
501 C. Relation of the President to the University.
SECTION 502. CHANCELLORS OF CONSTITUENT INSTITUTIONS.
502 A. General Authority.
502 B. Relation of the Chancellor to the Board of Governors and the President.
502 C. Relation of the Chancellor to the Board of Trustees.
502 D. Relation of the Chancellor to the Constituent Institution.

CHAPTER VI- ACADEMIC FREEDOM AND TENURE
SECTION 600. FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY.
SECTION 601. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY.

SECTION 602. ACADEMIC TENURE.
SECTION 603. DUE PROCESS BEFORE DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS.
SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY
604 A. Notice of Reappointment or Nonreappointment.
604 B. Impermissible Reasons for Nonreappointment.
604 C Repealed
604D. Review of Nonreappointment Decisions
SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.
605 A. Definition.
605 B. Timely Notice of Termination.
605 C. Institutional Procedures.
SECTION 606. RETIREMENT OF FACULTY
SECTION 607. FACULTY GRIEVANCE COMMITTEE FOR CONSTITUENT INSTITUTIONS.
SECTION 608. STUDENTS' RIGHTS AND RESPONSIBILITIES.
SECTION 609. APPELLATE JURISDICTION OF THE BOARD OF GOVERNORS.
609 A. Discretionary Review.
609 B. Hearings.
609 C. Repealed
609 D. Transmission of Appeals
SECTION 610. RIGHTS OF SPECIAL FACULTY MEMBERS
SECTION 611. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT (EPA)

CHAPTER VII - FINANCES, PROPERTY AND OBLIGATIONS
SECTION 700. BUDGETS AND APPROPRIATIONS
700 A. Budget Recommendations.
700 B. Appropriations and Allocations.
700 C. Transfers of Appropriated Funds.
SECTION 701. TUITION AND FEES.
SECTION 702. GENERAL POWERS CONCERNING PROPERTY.
702 A. Corporate Powers.
702 B. Statutory Powers.
702 C. Transfer of Property and Obligations.
702 D. Limitation on Exercise of Powers.
SECTION 703. IMMUNITIES.
703 A. Tax Exemption.
703 B. Tort Liability.
SECTION 704. ENDOWMENT FUND.
SECTION 705. ANNUITY OR RETIREMENT INCOME CONTRACTS.
SECTION 706. REVENUE BONDS.

CHAPTER VIII - MATTERS INVOLVING NON-PUBLIC INSTITUTIONS
SECTION 800. LICENSING POST-SECONDARY DEGREE ACTIVITY.
800 A. Institutions Required to Be Licensed.
800 B. Regulatory Authority in the Board.
800 C. Enforcement Authority in the Attorney General.
SECTION 801. ASSESSMENT OF NEEDS AND REVIEW OF REQUESTS.
SECTION 802. FINANCIAL AID.
802 A. Contracts to Aid North Carolina Students.
802 B. Scholarship and Contract Terms; Base Period.
802 C. Contract Forms; Reports; Audits; Regulations.
802 D. Definitions.

CHAPTER IX- MISCELLANEOUS PROVISIONS
SECTION 900. THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM.

900 A. Composition.
900 B. Meetings and Powers of Board.
900 C. Officers.
900 D. Health Care System Personnel.
900 E. Health System Finances.
900 F. Health Care System Purchases.
900 G. Health Care System Property.
900 H. Health Care System Property – Construction
SECTION 901. UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS.
901 A. Policy.
901 B. Establishment.
901 C. Board of Trustees.
901 D. Powers of Board.
901 E. Endowment Fund.
901 F. Purpose of School Program.
SECTION 902. NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS.
902 A. Policy.
902 B. Re-Establishment.
902 C. Board of Trustees.
902 D. Powers of Board.
902 E. Endowment Fund.
902 F. Purposes of the School.
902 G. Tuition and Mandatory Fees
902 H. Educational Advisory Council

Appendix 1- DELEGATIONS OF DUTY AND AUTHORITY TO BOARDS OF TRUSTEES

I. ACADEMIC AND ADMINISTRATIVE PERSONNEL

- A. Appointment and Compensation
- B. Discharge or Suspension
- C. Personnel Policies
- D. Chancellor Selection

II. ACADEMIC PROGRAM

III. ACADEMIC DEGREES AND GRADING

IV. HONORARY DEGREES, AWARDS AND DISTINCTIONS

V. BUDGET ADMINISTRATION

VI. PROPERTY AND BUILDINGS

VII. ENDOWMENTS AND TRUST FUNDS

VIII. ADMISSIONS

IX. TUITION, FEES AND DEPOSITS

- A. General Authority of Boards of Trustees
- B. Tuition and Fee Deposits
- C. Application Fee
- D. Acceptance of Obligations in Lieu of Cash
- E. Fee Recommendations

X. STUDENT FINANCIAL AID

XI. STUDENT SERVICES

XII. STUDENT CONDUCT, ACTIVITIES AND GOVERNMENT

XIII. INTERCOLLEGIATE ATHLETICS

XIV. TRAFFIC AND PARKING REGULATIONS

XV. CAMPUS SECURITY

XVI. AUXILIARY ENTERPRISES, UTILITIES AND MISCELLANEOUS FACILITIES

CHAPTER I - ESTABLISHMENT, INCORPORATION AND COMPOSITION OF THE UNIVERSITY OF NORTH CAROLINA

SECTION 100. CONSTITUTIONAL ESTABLISHMENT.

The General Assembly shall maintain a public system of higher education, comprising the University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of the University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of the University of North Carolina and the other public institutions of higher education. [North Carolina Constitution, Art. IX, Sec. 8]

SECTION 101. INCORPORATION AND CORPORATE POWERS.

The Board of Governors of the University of North Carolina shall be known and distinguished by the name of "the University of North Carolina" and shall continue as a body politic and corporate and by that name shall have perpetual succession and a common seal. It shall be able and capable in law to take, demand, receive, and possess all moneys, goods, and chattels that shall be given for the use of the University, and to apply the same according to the will of the donors; and by gift, purchase, or devise to receive, possess, enjoy, and retain forever any and all real and personal estate and funds, of whatsoever kind, nature, or quality the same may be, in special trust and confidence that the same, and the profits thereof, shall be applied to and for the use and purpose of endowing the University, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the University, or according to the terms of donation.

The corporation shall be able and capable in law to bargain, sell, grant, alien or dispose of, and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire when the condition of the grant to it or the will of the devisor does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions, and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue. [See G.S. 116-3]

SECTION 102. COMPOSITION OF THE UNIVERSITY.

The University of North Carolina shall constitute a single, multi-campus university composed of the following constituent institutions:

Appalachian State University,
East Carolina University,
Elizabeth City State University,
Fayetteville State University,
North Carolina Agricultural and Technical State University,
North Carolina Central University,
North Carolina School of Science and Mathematics,
North Carolina State University at Raleigh,
The University of North Carolina at Asheville,
The University of North Carolina at Chapel Hill,
The University of North Carolina at Charlotte,
The University of North Carolina at Greensboro,
The University of North Carolina at Pembroke,[1]
The University of North Carolina at Wilmington,

[1]Name changed from Pembroke State University effective July 1, 1996.

University of North Carolina School of the Arts,[2]
Western Carolina University, and
Winston-Salem State University.

SECTION 103. EQUALITY OF OPPORTUNITY IN THE UNIVERSITY.

Admission to, employment by, and promotion in the University of North Carolina and all of its constituent institutions shall be on the basis of merit, and there shall be no unlawful discrimination against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, or veteran status.

[2]Name changed from North Carolina School of the Arts to the University of North Carolina School of the Arts effective August 1, 2008.

CHAPTER II- THE BOARD OF GOVERNORS

SECTION 200. MEMBERSHIP.

200 A. Initial Membership.

For terms specified by statute and until their successors are chosen, the Board of Governors shall consist of representatives elected in accordance with state law. [See G.S. 116-5(a), (b), (c), and (d)]

200 B. Subsequent Membership.

(1) Election of Members.

(a) Members of the Board of Governors shall be elected by the Senate and House of Representatives. Sixteen members shall be elected at the regular legislative session in 1993, and every two years thereafter. All terms shall commence on July 1 of odd-numbered years, and all members shall serve for four-year overlapping terms. No person may be elected to more than three full four-year terms in succession. Resignation from a term of office does not constitute a break in service for the purpose of applying this provision of the law. Service prior to those terms beginning in 1989 shall be included in the limitations. Members elected by the Senate and House of Representatives shall be designated as voting members. [See G.S. 116-6(a), (b) and (c)]

(b) Whenever any vacancy shall occur in the elected membership of the Board of Governors, it shall be the duty of the secretary of the University to inform the General Assembly of the existence of the vacancy, and the General Assembly at its next regular session shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the state or nation, to be present for four successive regular meetings of the board, the individual's place as a member shall be deemed vacant. [See G.S. 116-7(c)]

(2) General Qualifications.

(a) [Repealed March 6, 2002]

(b) [Repealed March 6, 2002]

(c) No member of the General Assembly or officer or employee of the state or of any constituent institution or spouse of any such member, officer, or employee may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the state or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from membership on the Board of Governors. [See G.S. 116-7(b)]

200 C. Special Memberships.

For all purposes of this *Code*, the following members shall be designated as special members:

(1) Member Ex-Officio.

During the individual's continuance as a student in good standing at a constituent institution of the University of North Carolina, the person serving as president of the University of North Carolina Association of Student Governments (UNCASG) or designee shall serve ex-officio as a member of the Board of Governors. This

student member shall be in addition to the 32 members elected to the Board of Governors. [See G.S. 116-6.1]

(2) Members Emeriti.

Any person who has served at least one full term as chair of the Board of Governors shall be a member emeritus of the Board of Governors for one four-year term beginning at the expiration of that member's regular elected term. [See G.S. 116-6 (f)]

(3) Members Emeriti - Former Governor.

Any person who has served at least one term as a member of the Board of Governors after having served as governor of North Carolina shall be a member emeritus of the Board of Governors. [See G.S. 116-6(g)]

Special members shall have all the rights and privileges of membership except that they shall not have a vote. In determining a quorum or the number of votes required in specific circumstances, special members shall not be counted. Special members may serve, by appointment from the chair of the board, on any standing or special committee but shall not have a vote or be counted in determining the presence of a quorum.

SECTION 201. OFFICERS.

201 A. Chair, Vice Chair, and Secretary.

At its last regular meeting before July 1 in each even-numbered year, the Board of Governors shall elect from its voting membership for two-year terms commencing July 1, and serving until their successors have been elected and qualified, a chair, a vice chair, and a secretary. No person may stand for election to a board office if, having been elected by the Senate or House of Representatives for the maximum allowable number of terms on the board, the person's board membership would expire before the end of the term of office. No person may serve as chair for more than four years in succession. If for any reason an office becomes vacant before expiration of the prescribed two-year term, the unexpired balance of the term shall be filled by an election to be conducted at the first meeting of the Board of Governors held after the elapse of 30 days from the date of the occurrence of the vacancy; in the event of a vacancy in the office of chair, the vice chair shall serve as chair until the required election is held. [See G.S. 116-8]

201 B. Assistant Secretary.

The Board of Governors may elect an assistant secretary of the Board of Governors, who shall be a member of the staff of the president of the University. Copies of all minutes, papers, and documents of the Board of Governors may be certified by the assistant secretary with the same force and effect as though such certification were made by the secretary of the Board of Governors.

SECTION 202. MEETINGS AND BYLAWS.

202 A. Meetings.

(1) Regular Meetings.

The Board of Governors shall hold no fewer than six regular meetings a year at stated times established by the Board. Each regular meeting shall be held at such time and at such place as the chair may designate, with notice concerning the time and place to be transmitted to each member of the board by the secretary of the University at least 20 days in advance of the meeting date. Either by action of the board or upon 15 days' written notice by the chair, the date specified herein for a regular meeting may be changed to another date. Whenever the chair deems the business of the board not to require a regular meeting, the chair may cancel such meeting on five days' written notice. Subject to the provisions of Section 202 C(5), any matter of business relating to the

University of North Carolina may be considered at any regular meeting of the Board of Governors. [See G.S. 116-9]

(2) Special Meetings.

Special meetings of the Board of Governors may be called by the chair, at the chair's discretion, and shall be called by the secretary of the University upon the written request of not fewer than ten voting members of the board. A special meeting called by the secretary of the University shall be held within 20 days of receipt by the secretary of the tenth written request for such special meeting. A notice specifying the time and place of a special meeting of the Board of Governors shall be mailed or otherwise delivered by the secretary of the University to each member of the board in order that it would reasonably be expected to be received by the member at least 48 hours before the meeting. Subject to the provisions of Section 202 C(5), any matter of business relating to the University of North Carolina may be considered at a special meeting of the board.

(3) Emergency Meetings.

Emergency meetings of the Board of Governors may be called by the chair when generally unexpected circumstances require immediate consideration by the board. A notice specifying the time and place of an emergency meeting of the Board of Governors may be given by telephone, telegraph, or other method in sufficient time for a majority of the board to reasonably be expected to be able to attend the meeting. Only business connected with the emergency may be considered at an emergency meeting in which less than 48 hours notice is given.

202 B. Agenda.

(1) A copy of the agenda for each regular meeting of the Board of Governors, including notice of all expiring terms on or vacancies in membership of board committees and, insofar as is practicable, copies of all reports and other materials to be presented to the regular meeting as a part of the agenda, shall be mailed by the secretary of the University to each member of the board at least five days in advance of the regular meeting. If practicable, a copy of the agenda for each special meeting of the Board of Governors, with reports and other materials to be presented, shall be mailed to each member of the board at least five days in advance of the special meeting. When matters are to be considered by a committee between the time of the mailing of the agenda and the time of any regular or special meeting of the board and are expected then to be presented to the board for action at the meeting, all members of the board shall be mailed such materials as a committee may prescribe by standing rule or as the chair of a committee may designate, in order to inform the board, insofar as may be feasible, of the nature of the action that might be asked of it.

(2) The agenda for a regular or special meeting of the Board of Governors shall be prepared by the president with the approval of the chair. All requests for inclusion of a given item on the agenda of a particular meeting shall be filed, with any supporting documents, with the secretary of the University. Any such requests from faculty, students, staff members, or other members of a constituent institution of the University must be in writing and must be filed first with the chancellor of the institution concerned in sufficient time to be reported to and filed with the president by the chancellor, prior to the regular or special meeting in question.

(3) The provisions of this Section 202 B shall not be construed to prohibit any committee or member of the Board of Governors from requesting consideration by the board, at any regular or special meeting, of any item not on the agenda of a regular or special meeting of the board. However, such an item shall not be so considered without the approval of two-thirds of the voting members of the board present at such meeting.

202 C. Conduct of Business.

(1) Quorum.

A quorum for the conduct of business of the Board of Governors shall consist of a majority of the voting membership of the board then in office. Any voting member who is present at a meeting of the board or of a committee or who attends a special or emergency meeting of the board or of any meeting of a committee by telephone, video conference, or other electronic means that allows for two- way voice interaction will be counted as present for purposes of determining a quorum.

(2) Presiding Officer.

The chair shall preside at all regular and special meetings of the Board of Governors. In the absence of the chair, the vice chair shall preside and in the absence of both, the secretary shall preside. In the absence of an elected officer, a presiding officer shall be elected by and from the voting membership of the Board of Governors.

(3) Power to Vote.

All members of the Board of Governors except special members may vote on all matters coming before the board for consideration. Any voting member of the board or of a board committee who attends a special or emergency meeting of the board or of any meeting of a committee by telephone, video conference, or other electronic means that allows for two-way voice interaction may cast the member's vote by that electronic means. No vote concerning any matter under consideration by the board or by a committee of the board may be cast in absentia by mail, facsimile, or electronic mail.

(4) Rules of Order.

Except as modified by specific rules and regulations enacted by the Board of Governors, Robert's Rules of Order (latest edition) shall constitute the rules of parliamentary procedure applicable to all meetings of the Board of Governors and its several committees.

(5) Reference to Committees.

All matters presented to the Board of Governors, except matters of routine business, which come within the sphere of interest or activity of any standing committee of the board, shall be submitted by the board to the appropriate standing committee for investigation and report. All matters of other than routine business, which do not come within the sphere of interest or activity of any standing committee of the board, may be submitted by the board to a special committee for investigation and report in advance of any action thereon by the board. The board may proceed to consider any matter without referring it to a standing or special committee if, by two-thirds vote, immediate consideration by the board is ordered. The reports and recommendations of standing and special committees shall be submitted to the board in writing consistent with the instructions of the board.

202 D. Minutes.

(1) The secretary of the University shall keep minutes of all meetings of the Board of Governors; shall file, index, and preserve all minutes, papers, and documents pertaining to the business and proceedings of the board; shall be custodian of the University seal and of all records of the board; and shall attest the execution by the chair of all legal documents and instruments of the University of North Carolina.

(2) Within 20 days after each meeting of the Board of Governors, the secretary of the University shall transcribe the minutes of the meeting and mail a copy to each member of the board.

202 E. Closed Sessions.

All meetings of the Board of Governors shall be open to the public unless, consistent with the requirements of state law, a meeting is closed to the public by a motion duly made and adopted by the board in an open meeting.

202 F. Amendments and Suspensions of *Code* Provisions.

(1) Any provision of this *Code* (except those required or governed by statutory or constitutional provisions) may be amended by a vote of two-thirds of the voting membership of the board then in office; provided that no amendment may be adopted unless its substance first has been introduced at a preceding regular or special meeting of the board.

(2) Any *Code* provision, except that contained in Section 202 F(1) (and those required or governed by statutory or constitutional provisions), may be suspended at any regular or special meeting of the Board of Governors for that meeting by affirmative vote of two-thirds of the voting membership of the board present.

SECTION 203. POWERS AND DUTIES.

203 A. Statutory Powers and Duties.[3]

(1) The Board of Governors shall plan and develop a coordinated system of higher education in North Carolina. To this end it shall govern the constituent institutions, subject to such powers and responsibilities as may be conferred by statute on or delegated by the Board of Governors to the boards of trustees of the constituent institutions, and to this end it shall maintain close liaison with the State Board of Education, the State Board of Community Colleges, and the private colleges and universities of the state. The board, in consultation with representatives of the State Board of Education and of the private colleges and universities, shall prepare and from time to time revise a long-range plan for a coordinated system of higher education, supplying copies thereof to the governor, members of the General Assembly, the Advisory Budget Commission, and the constituent institutions. State-wide federal or state programs that provide aid to institutions or students of post-secondary education through a state agency, except those related exclusively to the community college system, shall be administered by the board pursuant to any requirement of state or federal statute in order to ensure that all activities are consonant with the state's long-range plan for higher education. [See G.S. 116-11(1)]

(2) The Board of Governors shall be responsible for the general determination, control, supervision, management, and governance of all affairs of the constituent institutions. For this purpose the board may adopt such policies and regulations as it may deem wise.[4] [See G.S. 116-11(2)]

(3) The Board of Governors shall determine the functions, educational activities, and academic programs of the constituent institutions. The board shall also determine the type of degrees to be awarded by each constituent institution. The powers of the board as

[3]Other statutory powers and duties are set forth in Chapters I, IV, V, VII, VIII and IX of this *Code*.

[4]All policies, rules, and regulations adopted and actions taken prior to July 1, 1972, by the former boards of trustees of the constituent institutions shall be effective on and after July 1, 1972, as to the respective institutions, except as modified by this *Code* or by other action of the Board of Governors or by the institutional boards of trustees. [Session Laws 1972, Ch. 124, Sec. 18]

established by law are not restricted by any other provision of law assigning specific functions or responsibilities to designated institutions, the powers of the board superseding any such provisions of law.[5] The board, after giving adequate notice to the affected institutional board of trustees and affording it an opportunity to be heard, shall have authority to withdraw approval of any existing program if it appears that the program is unproductive, excessively costly, or unnecessarily duplicative. [See G.S. 116-11(3)]

(4) The Board of Governors shall approve the establishment of any new publicly supported institution above the community college level. [See G.S. 116-11(6)]

(5) The Board of Governors shall set enrollment levels of the constituent institutions. [See G.S. 116-11(8)]

(6) The Board of Governors shall collect and disseminate data concerning higher education in the state. To this end it shall work cooperatively with the North Carolina System of Community Colleges and shall seek the assistance of the private colleges and universities. It may prescribe for the constituent institutions such uniform reporting practices and policies as it may deem desirable. [See G.S. 116-11(10)]

(7) The Board of Governors, with the cooperation of other concerned organizations, shall establish, as a function of the board, an Educational Opportunities Information Center to provide information and assistance to prospective college and university students and to the several institutions, both public and private, on matters regarding student admissions, transfers, and enrollments. The public institutions shall cooperate with the center by furnishing such nonconfidential information as may assist the center in the performance of its duties. Similar cooperation shall be requested of the private institutions in the state. An applicant for admission to an institution who is not offered admission may request that the institution send to the center appropriate nonconfidential information concerning the application. The center may, at its discretion and with permission of the applicant, direct the attention of the applicant to other institutions and the attention of other institutions to the applicant. The center is authorized to conduct such studies and analyses of admissions, transfers, and enrollments as may be deemed appropriate. [See G.S. 116-18]

(8) The Board of Governors shall give advice and recommendations concerning higher education to the governor, the General Assembly, the Advisory Budget Commission, and the boards of trustees of the constituent institutions. [See G.S. 116-11(12)]

(9) The Board of Governors may delegate any part of its authority over the affairs of any constituent institution to the board of trustees or, through the president of the University, to the chancellor of the institution in any case where such delegation appears necessary or prudent to enable the institution to function in a proper and expeditious manner. Any delegation of authority may be rescinded by the board at any time in whole or in part. [See G.S. 116-11(13)]

203 B. Other Powers and Duties.

(1) Whenever the Board of Governors finds that there may be a need for the creation of a new campus of the University, the board shall direct that a study be made of the relevant educational needs of the state, such study to take particular account of the relevant educational needs of the area or areas of the state designated by the Board of

[5]See G.S. 116-40.4. See also G.S. 116-63 through -69.

Governors. The board shall give careful consideration to the report of the aforementioned study of educational needs, and if the board finds

(a) that sufficient educational needs exist to justify the establishment of an additional campus of the University, and

(b) that it appears probable that sufficient additional funds can be made available to establish and maintain such additional campus without impairing the quality and extent of the instructional and research programs at the existing campuses of the University, the Board of Governors may recommend to the General Assembly that appropriate legislation creating or adding such campus be enacted.

(2) Whenever the Board of Governors finds that there may be a need for the creation of a branch campus by a constituent institution, the board shall direct that a study be made of the relevant educational needs of the state, such study to take particular account of the relevant educational needs of the area or areas of the state designated by the Board of Governors. The board shall give careful consideration to the report of the aforementioned study of educational needs, and if the board finds

(a) that sufficient educational needs exist to justify the establishment of a branch campus by a constituent institution, and

(b) that it appears probable that sufficient additional funds can be made available to establish and maintain such branch campus without impairing the quality and extent of the instructional and research programs at the constituent institution or at other constituent institutions, the Board of Governors may approve the creation of a branch campus.

(3) The University will use as its definition of a branch campus the one adopted by the Commission on Colleges of the Southern Association of Colleges and Schools: A branch campus is *defined as a location of an institution that is geographically apart and independent of the main campus of the institution. A location is independent of the main campus if the location is (1) permanent in nature, (2) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential, (3) has its own faculty and administrative or supervisory organization, and (4) has its own budgetary and hiring authority.*

(4) Apart from new or branch campuses, the President is authorized to initiate other facilities arrangements for delivery of off-site programs such as use of community college space, multiple-use facilities among campuses, joint use facilities with community colleges, and rental space, following general university academic and budgetary procedures for relevant Board approval or reporting to the Board.

(5) The North Carolina Community College System shall be consulted in the process of assessing the need for a new campus, a branch campus or other facilities for off-site educational delivery.

(6) The Board of Governors shall have such other powers and duties as may be prescribed by law or as may be set forth elsewhere in this *Code*.

203 C. Reservation of Powers.

The Board of Governors shall possess all powers not specifically given to institutional boards of trustees. [See G.S. 116-11(14)]

SECTION 204. ETHICS AND CONFLICT OF INTERESTS

It is of critical importance that decisions made on behalf of the University by its governors be in the best interest of the University and not be influenced by any potential financial gain to the decision-makers. Furthermore, to assure public confidence in the integrity of the University, it is important that the University not appear to be influenced by the personal financial interests of those in decision-making positions. In order to assure public confidence in the integrity of the University, members of the Board of Governors of the University should not use their positions, or appear to use their positions, to influence the decisions of the University for their personal financial gain. At the same time, the University should be able to take advantage of contracts that are advantageous to the citizens of North Carolina and to the University and should avoid having service to the University be so restrictive that persons with substantial financial interests will be reluctant to serve. In order to accomplish these goals, the Board of Governors shall adopt and enforce a policy governing conflicts of interest of its members. Each member of the Board of Governors shall comply with this policy.

SECTION 205. DELIVERY OF NOTICES.

All notices, documents, or materials required by the *Code* to be mailed to members of the Board of Governors may be delivered by electronic mail, facsimile transmission, or other reliable means that is available for notifying that member of the board.

CHAPTER III- COMMITTEES OF THE BOARD OF GOVERNORS

SECTION 300. ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES.

A. The Board of Governors may establish such standing committees as it may deem necessary. Standing committees shall be established and their duties prescribed by a vote of two-thirds of the voting membership of the Board of Governors then in office. Special committees may be created by the Board of Governors or the chair of the board to perform specific functions not requiring the continuous existence of a committee.

B. Each voting member of the board shall at all times serve on one of the standing committees designated in subsections 301 B-E below.

C. Special members of the board may be assigned to such standing or special committees as the chair of the Board of Governors may from time to time see fit.

D. The chair of the board may, upon request of a standing committee chair, appoint any voting member to serve temporarily as a voting member of a subcommittee of a standing committee when the chair of the board deems the work of the subcommittee to require such an appointment.

E. The vice chair of the Board of Governors shall at all times be a voting member of a standing committee. The vice chair shall be assigned to a committee by the chair of the board following consultation between the chair and the vice chair. The vice chair's membership on a standing committee shall be in addition to the prescribed regular membership of the committee.

F. The chair of the Board of Governors shall be a voting member of all standing and special committees, but the chair's membership shall not be counted in determining a quorum.

SECTION 301. THE STANDING COMMITTEES' JURISDICTION.

301 A. The standing committees of the Board of Governors shall be: the Committee on Budget and Finance; the Committee on Educational Planning, Policies, and Programs; the Committee on Personnel and Tenure; the Committee on University Governance, the Committee on Public Affairs, and the Audit Committee.

301 B. The Committee on Budget and Finance shall consist of seven voting members. The committee shall advise and consult with the president concerning budget policy and preparation. The committee shall consider the budget proposed by the president and, upon its approval, shall submit the budget to the Board of Governors for final action. The committee shall make recommendations to the board for the allocation of funds appropriated to the board. It shall also advise and assist the president, and submit recommendations to the board, with respect to real property transactions, investments, endowments, and other fiscal and property matters in accordance with valuation limits established in board policy and within the jurisdiction of the Board of Governors.

301 C. The Committee on Educational Planning, Policies, and Programs shall consist of nine voting members. It shall receive the advice and recommendations of the president and make recommendations to the board in all areas pertaining to the development of a coordinated system of higher education in North Carolina, including: (a) the definition of mission and assignment of functions of each constituent institution; (b) the review of requests for the initiation of new degree programs and recommendations for the termination of existing programs; (c) the provision of supportive services, facilities, and other resources for the instructional, research, and public-service programs of the constituent institutions; (d) the review of policies affecting educational programs and academic affairs; (e) matters concerning the involvement of students in the University and in university life; (f) review of

matters concerning health affairs in the University; and (g) review of matters concerning the utilization of information technology in furtherance of the University's mission. The committee shall also advise and assist the president and the board in maintaining close liaison with the State Board of Education, the State Board of Community Colleges, and the private colleges and universities, including the review of all requests for state aid to the private institutions. It shall further recommend to the board procedures and standards for the licensing of non-public educational institutions.

301 D. The Committee on Personnel and Tenure shall consist of seven voting members. Upon recommendation of the president, it shall review and make recommendations to the board with respect to the appointment and compensation of all vice chancellors, senior academic and administrative officers, and persons with permanent tenure. Notwithstanding the provision above, the committee shall not review or recommend the appointment and compensation of vice chancellors, senior academic and administrative officers, and persons with permanent tenure for those campuses delegated the authority to appoint and set compensation for such employees so long as the boards of trustees act consistently with the policy and compensation ranges established by the Board of Governors. Further, the committee shall advise and assist the president in the review and evaluation of tenure policies and regulations which the president shall periodically conduct, and it shall review all appeals from faculty members of the constituent institutions which involve an institution's decision to not to reappoint a faculty member, to deny tenure, to discharge a tenured faculty member, or to impose a serious sanction pursuant to the provisions of Chapter VI of this Code. It shall also review all appeals from non-faculty employees of the University who are exempt from the State Personnel Act pursuant to Section 611 of this Code.

301 E. The Committee on University Governance shall consist of seven voting members. It shall keep under continuous review the application and interpretation of *The Code of the University of North Carolina* and all delegations of authority under that code, and it shall make such recommendations to the Board of Governors for the amending of *The Code* or delegations of authority as may seem appropriate for the effective and efficient operation of the University of North Carolina and its constituent institutions. The committee shall make nominations to the Board of Governors for elections to the boards of trustees of the constituent institutions. The committee shall receive all requests from students of the constituent institutions for appellate review by the Board of Governors pursuant to Section 502 D(3) of this *Code*.

301 F. The Committee on Public Affairs shall consist of a number of voting members to be determined by the chair of the board. A voting member serving on this committee shall also serve on one or more other standing committees. The Committee on Public Affairs shall assist the President in maintaining a positive relationship with the Governor, the North Carolina General Assembly, the United States Congress, and other governmental entities which affect the ability of the University to carry out its mission. The committee will review all state and federal policy priorities of the University.

301 G. The Audit Committee shall consist of a number of voting members to be determined by the chair of the board. A voting member serving on this committee shall also serve on one or more other standing committees. The Audit Committee shall develop and maintain a system wide code of ethics, review annual and other audit reports of the constituent institutions and affiliated entities of the University, review a summary of the internal audit plans and work of the audit committees of the constituent institutions, review annual financial audit reports and management letters on University associated entities, meet with the State Auditor annually, and take such other actions as are necessary or appropriate to assure the integrity of the finances of the University.

SECTION 302. GENERAL PROVISIONS CONCERNING STANDING COMMITTEES.

302 A. Appointment of Members.

The chair of the Board of Governors shall appoint voting members of the board to standing committees. The term of each voting member of a standing committee shall normally be two years, commencing upon the effective date of the appointment to the committee and extending until a successor is appointed. The voting membership of each committee shall be divided into two classes, with the terms of approximately one-half of the members expiring each year. To achieve balance and efficiencies in the

committee system, the chair may appoint members to one-year terms or reassign members who have served one year of a two-year term. The chair shall appoint members of standing committees to take effect at the first meeting of the committee after July 1. If a voting member has served on a standing committee designated in subsections 301B-E above for four consecutive years, the member shall be, for a period of one year, ineligible for reappointment to the same standing committee. If a vacancy occurs on a standing committee during a term, the chair of the board may appoint a voting member of the board to fill the remainder of the unexpired term.

302 B. Officers of Standing Committees.

A chair, vice chair, and secretary of each standing committee shall be designated by the chair of the Board of Governors for a one year term starting at the first meeting after July 1 of the year and continuing until their successors are appointed. No person may serve more than two successive terms as chair of the same standing committee.

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.

302 D. Subcommittees.

Each standing committee may establish from its elected membership such subcommittees as it may deem necessary and appropriate for the effective discharge of its assigned responsibilities. The chair of the standing committee shall appoint the chair and the members of each subcommittee and shall report to the board the establishment of any subcommittee.

302 E. Report of Standing Committees.

Each standing committee shall make a written report to the Board of Governors at least annually, reviewing the work of the committee during the preceding year.

302 F. Closed Sessions.

All meetings of committees shall be open to the public unless, consistent with the requirements of state law, a meeting of a committee is closed to the public by a motion duly made and adopted by the committee in an open meeting.

SECTION 303. SPECIAL COMMITTEES OF THE BOARD OF GOVERNORS.

Special committees may be created by the Board of Governors or the chair of the board to perform specific functions not requiring the continuous existence of a committee. The size, function, and procedures of special committees shall be determined either by majority vote of the board or by the chair of the board. The chair and members of a special committee shall be appointed by the chair of the board from the voting membership of the board unless the Board of Governors otherwise provides. Special committees shall cease to exist when their functions have been discharged; however, every special committee shall cease to exist one year after the date of its creation, unless continued by affirmative action of the board or the chair of the board. Notwithstanding the above, the size, function, procedures, membership, and selection of the chair of a presidential search committee shall be determined by majority vote of the Board of Governors.

CHAPTER IV - BOARDS OF TRUSTEES

SECTION 400. MEMBERSHIP.

400 A. General Provisions.

(1) Each constituent institution shall have a board of trustees composed of 13 persons[6] chosen as follows: (i) eight elected by the Board of Governors, (ii) four appointed by the governor, and (iii) the president of the student government of the institution, ex-officio. [See G.S. 116-31(d)]

(2) In every odd-numbered year, the Board of Governors shall elect four persons to each board of trustees and the governor shall appoint two persons to each such board; and the term of office of all such elected or appointed trustees (excluding ex-officio trustees) shall be four years, commencing on July 1, of such odd-numbered year. [Compare G.S. 116-31(e) and (f)]

(3) Whenever any vacancy shall occur in the membership of a board of trustees among those appointed by the governor, it shall be the duty of the secretary of the board of trustees to inform the governor of the existence of such vacancy, and the governor shall appoint a person to fill the unexpired term, and whenever any vacancy shall occur among those elected by the Board of Governors, it shall be the duty of the secretary of the board of trustees to inform the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the state or nation, to be present for three successive regular meetings of a board of trustees, the individual's place as a member shall be deemed vacant. [See G.S. 116-31(j)]

(4) Any person who has served two full four-year terms in succession as a member of a board of trustees shall, for a period of one year, be ineligible for election or appointment to the same board but may be elected or appointed to the board of another institution. [See G.S. 116-31(g)]

(5) No member of the General Assembly or officer or employee of the State, The University of North Carolina, or of any constituent institution shall be eligible for election or appointment as a trustee. No spouse of a member of the General Assembly, or of an officer or employee of a consistent institution may be a trustee of that constituent institution. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State, The University of North Carolina, or any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes an officer or employee of that constituent institution shall be deemed thereupon to resign from his membership on the board of trustees. [See G.S. 116-31(h)]

400 B. Dual Membership Prohibited.

No person may serve simultaneously as a member of a board of trustees and as a member of the Board of Governors. Any trustee who is elected to the Board of Governors shall be deemed to have resigned as a trustee effective as of the date that the individual's term commences as a member of the Board of Governors. [See G.S. 116-31(i)]

SECTION 401. OFFICERS.

401 A. Chair, Vice Chair, and Secretary.

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[6]Fifteen trustees in the case of the University of North Carolina School of the Arts. [See G.S. 116-65]
Twenty-seven trustees in the case of the North Carolina School of Science and Mathematics. [See G.S. 116-233 et seq.]

At the first regular meeting after June 30 of each year, each board of trustees shall elect from its membership a chair, a vice chair, and a secretary. [See G.S. 116-32] Each of these officers shall serve until his or her successor is elected. If the term of the chair on the board of trustees expires before his or her successor as chair is elected, then the vice chair shall become the interim chair until the chair's successor is elected.

401 B. Assistant Secretary.

Each board of trustees may also elect an assistant secretary, from among the members of the chancellor's staff. Copies of all minutes, papers, and documents of a board of trustees may be certified by its assistant secretary with the same force and effect as though such certification were made by the secretary of such board.

SECTION 402. MEETINGS.

402 A. Frequency.

Each board of trustees shall hold not fewer than three regular meetings a year and may hold such additional meetings as may be deemed desirable. [See G.S. 116-32]

402 B. Rules of Procedure.

Each board of trustees shall determine its own rules of procedure and may delegate to such committees as it may create such of its powers as it deems appropriate. The board of trustees may convene in closed session, consistent with state law and policy.

402 C. Keeping Board of Governors Informed.

The secretary of each board of trustees shall keep the Board of Governors, through the secretary of the University, fully and promptly informed concerning activities of the board of trustees, including notice of any changes in the membership of the board or in its committee structure or bylaws, notices of meetings, and a copy of the minutes of all meetings.

402 D. Notice of Committee Meetings

Each board of trustees shall provide timely notice of each of its meetings and committee meetings to every member of that board of trustees.

SECTION 403. POWERS AND DUTIES.

403 A. General Powers and Duties.

Each board of trustees shall promote the sound development of its institution within the functions prescribed for it, helping it to serve the people of the state in a way that will complement the activities of the other institutions and aiding it to perform at a high level of excellence in every area of endeavor. Each board of trustees shall serve as advisor to the Board of Governors on matters pertaining to its institution and shall also serve as advisor to the chancellor concerning the management and development of the institution. [See G.S. 116-33]

403 B. Other Powers and Duties.

Each board of trustees shall have such other powers and duties, not inconsistent with other provisions of this *Code* or with applicable provisions of state law, as shall be defined and delegated by the Board of Governors. [See G.S. 116-33 and G.S. 116-11(13) and (14)]

CHAPTER V - OFFICERS OF THE UNIVERSITY

SECTION 500. ELECTION OF OFFICERS.

500 A. President and Staff.

(1) The Board of Governors shall elect a president of the University of North Carolina [See G.S. 116-14(a)], whose compensation shall be fixed by the Board of Governors.

(2) The Board of Governors, on nomination of the president, shall elect and fix the compensation of such professional members of the presidential staff as may be deemed necessary to administer the affairs and execute the policies of the University of North Carolina. These staff members shall include a senior vice president and such other vice presidents and officers as may be deemed desirable. [See G.S. 116-14(b)]

(3) In addition, the president shall employ such other personnel, subject to the provisions of Chapter 126 of the General Statutes ("State Personnel System"), as may be deemed necessary to assist the officers of the University in administering the affairs and executing the policies of the University of North Carolina. [See G. S. 116-14(b)]

(4) The professional staff complement shall be established by the board on recommendation of the president to ensure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to ensure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the University of North Carolina. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public-service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for state and federal programs administered by the board. [See G.S. 116-14(b)]

500 B. Chancellors and Staffs. [7]

(1) The Board of Governors shall elect, on nomination of the president, the chancellor of each of the constituent institutions and fix the chancellor's compensation. The president shall make a nomination from a list of not fewer than two names recommended by the institutional board of trustees. [See G. S. 116-11(4)]

(2) Unless the Board of Governors has delegated this authority to an institutional board of trustees, the Board of Governors shall, on recommendation of the president and of the appropriate institutional chancellor, appoint and fix the compensation of all vice chancellors, senior academic and administrative officers, and persons having permanent tenure. [See G.S. 116-11(5) and 116-40.22(b)]

SECTION 501. PRESIDENT OF THE UNIVERSITY.

501 A. General Authority.

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[7]The merger of an institution into the University of North Carolina under Chapter 1244 of the 1971 Session Laws or the establishment of the North Carolina School of Science and Mathematics as a constituent institution under S.L. 2006-66 shall not impair any term of office, appointment, or employment of any administrative, instructional, or other personnel of the institution. Effective July 1, 1972, the title president and vice president of each constituent institution shall be changed to chancellor and vice chancellor, and the tenures of persons occupying these positions shall continue subject to the other provisions of this Code. [See Sec. 18, Ch. 1244, 1971 Session Laws]

The president of the University of North Carolina shall be the chief administrative and executive officer of the University. [See G.S. 116-14(a)] The president shall have complete authority to manage the affairs and execute the policies of the University of North Carolina and its constituent institutions, subject to the direction and control of the Board of Governors and the provisions of this Code. The president shall personally represent before the state, the region and the nation the ideals and the spirit of the University of North Carolina. As the chief executive, the president shall be the official administrative spokesperson for and the interpreter of the University to the alumni and alumnae as a whole, the news media, the educational world, and the general public. The president shall be responsible for the presentation and interpretation of all University policies, recommendations, and requests to the General Assembly, the governor, state officers and commissions, and the federal government.

501 B. Relation of the President to the Board of Governors.

(1) The president, as the chief executive officer of the University, shall perform all duties prescribed by the Board of Governors. The president shall be responsible to the Board of Governors for the prompt and effective execution of all laws relating to the University of North Carolina and of all resolutions, policies, rules, and regulations adopted by the board for the operation of the University of North Carolina and for the government of any and all of its constituent institutions, and the president's discretionary powers shall be broad enough to meet the extensive responsibilities of the presidency.

(2) The president shall make recommendations to the Board of Governors with respect to the adoption, modification, revision or reversal of policies, rules, and regulations applicable to the University of North Carolina and any or all of its constituent institutions. To this end, the president shall establish and maintain agencies of inquiry and administrative lines of communication, which include the constituent institutions, to ensure prompt perception of needs for problem identification and analysis, decision, and policy formulation.

(3) The president shall prepare and submit to the Board of Governors such reports and recommendations concerning the University of North Carolina and its constituent institutions as the president may deem wise or as the board may require.

(4) The president shall attend and may participate in, without the privilege of voting, the meetings of the Board of Governors and its various committees, and the president may attend the meetings of all the boards of trustees.

(5) The president shall be the official administrative medium of communication between the Board of Governors and all individuals, officials, agencies, and organizations, both within and without the University and its constituent institutions.

(6) The president, consistent with the provisions of Section 500 B(2), shall make nominations for all appointments that are to be acted upon by the Board of Governors and shall make recommendations for all promotions, salaries, transfers, suspensions, and dismissals that are to be acted upon by the board. The board reserves the right, in all instances, to act on its own initiative.

(7) The president shall assume, and retain at all times, control over the budget of the University of North Carolina, subject to the direction and control of the Board of Governors. The president shall prepare the proposed budget of the University of North Carolina and shall submit such proposed budget to the Board of Governors for approval; administrative procedures uniformly applicable to all institutions shall be established by the president to ensure that each institution has full opportunity to provide information and advice concerning the formulation of such proposed budget. The president shall be responsible for the presentation and explanation of budget requests approved by the Board of Governors to the director of the budget and the Advisory Budget Commission, the General Assembly and its committees, officers, and members. The president shall be

responsible for the execution of the budget of the University of North Carolina as approved by the General Assembly. All revisions of the budget which require approval of the Advisory Budget Commission shall be acted upon by the Board of Governors on recommendation of the president.

(8) The president, with the approval of the Board of Governors, shall appoint an advisory committee composed of representative presidents of the private colleges and universities of the state. [See G.S. 116-14(c)]

501 C. Relation of the President to the University.

(1) The president shall be the leader of the University of North Carolina and its constituent institutions and shall coordinate the activities of all constituent institutions in accordance with the principle of allocated functions prescribed by the Board of Governors. The president shall promote the general welfare and development of the University in its several parts and as a whole.

(2) The president shall be a member of, and shall have the privilege of attending meetings of, all faculties of the constituent institutions of the University of North Carolina.

(3) In the absence of policies prescribed by the Board of Governors, the president shall resolve all issues of jurisdiction and dispute among the constituent institutions of the University.

(4) Repealed.

(5) The president may refer for investigation, report, and advice any question of University concern to any council, faculty, or scientific, extension, or administrative staff.

(6) The medium for official communications between the president and the constituent institutions of the University shall be the respective chancellors.

(7) The president shall establish administrative organizations to carry out the policies of the University and shall interpret these organizations to the Board of Governors and to the officers and faculties of the University. The president shall ensure that the University and its constituent institutions are properly staffed with personnel competent to discharge their responsibilities effectively. In carrying out the president's duties and responsibilities, the president shall be assisted by staff officers and by the chancellors of the constituent institutions. The president shall prescribe the duties and assignments of the staff officers reporting to the president. The president may establish and define the duties of all-University councils and committees to advise and assist the president in the execution of the president's duties. The president may delegate to other officers portions of the president's duties and responsibilities, with the required authority for their fulfillment. However, such delegation shall not reduce the president's overall responsibility for those portions of duties which the president may choose to delegate.

SECTION 502. CHANCELLORS OF CONSTITUENT INSTITUTIONS.

502 A. General Authority.

The administrative and executive head of each constituent institution shall be the chancellor, who shall exercise complete executive authority therein, subject to the direction of the president. The chancellor shall be responsible for carrying out policies of the Board of Governors and of the board of trustees. [See G.S. 116-34(a)]

502 B. Relation of the Chancellor to the Board of Governors and the President.

(1) It shall be the duty of the chancellor to keep the president, and through the president the Board of Governors, fully informed concerning the operations and needs of the institution. Upon request, the chancellor shall be available to confer with the president or with the Board of Governors concerning matters that pertain to the institution. [See G.S. 116-34(c)] As of June 30 of each year, the chancellor shall prepare for the Board of Governors a detailed report on the operation of the institution for the preceding year. [See G.S. 116-34(a)] The chancellor shall make such additional reports to the president or the Board of Governors as the president or the Board of Governors may require.

(2) The chancellor shall make recommendations for development of the educational programs of the institution [See G.S. 116-34(d)] and shall serve as general adviser to the president, and through the president the Board of Governors, with respect to all programs and activities of the institution.

(3) The chancellor shall be responsible to the president for the administration of the institution, including the enforcement of the decisions, actions, policies, and regulations of the Board of Governors applicable to the institution.

(4) Subject to policies prescribed by the Board of Governors and by the institutional board of trustees, the chancellor shall make recommendations for the appointment of personnel within the institution. [See G.S. 116-34(d)] With respect to all personnel matters, including appointments, promotions, removals, and compensation for the institution's academic, administrative, and other staffs, which are required to be acted upon by the Board of Governors, the chancellor shall make recommendations to the president.

(5) The chancellor shall present to the president all matters concerning the institution which are to be considered by the Board of Governors or any of its committees. In accordance with prescribed administrative procedures uniformly applicable to all institutions, the chancellor shall participate in the development of the proposed budget of the University of North Carolina.

(6) The chancellor shall be the official medium of communication between the president and all deans, heads or chairs of departments, directors, and all other administrative officers, faculty members, students, and employees.

502 C. Relation of the Chancellor to the Board of Trustees.

(1) It shall be the duty of the chancellor to attend all meetings of the board of trustees and to be responsible for keeping the board of trustees fully informed on the operation of the institution and its needs. [See G.S. 116-34(b)]

(2) As of June 30 of each year, the chancellor shall prepare for the board of trustees a detailed report on the operation of the institution for the preceding year. [G.S. 116-34(a)] The chancellor shall also submit such additional reports to the board of trustees as the chancellor may deem wise or as the board may require. The chancellor shall seek the counsel of the board of trustees concerning the affairs of the institution.

(3) The chancellor shall be responsible to the board of trustees for enforcing all policies, rules, and regulations of the board of trustees.

(4) The chancellor shall be the official medium of communication between the board of trustees and all individuals, officials, agencies, and organizations, both within and

without the institution.

502 D. Relation of the Chancellor to the Constituent Institution.

(1) Subject to policies established by the Board of Governors, the board of trustees, or the president, the chancellor; shall be the leader of and the official spokesperson for the institution; shall promote the educational excellence and general development and welfare of the institution; shall define the scope of authority of faculties, councils, committees, and officers of the institution; and all projects, programs, and institutional reports to be undertaken on behalf of the institution shall be subject to the chancellor's authorization and approval.

(2) The chancellor shall be a member of all faculties and other academic bodies of the institution and shall have the right to preside over the deliberations of any legislative bodies of the faculties of the institution.

The chancellor shall be responsible for ensuring that there exists in the institution a faculty council or senate, a majority of whose members are elected by and from the members of the faculty. The general faculty, however, which shall include at least all full-time faculty and appropriate administrators, may function as the council or senate. The faculty shall be served by a chair elected either by the general faculty or by the council or senate. However, the chancellor may attend and preside over all meetings of the council or senate. The council or senate may advise the chancellor on any matters pertaining to the institution that are of interest and concern to the faculty.

In addition to ensuring the establishment of a council or senate, the chancellor shall ensure the establishment of appropriate procedures within the institution to provide members of the faculty the means to give advice with respect to questions of academic policy and institutional governance, with particular emphasis upon matters of curriculum, degree requirements, instructional standards, and grading criteria. The procedures for giving advice may be through the council or senate, standing or special committees or other consultative means.

(3) Subject to any policies or regulations of the Board of Governors or of the board of trustees, it shall be the duty of the chancellor to exercise full authority in the regulation of student affairs and student conduct and discipline. In the discharge of this duty, delegation of such authority may be made by the chancellor to faculty committees and to administrative or other officers of the institution, or to agencies of student government, in such manner and to such extent as may by the chancellor be deemed necessary and expedient. In the discharge of the chancellor's duty with respect to matters of student discipline, it shall be the duty of the chancellor to secure to every student the right to due process. Appeals from these disciplinary decisions are allowable only on the following grounds:

1) a violation of due process; or
2) a material deviation from Substantive and Procedural Standards adopted by the Board of Governors.

Where the sanction is suspension or expulsion, an appeal may be made to the board of trustees. No appeal to the president is permitted. When the sanction is expulsion, the final campus decision is appealable to the Board of Governors.

CHAPTER VI- ACADEMIC FREEDOM AND TENURE

SECTION 600 FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY.

(1) The University of North Carolina is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of these purposes. The University therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors

(2) The University and each constituent institution shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.

(3) Faculty and students of the University of North Carolina shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

SECTION 601. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY.

(1) It is the policy of the University of North Carolina to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of the constituent institutions. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the University and their position as men and women of learning. They should not represent themselves, without authorization, as spokespersons for the University of North Carolina or any of its constituent institutions.

(2) The University and its constituent institutions shall not penalize or discipline members of its faculties because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

SECTION 602. ACADEMIC TENURE.[8]

(1) To promote and protect the academic freedom of its faculty, the board of trustees of each constituent institution shall adopt policies and regulations governing academic tenure. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president. The chancellor shall review the constituent institution's tenure policies periodically, but at least every five years, and shall report to the president whether or not amendments or revisions are appropriate. The chancellor shall involve the faculty in this review.

(2) In all instances, the tenure conferred on a faculty member is held with reference to employment by a constituent institution, rather than to employment by the University of North Carolina.

[8]Pursuant to NCGS §116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors delegates certain authorities to the President of the University. See Policy 200.6, *Delegation Authority to the President of the University*, adopted 11/13/06, amended 06/08/07.

(3) The tenure policies and regulations of each constituent institution[9] shall prescribe the procedures by which decisions concerning appointment, reappointment, promotion, and the conferral of permanent tenure shall be made. The length of terms of appointment that do not carry permanent tenure and those faculty ranks or titles whose holders shall be eligible for permanent tenure shall be prescribed. The institutional policies and regulations also shall prescribe the intervals at which the review of candidates for reappointment and promotion, including the conferral of permanent tenure, shall occur. The tenure policies and regulations of each institution, which shall include the complete text of Chapter VI of *The Code*, shall be published by the institution and distributed to its faculty members.

(4) The tenure policies and regulations of each institution shall set forth the general considerations upon which appointment, reappointment, promotion, and permanent tenure are to be recommended. The institutional regulations shall provide that these considerations shall include an assessment of at least the following: the faculty member's demonstrated professional competence, the faculty member's potential for future contribution, and institutional needs and resources.

(5) The institutional policies and regulations shall specify that permanent tenure may be conferred only by action of the president and the Board of Governors, or by such other agencies or officers as may be delegated such authority by the Board of Governors.[10]

(6) Institutional tenure policies and regulations shall distinguish among the following:

(a) the nonreappointment (or nonrenewal) of a faculty member at the expiration of a specified term of service;

(b) the discharge from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before that term expires only for reasons of (i) incompetence, (ii) neglect of duty, or (iii) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, as specified in Code Section 603;

(c) the termination of employment for reasons of institutional financial exigency or major curtailment or elimination of a teaching, research, or public-service program of a faculty member who has permanent tenure, or of a faculty member who has been appointed to a specified term of service before that term expires; and

(d) retirement.

(7) Institutional tenure policies and regulations shall provide that the appointment, reappointment, or promotion of a faculty member to a position funded in whole or in substantial part from sources other than continuing state budget funds or permanent trust funds shall specify in writing that the continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon the continuing availability of such funds. The institutional tenure policies and regulations may make one or more of the following exceptions to the foregoing contingency requirement:

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[9]Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, the requirement that the institution adopt tenure policies will be satisfied at those institutions by an employment system based on renewable contracts, which system need not provide for the traditional faculty ranks. Wherever the phrase "tenure policies and regulations" is used in this chapter, it shall mean, for the School of the Arts and for the School of Science and Mathematics, the faculty employment policies of those schools. Wherever the phrase "tenured faculty" is used in this chapter and in the Policies of the Board of Governors, it shall mean, for those schools, a faculty member holding a fixed-term contract.

[10]See Footnote 8 on previous page.

(a) That such a contingency shall not be included in a promotion to a higher rank if, before the effective date of that promotion, the faculty member had permanent tenure and no such condition is attached to the tenure.

(b) That such a contingency shall not be attached to the faculty member's contract if the faculty member held permanent tenure in that institution on July 1, 1975, and the contract was not contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

(c) That such a contingency may be waived for health affairs faculties because of the unusual dependence of programs in the health professions on income from sources such as clinical receipts.

If a faculty member's appointment is terminated because of the nonavailability of these funds, the institution will make every reasonable effort to give the same notice as set forth in Section 605 B (1). This notice shall include the pertinent data upon which the termination is based.

(8) The tenure policies and regulations of each institution shall be subject to approval by the president. The president periodically shall review and re-evaluate these policies and regulations and report findings and recommendations, if any, to the Committee on Personnel and Tenure and through the committee to the Board of Governors.

SECTION 603. DUE PROCESS BEFORE DISCHARGE OR THE IMPOSITION OF SERIOUS SANCTIONS.

(1) A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary penalties. During the period of such guarantees the faculty member may be discharged from employment, suspended, or demoted in rank for reasons of:

(a) incompetence, including significant, sustained unsatisfactory performance after the faculty member has been given an opportunity to remedy such performance and fails to do so within a reasonable time;

(b) neglect of duty, including sustained failure to meet assigned classes or to perform other significant faculty professional obligations; or

(c) misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, including violations of professional ethics, mistreatment of students or other employees, research misconduct, financial fraud, criminal, or other illegal, inappropriate or unethical conduct. To justify serious disciplinary action, such misconduct should be either (i) sufficiently related to a faculty member's academic responsibilities as to disqualify the individual from effective performance of university duties, or (ii) sufficiently serious as to adversely reflect on the individual's honesty, trustworthiness or fitness to be a faculty member.

These sanctions may be imposed only in accordance with the procedures prescribed in this section. For purposes of this Code, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. These procedures shall not apply to nonreappointment (Section 604) or termination of employment (Section 605).

(2) The chief academic officer of the institution, however titled, shall send the faculty member a written notice of intention to discharge the faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of mail or delivery that requires a signature for delivery. The statement shall include notice of the faculty member's right, upon request, to a hearing by an

elected standing faculty committee on hearings.

(3) If, within 14 calendar days after receiving the notice and written specifications referred to in paragraph (2) above, the faculty member makes no written request for a hearing, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.[11]

(4) Repealed.

(5) If the faculty member makes a timely written request for a hearing, the chancellor shall ensure a process is in place so that the hearing is timely accorded before an elected standing committee of the institution's faculty. The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction. The hearing committee shall accord the faculty member 30 calendar days from the time it receives the faculty member's written request for a hearing to prepare a defense. The hearing committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member. The hearing committee will ordinarily endeavor to complete the hearing within 90 calendar days except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled.[12]

(6) The hearing shall be closed to the public unless the faculty member and the hearing committee agree that it may be open. The faculty member shall have the right to counsel, to present the testimony of witnesses and other evidence, to confront and cross-examine adverse witnesses, to examine all documents and other adverse demonstrative evidence, and to make argument. A written transcript of all proceedings shall be kept; upon request, a copy thereof shall be furnished to the faculty member at the institution's expense.

(7) The chief academic officer, or designee, and/or counsel, may participate in the hearing to present testimony of witnesses and other evidence, to cross-examine witnesses, to examine all documents and other evidence, and to make argument.

(8) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The university has the burden of proof. In evaluating the evidence, the committee shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action. The committee shall make its written recommendations to the chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later.

(9) If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision to the board of trustees. This appeal shall be transmitted through the chancellor and be addressed to the chair of the board. Notice of appeal shall be filed within 14 calendar days after the faculty member receives the chancellor's decision. The appeal to the board

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[11]In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted.

[12]To meet this deadline, faculty are encouraged to consider scheduling hearings during the evening, weekend, or other non-class time. It is strongly recommended that several days and times be established for the hearing when scheduling the first day, for the eventuality that they hearing may take two or more sessions.

of trustees shall be decided by the full board of trustees. However, the board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members. The board of trustees, or its committee, shall consider the appeal on the written transcript of hearings held by the faculty hearing committee, but it may, in its discretion, hear such other evidence as it deems necessary. The board of trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the trustees. This decision shall be final except that the faculty member may, within 14 calendar days after receiving the trustees' decision, file a written notice of appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, with the Board of Governors if the faculty member alleges that one or more specified provisions of the *Code of the University of North Carolina* have been violated. Any such appeal to the Board of Governors shall be transmitted through the president.

(10) When a faculty member has been notified of the institution's intention to discharge the faculty member, the chancellor may reassign the individual to other duties or suspend the individual at any time until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension shall be exceptional and shall be with full pay.

SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY.[12.1]

604 A. Notice of Reappointment or Nonreappointment.

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given.[12.2] For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

(a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires; and

(b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and

(c) after two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.

(2) Notice of reappointment or nonreappointment shall be written. If the decision is not to reappoint, then failure to give timely notice of nonreappointment will oblige the chancellor thereafter to offer a terminal appointment of one academic year.

604 B. Impermissible Reasons for Nonreappointment.

In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) any of the protected statuses included in Section 103 of *The Code,* or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. For purposes of this section, the term "personal malice" means dislike,

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[12.1]Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and mathematics, regular faculty holding fixed-term contracts at those institutions are entitled to the rights afforded in this Section.

[12.2]Faculty at North Carolina School of Science and Mathematics shall be given notice no later than January 15 during the first year of continuous regular service and no later than December 15 during the second or any subsequent year of continuous regular service.

animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See Policy 101.3.1 II.B. for details.

604 C. Repealed.

604 D. Review of Nonreappointment Decisions.

(1) Campus Based Review. Subject to limitations contained in this Code and the Policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty member may seek review of the decision of the constituent institution not to reappoint the faculty member. Such procedures shall at a minimum provide for the following:

(a) A reasonable time of no less than 14 calendar days within which after receiving the notice of nonreappointment, the faculty member may request review of the decision by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by campus tenure policies, the nonreappointment is final without recourse to any further review by faculty committees, the institution, or the Board of Governors.

(b) If the faculty member files a request for review in a timely fashion, the chancellor shall ensure a process is in place so that a hearing is timely accorded before an elected standing committee of the institution's faculty.

(c) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The faculty member shall have the burden of proof. In evaluating the evidence the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence).

(d) The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that *The Code* provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.

(2) Appeal to the Board of Governors. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal by filing a written notice of appeal with the Board of Governors, by submitting such notice to the President, by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement of the basis for the appeal. The purpose of appeal to the Board of Governors is to assure (1) that the campus-based process for reviewing the decision was not materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy.[12.3]

SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency"

[12.3]See Policy 101.3.1 for additional information.

is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605C (1), subject to the concurrence by the President and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.[13]

605 B. Timely Notice of Termination.

(1) When a faculty member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public-service program and such curtailment or elimination of program is not founded upon financial exigency, the faculty member shall be given timely notice as follows:

(a) one who has permanent tenure shall be given not less than 12 months' notice; and

(b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

(2) When a faculty member's employment is to be terminated because of financial exigency, the institution will make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give the same notice as set forth in Section 605 B(1).

(3) For a period of two years after the effective date of termination of a faculty member's contract for any of the reasons specified in Section 605 A, the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be made by a method of delivery that requires a signature for delivery, and the faculty member will be given 30 calendar days after attempted delivery of the notice to accept or reject the offer.

605 C. Institutional Procedures

The institution shall establish regulations governing termination procedures. These regulations shall include provisions incorporating the following requirements:

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

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[13]Because of the unique character and mission of the North Carolina School of Science and Mathematics, when the employment of a faculty member is to be terminated during or at the conclusion of a fixed-term contract because of major curtailment or elimination of a teaching, research, or public-service program that is not founded upon financial exigency, written notice shall be given no later than the November 1 prior to termination. When faculty employment is to be terminated during or at the conclusion of a fixed-term contract because of financial exigency, the School shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give notice no later than the November 1 prior to termination. Terminations at the end of a fixed term contract for the reasons stated above in this footnote are not subject to Section 604 of *The Code,* but instead are subject to Section 605.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

SECTION 606. RETIREMENT OF FACULTY.

Faculty may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

SECTION 607. FACULTY GRIEVANCE COMMITTEE FOR CONSTITUENT INSTITUTIONS.

(1) The chancellor of each constituent institution shall provide for the establishment of a faculty grievance committee. The faculty grievance committee shall be elected by the faculty with members elected from each professorial rank. No officer of administration shall serve on the committee. For purposes of this section, "officer of administration" shall be deemed to include department chairs and department heads.

(2) The committee shall be authorized to hear and advise with respect to the adjustment of grievances of members of the faculty. The power of the committee shall be solely to hear representations by the persons directly involved in a grievance, to facilitate voluntary adjustment by the parties, and to advise adjustment by the administration when appropriate. Advice for adjustment in favor of an aggrieved faculty member may be given to the chancellor only after the dean, department head, or other administrative official most directly empowered to adjust it has been given similar advice and has not acted upon it within a reasonable time.

(3) "Grievances" within the province of the committee's power shall include matters directly related to a faculty member's employment status and institutional relationships within the constituent institution, including matters related to post-tenure review. However, no grievance that grows out of or involves matters related to a formal proceeding for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.

(4) If any faculty member has a grievance, the faculty member may petition the faculty grievance committee for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The committee shall decide whether the facts merit a detailed investigation so that submission of a petition shall not result automatically in an investigation or detailed consideration of the petition.

(5) If, before this section is established, the faculty of an institution has adopted a faculty grievance procedure that in its judgment is adequate to its needs, it may retain that procedure in place of the one specified above.

(6) If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. The decision of the board of trustees is final.

SECTION 608. STUDENTS' RIGHTS AND RESPONSIBILITIES.

(1) The University of North Carolina affirms that the first goal of each constituent institution is to educate the students admitted to its programs. The freedom of students to learn is an integral and necessary part of the academic freedom to which the University and its constituent institutions are dedicated. Each constituent institution shall provide, within allotted functions and available resources, opportunity for its students to derive educational benefits through developing their intellectual capabilities, encouraging their increased wisdom and understanding, and enhancing their knowledge and experience applicable to the effective discharge of civic, professional, and social responsibilities. No constituent institution shall abridge either the freedom of students engaged in the responsible pursuit of knowledge or their right to fair and impartial evaluation of their academic performance.

(2) All students shall be responsible for conducting themselves in a manner that helps to enhance an environment of learning in which the rights, dignity, worth, and freedom of each member of the academic community are respected.

(3) In applying regulations in the area of student discipline, each constituent institution shall adhere to the requirements of due process as set forth in Section 502 D(3) of this *Code*.

SECTION 609. APPELLATE JURISDICTION OF THE BOARD OF GOVERNORS.

609 A. Discretionary Review.

Nothing contained in Chapter VI, or any other chapter of the *Code*, shall be construed to limit the right of the Board of Governors to make such inquiry and review into personnel actions as it may from time to time deem appropriate.

609 B. Hearings.

The Board of Governors may in its sole discretion conduct hearings. Any hearing, whether before the full board or a designated standing or special committee of the board, shall be limited to such matters as the Board of Governors shall deem appropriate.

609 C. Repealed

609 D. Transmission of Appeals

All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.

SECTION 610. RIGHTS OF SPECIAL FACULTY MEMBERS

(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, artists-in-residence, writers-in-residence or other special categories are regarded as "special faculty members" for purposes of the University Code. Special faculty members may be paid or unpaid.

(2) Special faculty members who are paid shall be appointed for a specified term of service, as set out in writing in the letter of appointment. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires.

(3) Special faculty members who are not paid may be appointed for a specified term of service or at will. Their pay and appointment status should be set out in the letter of appointment.

(4) During the term of their employment, special faculty members are entitled to seek recourse under Section 607 of the University Code (relating to faculty grievances).

(5) Special faculty members, whether paid or unpaid, are not covered by Section 604 of the University Code, and that section does not accord them rights to additional review of a decision by a constituent institution not to grant a new appointment at the end of a specified fixed term.

SECTION 611. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT (EPA)

(1) Review Processes. Certain non-faculty employees, as described in sub-section (1)(b) below, who are exempt from the State Personnel Act, may seek review under procedures provided for by this section in the event that the employee is discontinued, terminated, or discharged from employment, suffers other adverse personnel action, or is not appointed following the end of a term appointment. Each constituent institution shall develop procedures applicable to employees of the constituent institution, and General Administration shall develop procedures applicable to those of its employees who are covered by this section. Such procedures shall, at a minimum, provide for the following:

(a) A reasonable time within which a covered employee or former employee may file a request for review, after receiving notice of a personnel action covered by this section. If a covered person does not timely file a written request for review, then the personnel action is final without recourse to any institutional review, appeal or grievance procedure.

(b) Covered persons may seek review of personnel actions based on allegations that:

(i) Notice

(A) For Senior Academic and Administration Officers defined only in UNC Policy 300.1.1 I.B., for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.1.1. III.B. 1., 2., and 3. of the University Policy Manual; and

(B) For other employees exempt from the State Personnel Act, as described only in UNC Policy 300.2.1, for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.2.1 III. A., B., and C. of the University Policy Manual; or

(ii) Equal Employment Opportunity and Protected Activity

(A) For the Senior Academic and Administrative Officers defined in sub-section (i) above, for violations of any provision of sub-sections III.D. or E. of Policy 300.1.1 of the University Policy Manual, and

(B) For the other employees exempt from the State Personnel Act defined directly above in sub-section (ii), for violations of any provision of sections V. or VI. of Policy 300.2.1 of the University Policy Manual; or

(iii) Discharge for Cause, Other Discipline, Policy Interpretation/Application

(A) For the Senior Academic and Administrative Officers defined in sub-section (i) above, for discharge for cause or other disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by policy 300.1.1 III.C. of the University Policy Manual, and

(B) For the other employees exempt from the State Personnel Act defined above in sub-section (ii), for discharge for cause or other disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by policy 300.2.1 IV. of the University Policy Manual; or

except that for both groups such review may be sought only if the employee alleges the discharge, discipline, or policy interpretation or application was illegal or violated a policy of the Board of Governors.

(c) If the employee or former employee timely files a written request for review, the president (as to an employee of General Administration) or chancellor (as to an employee of a constituent institution), shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

(d) In reaching decisions on which its written recommendations to the president (as to an employee of General Administration) or chancellor (as to an employee of a constituent institution), as appropriate, shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The employee or former employee has the burden of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the "greater weight of the evidence.")

(2) Appeal to the Board of Trustees or Board of Governors.

(a) For employees of a constituent institution, if the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor's written decision, by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Trustees is final with no further appeal.

(b) For employees of General Administration, if the president concurs in a recommendation of the committee that is favorable to the employee, the president's decision shall be final. If the president either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the president's written decision, by filing with the president for transmission to the Board of Governors a written notice of appeal, including a brief statement of the basis for appeal, by certified mail, return receipt requested, or by another means that provides proof of delivery, and alleges as set out in sub-section (1)(b) above. The decision of the Board of Governors is final with no further appeal.

CHAPTER VII - FINANCES, PROPERTY AND OBLIGATIONS

SECTION 700. BUDGETS AND APPROPRIATIONS.

700 A. Budget Recommendations.

The Board of Governors shall develop, prepare, and present to the governor, the Advisory Budget Commission, and the General Assembly a single, unified recommended budget for all of public senior higher education. The recommendations shall consist of requests in three general categories: (i) funds for the continuing operation of each constituent institution, (ii) funds for salary increases for employees exempt from the State Personnel Act, and (iii) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation, and increases to remedy deficiencies, as well as other areas. [See G.S. 116-11(9)a]

700 B. Appropriations and Allocations.

Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the Board of Governors in a lump sum for allocation to the institutions. Funds for the third category in Section 700 A above, shall be appropriated to the Board of Governors in a lump sum. The Board of Governors shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the board's schedule of priorities; provided, however, that when both the board and the Director of the Budget deem it to be in the best interest of the state, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list. [See G.S. 116-11(9)b]

700 C. Transfers of Appropriated Funds.

The director of the budget may, on recommendation of the Board of Governors, authorize transfer of appropriated funds from one institution to another to provide adjustments for over- or under-enrollment or may make any other adjustment among institutions that would provide for the orderly and efficient operation of the institutions. [See G.S. 116-11(9)c]

SECTION 701. TUITION AND FEES.

The Board of Governors shall set tuition and required fees at the constituent institutions, not inconsistent with actions of the General Assembly, in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term. [See G.S. 116-11(7) and 116-143] Consistent with the North Carolina constitutional mandate, the benefits of the University of North Carolina shall be extended to the people of the state free of expense, as far as practicable. [See N. C. Constitution, Art. IX, Sec. 9]

SECTION 702. GENERAL POWERS CONCERNING PROPERTY.

702 A. Corporate Powers.

The Board of Governors shall have the powers, relating to the acquisition, use and disposition of property, set forth in Chapter I, Section 101 of this *Code*.

702 B. Statutory Powers.

Subject to applicable state law and to the terms and conditions of the instruments under which property is acquired, the Board of Governors may acquire, hold, convey or otherwise dispose of, invest

and reinvest any and all real and personal property, with the exception of any property that may be held by trustees of institutional endowment funds under the provisions of G.S. 116-36 or that may be held, under authority delegated by the Board of Governors, either by a board of trustees or by trustees of any other endowment or trust fund. [See G.S. 116-11(2)]

702 C. Transfer of Property and Obligations.

All property of whatsoever kind and all rights and privileges held by the former Board of Higher Education and by the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, University of North Carolina at Pembroke[14], University of North Carolina School of the Arts,[15] Western Carolina University and Winston-Salem State University, as said property, rights and privileges may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and vested in the Board of Governors. All obligations of whatsoever kind of the former Board of Higher Education and of the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central, University of North Carolina at Pembroke, University of North Carolina School of the Arts, Western Carolina University and Winston-Salem State University, as said obligations may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and assumed by the Board of Governors. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall, from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries, and shall continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property right was acquired. All property of whatsoever kind and all rights and privileges held by the Board of Trustees of the North Carolina School of Science and Mathematics, as said property, rights and privileges may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and vested in the Board of Governors of The University of North Carolina. All obligations of whatsoever kind of the Board of Trustees of the North Carolina School of Science and Mathematics as said obligations may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and assumed by the Board of Governors of The University of North Carolina. In case a conflict arises as to which property, rights, or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights, or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board of Governors shall constitute final administrative action. Nothing in this *Code* shall be deemed to increase or diminish the income, other revenue, or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof. [See G.S. 116-12]

702 D. Limitation on Exercise of Powers.

The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance, and disposition of real and personal property shall be subject to, and exercised in accordance with, the provisions of Chapters 143 and 146 of the General Statutes. [See G.S. 116-13]

SECTION 703. IMMUNITIES.

703 A. Tax Exemption.

The lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation. [See N. C. Constitution, Art. V, Sec. 2(3) and G.S. 116-16]

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[14]Designated as Pembroke State University prior to July 1, 1996.

[15]Designated as North Carolina School of the Arts prior to August 1, 2008.

703 B. Tort Liability.

The University of North Carolina is not liable for any tort claims except as provided for by law. [See generally G.S. 143-291, et seq. and G.S. 116-40. 2]

SECTION 704. ENDOWMENT FUND.

Each board of trustees is authorized to establish and maintain, pursuant to the requirements of state law and such terms and conditions as the Board of Governors may from time to time prescribe, permanent endowment funds for its institutions. [See G.S. 116-36]

SECTION 705. ANNUITY OR RETIREMENT INCOME CONTRACTS.

Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees of universities, colleges, and institutions of higher learning as named and set forth in this *Code* and other state agencies qualified as educational institutions under 501 (c)(3) of the United States Internal Revenue Code, the Board of Governors may authorize the business officer or agent for each constituent institution of the University of North Carolina to enter into annual contracts with any of the faculty members, administrative officers, and employees of said institutions of higher learning which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of the faculty member, administrative officer, or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said faculty member, administrative officer, or employee. A faculty member, administrative officer, or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the faculty member, administrative officer, or employee before the individual's election for a salary reduction has become effective. The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the Board of Governors. The amount by which the salary of any faculty member, administrative officer, or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes. [See G.S. 116-17]

SECTION 706. REVENUE BONDS.

The Board of Governors shall have authority, subject to such limitations and restrictions as may be established by state law, to issue revenue bonds and special obligation bonds. Revenue bonds may be issued for service and auxiliary facilities, student housing, student activities, physical education, and recreation facilities. [See G.S. 116-41.1 et seq., 116-175 et seq., and 116-187 et seq.] Special obligation bonds may be issued for the construction, renovation, improvement or expansion of any capital facilities located or to be located at a constituent or any affiliated institution of the University for the purposes of carrying out the mission of that institution. [See G.S. 116D-21 et seq.]

CHAPTER VIII - MATTERS INVOLVING NON-PUBLIC INSTITUTIONS

SECTION 800. LICENSING POST-SECONDARY DEGREE ACTIVITY.

800 A. Institutions Required to Be Licensed.

All institutions conducting post-secondary degree activity in this state that are not subject to Chapters 115C or 115D of the General Statutes, nor some section of Chapter 116 of the General Statutes other than G.S. 116-15, shall be subject to licensure by the Board of Governors under the standards of G.S. 116-15 unless exempt therefrom by one or another provision of G.S. 116-15. [See G.S. 116-15]

800 B. Regulatory Authority in the Board.

The Board of Governors shall establish such rules, regulations, and procedures as it may deem necessary or appropriate to effectuate the provisions of G.S. 116-15. [See G.S. 116-15(i)] These shall include the following:

(1) The form of the license by which an institution may be authorized to conduct post-secondary degree activity. [See G.S. 116-15(a) and (b)]

(2) Procedures under which an institution may seek to establish its exemption from licensure. [See G.S. 116-15(c), (d), and (e)]

(3) Procedures under which an institution may seek to prove satisfaction of the standards for licensure. [See G.S. 116-15(f)]

(4) Procedures through which the review of institutions previously licensed by the board may be conducted. [See G.S. 116-15(g)]

(5) Procedures for the denial, revocation, and continuation of licensure. [See G.S. 116-15(h)]

800 C. Enforcement Authority in the Attorney General.

The Board of Governors shall call to the attention of the attorney general, for such action as the attorney general may deem appropriate, any institution failing to comply with the requirements of G.S. 116-15. [See G.S. 116-15(j)]

SECTION 801. ASSESSMENT OF NEEDS AND REVIEW OF REQUESTS.

The Board of Governors shall assess the contributions and needs of the non-public colleges and universities of the state and shall give advice and recommendations to the General Assembly to the end that the resources of these institutions may be utilized in the best interest of the state. [See G.S. 116-11(11)]

SECTION 802. FINANCIAL AID.

DELETED – see G.S. 116-19 through 116-22

CHAPTER IX - MISCELLANEOUS PROVISIONS

SECTION 900. THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM

900 A. Composition.

There is established the University of North Carolina Health Care System to provide patient care, facilitate the education of physicians and other health-care providers, conduct research collaboratively with the health sciences schools of the University of North Carolina at Chapel Hill, and render other services designed to promote the health and well-being of the citizens of North Carolina. The University of North Carolina Hospitals at Chapel Hill and the clinical patientcare programs established or maintained by the School of Medicine of the University of North Carolina at Chapel Hill shall be governed by the Board of Directors of the University of North Carolina Health Care System composed of both at-large and ex-officio members.

Vacant at-large positions shall be filled by the appointment of persons from the business and professional public-at-large who have special competence in business management, hospital administration, health-care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of the University of North Carolina, nor officers or employees of the state. No less than nine and no more than 21 members at large, which number to be determined by the Board of Directors, shall be appointed by the president of the University, and ratified by the Board of Governors, from among a slate of nominations made by the Board of Directors of the University of North Carolina Health Care System, said slate to include at least twice as many nominees as there are vacant positions to be filled. No at-large member may be appointed to more than two full four-year terms in succession. Any vacancy in an unexpired term shall be filled by an appointment made by the president, and ratified by the Board of Governors, upon the nomination of the Board of Directors, for the balance of the term remaining.

A minimum of six members ex-officio shall be the president of the University of North Carolina (or the president's designee); the chief executive officer of the health care system; two administrative officers of the University of North Carolina at Chapel Hill designated by the chancellor; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the dean of the School of Medicine; provided, that if not such a member ex-officio by virtue of holding one or more of the offices aforementioned, additional ex-officio memberships shall be held by the president of the University of North Carolina Hospitals at Chapel Hill and the dean of the School of Medicine of the University of North Carolina at Chapel Hill, for a total potential ex-officio membership of eight. [See G.S. 116-37(a) and (b)]

900 B. Meetings and Powers of Board.

The Board of Directors of the University of North Carolina Health Care System shall meet at least every 60 days and may hold special meetings at any time and place within the state at the call of the chair. The Board of Directors, with each ex-officio and at-large member having a vote, shall elect a chair from among the at-large members, for a term of two years; no person shall be eligible to serve as chair for more than three terms in succession. In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the Board of Directors is authorized to exercise such authority and responsibility and adopt such policies, rules and regulations as it deems necessary and appropriate, not inconsistent with the provisions of G.S. 116-37, this *Code,* or the other policies of the Board of Governors. The Board of Directors may adopt policies that make the authorities and responsibilities established herein or by statute separately applicable either to the University of North Carolina Hospitals at Chapel Hill or to the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill, or to both. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the Board of Directors may direct. The Board of Directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the

provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the chancellor of the University of North Carolina at Chapel Hill. The Board of Directors shall keep the Board of Governors and the Board of Trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education and research for improvement of the health of the citizens of North Carolina. [See G.S. 116-37 (b)]

900 C. Officers.

The executive and administrative head of the University of North Carolina Health Care System shall have the title of 'chief executive officer'. The Board of Directors, in cooperation with the Board of Trustees and the chancellor of the University of North Carolina at Chapel Hill, following such search process as the boards and the chancellor deem appropriate, shall identify two or more persons as candidates for the office, who, pursuant to criteria agreed upon by the boards and the chancellor, have the qualifications for both the positions of chief executive officer and vice chancellor for medical affairs of the University of North Carolina at Chapel Hill. The names of the candidates shall be forwarded by the chancellor to the president who, if satisfied with the quality of one or more of the candidates, will nominate one as chief executive officer, subject to selection by the Board of Governors. The chief executive officer shall have complete executive and administrative authority to formulate proposals for, recommend the adoption of, and implement policies governing the programs and activities of the University of North Carolina Health Care System, subject to all requirements of the Board of Directors. [See G.S. 116-37(c)] The chief executive officer shall serve at the pleasure of the Board of Governors which may terminate the chief executive officer's appointment (as distinguished from such person's joint appointment, if any, as vice chancellor for medical affairs of the University of North Carolina at Chapel Hill) on its own initiative or upon recommendation of the Board of Directors or the president of the University: provided, that in all instances, the Board of Governors shall consult with the Board of Directors prior to terminating the appointment of the chief executive officer.

The executive and administrative head of the University of North Carolina Hospitals at Chapel Hill shall have the title of "president of the University of North Carolina Hospitals at Chapel Hill." The Board of Directors shall elect, on nomination of the chief executive officer, the president of the University of North Carolina Hospitals at Chapel Hill, and such additional administrative and professional staff employees as may be deemed necessary to assist in fulfilling the duties of the office of the chief executive officer, all of whom shall serve at the pleasure of the chief executive officer. [See G.S. 116-37(c)]

The Board of Governors, on recommendation of the president of the University and of the Board of Directors, shall fix the compensation of the chief executive officer. On recommendation of the chief executive officer and the Board of Directors, with the concurrence of the president of the University, the Board of Governors shall fix the compensation of the president of the University of North Carolina Hospitals at Chapel Hill.

900 D. Health Care System Personnel.

Employees of the University of North Carolina Health Care System shall be deemed to be employees of the state and shall be subject to all provisions of state law relevant thereto; provided, however, that except as to the provisions of Articles 5, 6, 7, and 14 of Chapter 126 of the General Statutes, the provisions of Chapter 126 shall not apply to employees of the University of North Carolina Health Care System, and the policies and procedures governing the terms and conditions of employment of such employees shall be adopted by the Board of Directors. [See G.S. 116-37(d)]

900 E. Health System Finances.

The University of North Carolina Health Care System shall be subject to the provisions of the Executive Budget Act. The chief executive officer, subject to the Board of Directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. The preparation and

execution of the budget shall be subject to the requirements of Section 501B(7) of this *Code*. [See G.S. 116-37(e)]

900 F. Health Care System Purchases.

Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General Statutes to the contrary, the Board of Directors shall establish policies and regulations governing the purchasing requirements of the University of North Carolina Health Care System. These policies and regulations shall provide for requests for proposals, competitive bidding, or purchasing by means other than competitive bidding, contract negotiations, and contract awards for purchasing supplies, materials, equipment, and services which are necessary and appropriate to fulfill the clinical, educational, research, and community service missions of the University of North Carolina Health Care System. [See G.S. 116-37(h)]

900 G. Health Care System Property.

The Board of Directors shall establish rules and regulations for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. Acquisitions and disposition of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes. [See G.S. 116-37(i)]

900 H. Health Care System Property -- Construction.

Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board of Directors shall adopt policies and procedures with respect to the design, construction, and renovation of buildings, utilities, and other property developments of the University of North Carolina Health Care System requiring the expenditure of public money. [See G.S. 116-37(j)]

SECTION 901. UNIVERSITY OF NORTH CAROLINA SCHOOL OF THE ARTS.[16]

901 A. Policy.

It is declared to be the policy of the state to foster, encourage and promote, and to provide assistance for, the cultural development of the citizens of North Carolina, and to this end the General Assembly has created and provided for a training center for instruction in the performing arts. [See G.S. 116-63]

901 B. Establishment.

There is established, and there shall be maintained, a school for the professional training of students having exceptional talent in the performing arts which shall be defined as an educational institution of the state, to serve the students of North Carolina and other states, particularly other states of the South. The school shall be designated the "University of North Carolina School of the Arts."[17] [See G.S. 116-64]

901 C. Board of Trustees.

The University of North Carolina School of the Arts is a constituent institution of the University of North Carolina and subject to the provisions of this *Code*; provided, however, that notwithstanding the

[16]Designated as North Carolina School of the Arts prior to August 1, 2008.

[17]Designated as North Carolina School of the Arts prior to August 1, 2008.

provisions of Chapter IV of this *Code*, the Board of Trustees of said school shall consist of 15 persons, 13 of whom are selected in accordance with provisions of said Chapter IV, one of whom shall be the conductor of the North Carolina Symphony and one of whom shall be the secretary of the Department of Cultural Resources, each of the latter two serving ex-officio and non-voting. [See G.S. 116-65]

901 D. Powers of Board.

The Board of Governors and the Board of Trustees of the school shall be advised and assisted by the State Board of Education. Entrance requirements shall be prescribed so that the professional training offered shall be available only to those students who possess exceptional talent in the performing arts. In developing curricula, the school shall utilize, pursuant to agreement with institutions of higher education or with any local administrative school unit, existing facilities and such academic nonarts courses and programs of instruction as may be needed by the students of the school, and, at the discretion of the Board of Governors, personnel may be employed jointly with any such institution or unit on a cooperative, cost-sharing basis. Curricula below the collegiate level shall be developed with the advice and approval of the State Board of Education and in consultation with the advisory board of the school. The school shall confer and cooperate with the Southern Regional Education Board and with other regional and national organizations to obtain wide support and to establish the school as the center in the South for the professional training and performance of artists. The chancellor of the school shall preferably be a noted composer or dramatist. [See G.S. 116-66]

901 E. Endowment Fund.

The Board of Trustees is authorized to establish a permanent endowment fund, and shall perform such duties in relation thereto as are prescribed by the provisions of Chapter VII of this *Code*. [See G.S. 116-68]

901 F. Purpose of School Program.

The primary purpose of the school shall be the professional training, as distinguished from liberal arts instruction, of talented students in the fields of music, drama, the dance, and allied performing arts, at both the high school and college levels of instruction, with emphasis placed upon performance of the arts, and not upon academic studies of the arts. The said school may also offer high school and college instruction in academic subjects, and such other programs as are deemed necessary to meet the needs of its students and of the state, consistent with appropriations made and gifts received therefore, and may cooperate, if it chooses, with other schools which provide such courses of instruction. The school, on occasion, may accept elementary grade students of rare talent, and shall arrange for such students, in cooperation with an elementary school, a suitable educational program. [See G.S. 116-69]

SECTION 902. NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS.

902 A. Policy

It is declared to be the policy of the State to foster, encourage, promote, and provide assistance in the development of skills and careers in science and mathematics among the people of the State. [See G.S.116-230.1]

902 B. Re-Establishment

The North Carolina School of Science and Mathematics is reestablished as a constituent high school of The University of North Carolina, effective July 1, 2007, and shall thereafter be governed by the Board of Governors and a Board of Trustees. [See G.S. 116-231]

902 C. Board of Trustees

The School is a constituent institution of the University of North Carolina and subject to the provisions of this *Code*; provided, however, that notwithstanding the provisions of Chapter IV of this

Code, the Board of Trustees of the School shall consist of 27 persons as provided by law. The Board of Governors shall appoint 21 members as follows: 13 members, one from each congressional district; four members without regard to residency; three members, *ex officio* and voting, who shall be the chief academic officers, or their designee, respectively, of three constituent institutions designated by the Board of Governors in 1985 and quadrennially thereafter; and one member, ex officio and voting, who shall be the chief academic officer of a college or university in North Carolina other than a constituent institution and designated by the Board of Governors in 1985 and quadrennially thereafter. The Chancellor shall serve *ex officio* and non-voting as the Secretary of the Board. [See G.S. 116-233]

902 D. Powers of Board

In addition to the powers enumerated in this *Code*, the Board of Trustees shall establish the standard course of study for the School and regulations governing class size, the instructional calendar, the length of the instructional day, and the number of instructional days in each term. The Board shall establish criteria, standards and procedures for the admission of students who are legal residents of North Carolina, ensuring insofar as possible without jeopardizing admission standards, that an equal number of qualified applicants is admitted to the program and to the residential summer institutes in science and mathematics from each of North Carolina's congressional districts. The Board shall adopt compulsory attendance policies consistent with North Carolina law and rules of student conduct. The Chancellor, other administrative officers, and all teachers, substitute teachers, voluntary teachers, teacher aides and assistants, and student teachers in the School may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. [See G.S. 116-235]

902 E. Endowment Fund

The Board of Trustees is authorized to establish a permanent endowment fund, and shall perform such duties in relation thereto as are prescribed by the provisions of Chapter VII of this Code. [See G.S. 116-68]

902 F. Purposes of the School.

The purposes of the School shall be to foster the educational development of North Carolina high school students who are academically talented in the areas of science and mathematics and show promise of exceptional development and global leadership through participation in a residential educational setting emphasizing instruction in the areas of science and mathematics; and to provide instruction, methods, and curricula designed to improve teaching and learning in North Carolina and the nation with an emphasis on distance education and programs that expand pathways for students into careers in science and mathematics. [See G.S. 116-232]

902 G. Tuition and Mandatory Fees

Neither the Board of Governors of The University of North Carolina nor its Board of Trustees shall impose any tuition or fee at the North Carolina School of Science and Mathematics without the approval of the General Assembly. [See G.S. 116-143] Service charges are permitted in accordance with University policy.

902 H. Educational Advisory Council

The Board of Trustees is authorized to establish an Educational Advisory Council, which shall give advice and counsel to the Chancellor and the Board of Trustees. The School shall invite membership, ex officio, of the State Superintendent of the Department of Public Instruction, or designee, and the chairman of the State Board of Education, or designee, and other persons who are scientists, mathematicians, public school representatives, or other persons having an interest in the School and desiring to contribute to its work.

Appendix 1 - DELEGATIONS OF DUTY AND AUTHORITY TO BOARDS OF TRUSTEES

Pursuant to authority vested in it by the General Statutes, and consistent with the provisions of *The Code of the University of North Carolina*, the Board of Governors hereby delegates to the boards of trustees of the constituent institutions of the University of North Carolina the following duties and powers:

I. ACADEMIC AND ADMINISTRATIVE PERSONNEL

A. Appointment and Compensation

1. Upon recommendation of the chancellor, the board of trustees of a special responsibility constituent institution with management flexibility for personnel appointments shall, for all positions exempt from the State Personnel Act except the position of the chancellor, appoint, promote, and set the compensation for such employees consistent with the policies and salary ranges set by the Board of Governors and the regulations and guidelines established by the Office of the President.

2. Personnel actions at a constituent institution, other than a special responsibility constituent institution with management flexibility, shall be governed as follows:

a. With respect to all faculty positions with permanent tenure and all senior administrative positions, namely vice chancellors, provosts, deans and directors of major educational and public service activities, the chancellor, following consultation with the board of trustees, shall forward to the president recommendations with respect to such appointments, promotions, and compensation; if the president concurs in such recommendations, the president shall forward them to the Board of Governors for approval. Notwithstanding the requirements of this paragraph, a board of trustees may promote in rank a faculty member with permanent tenure, upon the recommendation of the chancellor, and without approval by the Board of Governors.

b. With respect to all faculty and administrative positions other than those identified in subparagraph 2a above, and other than those subject to the State Personnel Act, the chancellor shall forward the chancellor's recommendations for appointment, promotion and compensation to the board of trustees; subject to applicable provisions of the University *Code* and to such policies as may be established by the Board of Governors, the action of the board of trustees with respect to such personnel actions shall be final.

B. Discharge or Suspension

Subject to regulations of the board of trustees and consistent with applicable policies of the Board of Governors, all discharges or suspensions of faculty members and administrative personnel, other than those subject to the State Personnel Act, shall be effected by the chancellor. A discharged or suspended employee shall have such rights of appeal from the action of the chancellor as may be prescribed by the University Code, policies of the Board of Governors, or regulations of the board of trustees.

C. Personnel Policies

The board of trustees may adopt personnel policies not otherwise prescribed by state law, the University *Code*, or policies of the Board of Governors, for personnel in all categories of university employment. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president.

D. Chancellor Selection

In the event of a vacancy in the chancellorship, the board of trustees shall establish, in consultation with the president, a search committee composed of representatives of the board of trustees, the faculty, the student body, staff, the alumni, and such other representatives of campus constituencies as may be appropriate. Upon the establishment of the search committee, the chair of the board of trustees, in consultation with the president, shall establish a budget and identify staff for the committee.

The search committee, through the chair of the board of trustees, shall make a preliminary report to the president when the committee is preparing a schedule of initial interviews. At the completion of the campus interview process, the search committee shall recommend a slate of three candidates to the trustees for consideration.

The board of trustees, following receipt of the report of the search committee, shall recommend at least three names for consideration by the president in designating a nominee for the chancellorship, for approval by the Board of Governors.

II. ACADEMIC PROGRAM

The board of trustees shall be responsible for ensuring the institution's compliance with the educational, research, and public service roles assigned to it by the Board of Governors, either by express directive or by promulgated long-range plans of the Board of Governors.

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.

IV. HONORARY DEGREES, AWARDS AND DISTINCTIONS

The board of trustees shall be responsible for approving the names of all individuals on whom it is proposed that an honorary degree or other honorary or memorial distinction be conferred by the institution, subject to such policies as may be established by the Board of Governors.

V. BUDGET ADMINISTRATION

The board of trustees shall advise the chancellor with respect to the development of budget estimates for the institution and with respect to the execution and administration of the budget of the constituent institution, as approved by the General Assembly and the Board of Governors.

VI. PROPERTY AND BUILDINGS

The board of trustees of a constituent institution shall be responsible, subject to policies of the Board of Governors and all legal requirements relative to the construction of state-owned buildings, for the following matters concerning campus capital construction projects which have been approved by the Board of Governors and authorized by the state of North Carolina: (1) the selection of architects or engineers for buildings and improvements requiring such professional services; (2) the approval of building sites; (3) the approval of plans and specifications; and (4) the final acceptance of all completed buildings and projects.

The board of trustees shall be responsible to the Board of Governors for preparing and maintaining a master plan for the physical development of the institution, consistent with the total academic and service mission of the institution as defined and approved by the Board of Governors.

Any proposal involving the acquisition or disposition by an institution of any interest in real property shall be recommended by the board of trustees to and must be approved by the Board of Governors; provided, that

(a) if the proposal involves an interest in real property which is valued at less than $50,000, the board of trustees may authorize such transaction and proceed to obtain the necessary approvals from appropriate state officials and agencies, without first obtaining the approval of the Board of Governors;

(b) if the proposal involves an interest in real property, the president may approve or execute leases with a value higher than $50,000 up to $150,000, and may approve or execute contracts to acquire real property with a value higher than $50,000 up to $250,000, without first obtaining approval of the Board of Governors; and

(c) and the Board of Governors, under circumstances which it considers appropriate and following notice from it to the board of trustees, may take action necessary to effect the acquisition or disposition of an interest in real property which is related to or which affects the institution, without receipt of a recommendation from the board of trustees.[18]

VII. ENDOWMENTS AND TRUST FUNDS

Subject to applicable provisions of state law and to such terms and conditions as may be prescribed from time to time by the Board of Governors, each board of trustees shall be responsible for the preservation, maintenance, and management of all properties, both real and personal, funds and other things of value which, either separately or in combination, constitute all or any part of the authorized endowment or trust funds, either currently in existence or to be established in the future, for the benefit of the individual constituent institution. [See G.S. 116-11(2); 116-12; 116-36; 116-36. 1; 116-36. 2; 116-36. 3]

VIII. ADMISSIONS

Subject to such enrollment levels and minimum general criteria for admission as may be established for a constituent institution by the Board of Governors, each constituent institution of the University of North Carolina shall establish admissions policies and resolve individual admission questions for all schools and divisions within the institution. No appeal concerning an individual admission case shall lie beyond the institutional board of trustees.

IX. TUITION, FEES AND DEPOSITS

A. General Authority of Boards of Trustees

The boards of trustees of the constituent institutions other than the board of the North Carolina School of Science and Mathematics shall cause to be collected from each student, at the beginning of each semester, quarter, or term, such tuition, fees, and other amounts necessary to pay other expenses for the term, as have been approved by the Board of Governors. [See G.S. 116-11(7) and G.S. 116-143]

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[18]By resolution adopted November 13, 1981, the Board of Governors elaborated upon this provision concerning the acquisition and disposition of interest in real estate. The resolution says, among other things, that the value of an interest in real estate shall, with respect to a lease, be deemed the annual rental thereof. Further, the resolution expressly authorizes the board of trustees to delegate to their respective chancellors the power to authorize for the institutions the acquisition or disposition by lease of institutions the acquisition or disposition by lease or interests in real estate valued at less than $25,000, subject to any necessary approval from state officials and agencies.

B. Tuition and Fee Deposits

Each board of trustees shall require the payment of such advance deposits, at such times and under such conditions as it determines are appropriate or as may be required by state law or by the Board of Governors. [See G.S. 116-143]

C. Application Fee

Each board of trustees shall require the payment of such nonrefundable application fees, in connection with each application for admission, as may be required by state law or by the Board of Governors. [See G.S. 116-143]

D. Acceptance of Obligations in Lieu of Cash

Subject to policies prescribed by the Board of Governors, the boards of trustees shall establish regulations concerning the acceptance of obligations of students, together with such collateral or security as may be deemed necessary or proper, in lieu of cash, in payment of tuition and fees. [See G.S. 116-143]

E. Fee Recommendations

Subject to policies prescribed by the Board of Governors, each board of trustees, in consultation with the chancellor, shall recommend to the president the amounts to be charged at the constituent institution for application, athletics, health services, student activities, educational and technology, retirement of debt incurred for capital improvements projects authorized by the General Assembly, course, and special fees. In carrying out this responsibility, each board of trustees and the chancellor shall ascertain that the benefits of the activity or service are commensurate with the recommended fee which is required to support the activity or service. Recommended fees should be consistent with the philosophy set forth in the North Carolina Constitution which states that the benefits of the University of North Carolina should be extended to the people of the state free of expense, as far as practicable.

X. STUDENT FINANCIAL AID

All scholarships and other forms of financial aid to students which are limited in their application to or are supported from sources generated by an individual campus shall be administered by the constituent institution pursuant to such regulations as may be prescribed by the board of trustees and subject to the terms of any applicable laws and to policies of the Board of Governors.

XI. STUDENT SERVICES

Each board of trustees, upon recommendation of the chancellor, shall determine the type, level, and extent of student services (such as health care, athletic programs, and counseling) to be maintained for the benefit of students at the institution, subject to general provisions concerning types and levels of student services as may be prescribed by the Board of Governors.

XII. STUDENT ACTIVITIES AND GOVERNMENT

Under such policies as may be prescribed by the Board of Governors and the board of trustees, the chancellor shall be responsible for the regulation and approval of organized, institutionally-recognized student activities, the definition of roles and functions of any institutionally-recognized system of student self-government and student participation in the governance of any aspect of the institutional programs and services. No appeal concerning such activities are allowable to the president or to the Board of Governors.

XIII. INTERCOLLEGIATE ATHLETICS

Subject to such policies as may be prescribed by the Board of Governors and the board of trustees, the chancellor shall be responsible for the establishment and supervision of the institution's program of intercollegiate athletics.

XIV. TRAFFIC AND PARKING REGULATIONS[19]

XV. CAMPUS SECURITY

Subject to applicable provisions of state law and such policies as may be adopted by the Board of Governors or the board of trustees, the chancellor shall be responsible for the maintenance of campus security.

XVI. AUXILIARY ENTERPRISES, UTILITIES AND MISCELLANEOUS FACILITIES

Pursuant to applicable provisions of state law and policies of the Board of Governors, the boards of trustees of affected constituent institutions shall have authority and responsibility for the adoption of policies applicable to and the control and supervision of campus electric power plants and water and sewer systems, other utilities and facilities [G.S. 116-35], and child development centers [G.S. 116-38].

[19]Legislation adopted by the 1973 session of the General Assembly, on recommendation of the Board of Governors, gave the boards of trustees broad authority in this area and superseded the authority originally granted in this paragraph; hence it is omitted here. [See G.S. 116-44.3 et. seq.]