

Regulations on Required Clearances for Real Property Transactions

The process by which real property transactions are to be approved for execution can be extensive and complicated. Some clearances are established by State statute, others by State regulation, and still others by procedures of the Board of Governors. The attached chart combines the various clearances in a manner intended to make apparent the required process for undertaking each category of real property transaction.

In addition to the information set forth on the chart, the following procedures apply:

1. All real property transactions that require approval beyond the campus level are to be initiated by submission of the Form PO-1 for acquisitions and the Form PO-2 for dispositions to the State Property Office.
2. Leases not exceeding \$12,000 annual rental or three years in term (including renewal) may be undertaken, subject to any required clearances, without the necessity of advertising for the required premises.
3. Institutions may not lease premises from a non-state agency without first determining that there are no state-owned or state-leased premises that would be suitable for the need; institutions may not lease premises to a non-state agency without first determining that no other state agency needs to lease those premises.
4. All real property instruments are to be entered into in the name of the State of North Carolina, not the constituent institution, regardless of whether signed by the Governor, the chancellor, or some other official.
5. Copies of all real property instruments must be filed with the Department of Administration. Every six months the institution is to make a report to the Department of Administration on the status of all leases. The procedure for this report is prescribed by the Department of Administration.
6. No permanent improvements on leased premises may be made without the prior approval of the Department of Administration.
7. These procedures pertain to real property transactions of the constituent institutions, but they do not govern transactions with non-state agencies by the Board of Trustees of the Endowment Fund of the institution, organized pursuant to N.C.G.S. § 116-36.

[This is a rewrite of Administrative Memorandum #298.]

**Required Clearances for Real Property Transactions
of the Constituent Institutions**

Property interest (whether acquisition or disposition)	Consideration ¹	Term (including renewal)	Clearance needed ²
Any interest in land other than a lease (e.g., fee simple, easement, license)	not more than \$49,999	any term	1. Board of Trustees 2. Dept. of Admin (State Property Office) ³ 3. Gov. & Council of State (Gov. execute instrument) ⁴
	\$50,000 and less than \$250,000	any term	1. Board of Trustees 2. President (Report to the BOG) 3. Dept. of Admin (State Property Office) ⁵ 4. Gov. & Council of State (Gov. execute instrument)
	\$250,000 or more	any term	1. Board of Trustees 2. Board of Governors ^{6 7} 3. Dept. of Admin. 4. Gov. & Council of State (Gov. execute instrument)
	not more than \$5,000 annual rental	not more than 3 years	Chancellor execute ⁸
		more than 3 years	1. Dept. of Admin. 2. Gov. & Council of State (Gov. execute instrument)
Lease	at least \$5,001 but not more than	not more than 3 years	Dept. of Admin. (State Property Officer execute)

¹ Dispositions at less than fair market value are subject to the constraints of N.C.G.S. § 146-29.1

² After all necessary clearances are obtained; the appropriate property instrument is prepared by or under the supervision of the Attorney General.

³ This clearance includes review of the proposed transaction by the Attorney General.

⁴ Pursuant to NCGS §116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors has delegated certain authorities to the President of the University. See Policy 200.6, *Delegation Authority to the President of the University*, adopted 11/13/06.

⁵ This clearance includes review of the proposed transaction by the Attorney General.

⁶ With respect to any interest in real property, whatever its value or nature, which relates to or affects a constituent institution, the Board of Governors may take action or recommend action, as the case may be, without having received a recommendation therefore from the Board of Trustees of the respective institution.

⁷ See Footnote 4 above.

⁸ Where no clearance by the Board of Trustees is shown to be required for a particular property transaction, it is assumed that execution of the appropriate instrument by the chancellor or submission of the transaction for clearance by other agencies through the chancellor's initiative, as the case may be, has been authorized by appropriate delegation from the Board of Trustees to the chancellor, conferring a standing authority therefore pursuant to a resolution of the Board of Governors dated 11/13/81.

\$12,000 annual rental	more than 3 years	<ol style="list-style-type: none"> 1. Dept. of Admin. 2. Gov. & Council of State (Gov. execute instrument)
at least \$12,001 but not more than \$24,999 annual rental	any term	<ol style="list-style-type: none"> 1. Dept. of Admin. 2. Gov. & Council of State (Gov. execute instrument)
at least \$25,000 but not more than \$49,999 annual rental	any term	<ol style="list-style-type: none"> 1. Board of Trustees 2. Dept. of Admin. 3. Gov. & Council of State (Gov. execute instrument)
at least \$50,000 annual rental less than \$150,000	any term	<ol style="list-style-type: none"> 1. Board of Trustees 2. President (Report to the BOG) 3. Dept. of Admin 4. Gov. & Council of State (Gov. execute instrument)
at least \$150,000 annual rental	any term	<ol style="list-style-type: none"> 1. Board of Trustees 2. Board of Governors⁹ 3. Dept. of Admin 4. Gov. & Council of State (Gov. execute instrument)

⁹ See Footnote 4 on previous page.