Implementation Policy on Political Candidacy and Officeholding

Based on a sixteen-year experience in administering the 1976 policy concerning political activities of University employees, the Board of Governors has identified problems in implementing the policy that require attention. Accordingly, the following interpretations and instructions have been adopted to guide administration of the program at the constituent institutions.

I. Advance notice of policy requirements.

During the political season in virtually every year that the policy has been in effect, cases have arisen in which a University employee has filed as a candidate without following the prescribed procedures for obtaining clearance; usually the affected employee has professed not to have known about the requirements of the policy. On an ad hoc basis, the Committee on University Governance has dealt with the problems generated by such circumstances. Typically, the affected employee is permitted to address the problem by filing a late petition, but frequently the consequences of delay, for both the employee and the institution, cannot be resolved in a completely satisfactory manner. Several of the other problems discussed below are, in turn, either caused or exacerbated by the absence of clear advance notice to employees of the requirements and effects of the board policy. A system for insuring effective notice to potentially affected employees is critically important. This must be accomplished at the campus level.

Each chancellor must assure that employees understand well in advance both the procedures to be followed in pursuing, as well as the possible employment implications of, their involvement in political candidacy and officeholding. Such measures shall include: (1) publication of a notice, of the type set forth in Attachment 1, in documents that prescribe the terms and conditions of employment for each category of covered University employment, e.g., faculty handbooks and/or tenure policies, employment manuals for nonfaculty employees (employees subject to the State Personnel Act are not covered by the policy); (2) distribution in advance of each pending political season, of reminders of policy requirements to which employees are subject. This reminder may be distributed electronically, by paper enclosed with notification of pay, or other methods.

II. Addressing presumptive conflicts of time as a candidate.

The policy states that any employee who becomes a candidate for election to a full-time office or to a part-time office for which compensation is more than nominal presumably will engage in campaign activity that interferes with the satisfactory performance of his or her full-time employment responsibilities to the University. In the face of that presumption, the affected employee is accorded the options of (1) resigning in order to pursue political activity or (2) seeking to demonstrate that, contrary to the presumption, he or she can and will structure campaign activities so as to assure that they do not conflict with University employment or (3) seeking an appropriate leave of absence to enable the employee to pursue political activity.

A. Timely presentation of petitions to rebut the presumption.

For the system to work, to the advantage of both the affected employee and the institution, the review process must be completed well in advance of the period of employment that would be affected by involvement in political candidacy. If the responsible governing board determines that in fact there is a conflict, the employee must either resign or obtain approval for a leave of absence or abandon the contemplated campaign. Obviously the chosen outcome must be determined in time to permit orderly planning by all concerned parties. Thus, a firm schedule for addressing such issues must be adopted, and the success of that schedule depends, again, on timely notice of such requirements.

With respect to an employee who intends to file as a candidate in a race that requires a May primary contest, any petition designed to rebut the presumption of conflict of time must be filed with the appropriate governing board by no later than November 1 in the year preceding the May primary election. With respect to an employee who intends to stand for election in November, any such petition must be filed with the appropriate governing board by no later than July 1 of the election year.

B. Showings necessary to rebut presumption of conflict.

An employee who wishes to campaign for a full-time or major part-time office and simultaneously maintain his or her full-time University employment must meet the burden of demonstrating that, contrary to the presumption established by the policy, no conflict of time in fact will occur. In conventional employment contexts, entailing a standard eight-hour work day, it is readily apparent that an employee would have to limit campaign activities to evenings and weekends in order to satisfy employment obligations. Compliance with that norm can be monitored with relative ease.

However, faculty employment presents a more difficult situation. In accruing their forty or more hours per week of employment activity, faculty members typically follow schedules that vary from day to day and, indeed, from week to week. Such variety reflects, among other factors, their scheduled teaching and counseling hours, the demands of their research projects, the time dedicated to classroom preparation, the requirements of institutional service through committee memberships, and study and travel associated with contributions to the profession, as in visiting lectureships, professional meetings, and reviews of the work of other scholars and pro grams. Thus, there is no "standard workday" among the professoriate. The need for flexibility in scheduling the component faculty endeavors of teaching, research and service is universally recognized. Yet, for purposes of this board policy certain shared assumptions must be identified to help quantify employment obligations.

The most feasible approach in addressing this matter is to assume that each University employee, including members of the faculty, is obligated to be on duty for a minimum eight-hour day and forty-hour week. Unless there is clear demonstration to the contrary, it will be assumed, further, that the work day for professors is the conventional one that falls between the hours of 8 a.m. and 5 p.m. However, an individual faculty member is free to demonstrate that his full-time employment schedule for a given semester in fact does not or need not conform to the presumed norm and, accordingly, that times other than evenings and weekends properly would be available for campaign activity. Thus, a petition to the governing board in support of efforts to rebut the presumption of conflict would have to begin with a representation about what basic periods of time would be devoted to campaigning and why such a proposed schedule would not conflict with the forty or more hours per week of his or her University job. The unalterable premise is that the employee must meet the full requirements of his employment while campaigning, not that he will be permitted to reduce in any way his full-time University service in order to engage in a political campaign. A satisfactory showing therefore must quantify the distribution of time between employment time and personal time devoted to campaigning.

Attachment 2 is a sample petition that is to be used by all University employees, including faculty members, to display the requirements of work time and, correspondingly, how campaigning would be fitted into the petitioner's total available personal time during a week.

C. Conditions imposed incident to permitting maintenance of full-time employment while campaigning.

If the governing board determines that an employee has successfully rebutted the presumption of conflict, the permission to continue full- time University employment may need to be attended by special conditions. For example, the employee may be required to maintain a daily log of time devoted to campaign activity, subject to periodic inspection by the employee's supervisor. By way of further example, in arranging the division of time between University duties and campaigning, a member of the instructional faculty should not be permitted to reschedule class meeting times or office hours for counseling students, if students thereby would be inconvenienced. In summary, there is a need for responsible academic administrators to monitor closely a faculty member's compliance with the terms of the understanding reached with the governing board.

D. Leaves of absence during candidacy

If a University employee concludes or a governing board determines that engaging in a contemplated political campaign will prevent the employee from meeting full-time employment responsibilities, the employee may request a leave of absence, either partial or full, with corresponding reduction in or suspension of pay. The presentation of petitions in support of a request for such leave must follow the same schedule as prescribed above for efforts at rebuttal of presumed conflicts, viz., by November 1 with respect to May primary contests and July 1 for the general election. In fact, if an employee seeks to be excused from the resignation requirement by rebutting the presumption of conflict, his petition on that subject should be accompanied by a petition for leave, to address the contingency of a finding by the governing board that the presumption has not been rebutted.

Attachment 2 includes a model petition form to be used by University employees to describe the nature and extent of leave requested, with accompanying representations from the chancellor and other responsible administrators about the feasibility of the proposal, from the institution's perspective, e.g., whether it would be possible to satisfactorily cover the duties of the employee while he was absent. If an employee seeks a partial leave of absence, the type of quantification effort described above, with respect to rebuttal of a presumed conflict, would be necessary. A listing of duties to be performed and duties not to be performed would be required, which would account for the total full-time employment responsibilities of the employee; and, derivatively, a judgment then could be made about what percentage reduction in salary would be required.

In the context of faculty employment, the Board of Governors already is on record prohibiting a partial leave in the form of interrupting instructional responsibilities during an academic term; that is, if a faculty member is assigned a course to teach for a semester, he or she will not be permitted to discontinue the instruction of that course (actual teaching hours and directly related instructional responsibilities, such as advising enrolled students) part way through the term by using a substitute teacher.

III. Addressing conflicts of time as an officeholder.

The policy states that any employee who becomes an officeholder must insure that holding public office does not conflict with or detract from the satisfactory performance of University employment obligations. Obviously, the assumption of a full-time office precludes the continuation of University employment. However, the policy permits an affected employee to seek a leave of absence without pay, for a maximum period of two years. With respect to part-time officeholding, the policy again distinguishes between major offices (entailing compensation that is more than nominal) and minor offices (entailing nominal compensation), with corresponding presumptions about resulting conflicts with University employment. An affected employee who intends to hold such an office must pursue the same options concerning rebuttal of presumptions or leaves of absence as are applicable to candidacies for election. Attachment 2 includes provisions that address those questions. Because the deadline for filing petitions for leaves of absence is November 1, which precedes the usual date of a general election, a candidate for election in November must file his petition in advance of the election, on the assumption that he will be elected, so as to permit timely action by the governing board before he assumes office.

IV. Consequences of failure to comply with required procedures.

As noted at the outset, the board policy is designed to accomplish a timely resolution of questions about an employee's proposed involvement in activities that could conflict with University employment responsibilities. The purpose is to avoid, through advance planning, any situation in which an employee might neglect his duty and thereby disrupt service to students and other beneficiaries of the University enterprise, with consequent need for disciplinary action against the culpable employee. The system established by the board permits both the employee and the employer to identify potential problems in advance and to craft reasonable accommodations. Thus, it is essential that the procedures called for in the policy be observed carefully.

An employee who fails or refuses to observe the procedural requirements of the policy has violated the terms and conditions of his employment and is subject to disciplinary action. With the

establishment of appropriate measures for providing notice of the policy requirements, all covered employees will be presumed to know their obligations under the policy.

A. With respect to officeholding.

If a University employee is elected or appointed to a full-time public office, his University employment ends automatically ("will be deemed to have resigned") upon the assumption of that office. The automatic termination of employment may be avoided only if the employee, prior to assuming the office, has sought and obtained permission for a leave of absence, not to exceed two years in duration. Since the relevant provisions of the policy are self-executing, there is no occasion for disciplinary action in such a case.

If a University employee is elected or appointed to a part-time office for which compensation is more than nominal, holding the office is presumed to conflict with the satisfactory performance of University employment obligations, and the employee is obligated to resign upon assuming that public office. The required resignation may be avoided only if the employee, prior to assuming the office, follows prescribed procedures that result either in a finding that in fact there will be no conflict created by simultaneous officeholding and University employment or, alternatively, in the approval of a requested leave of absence. If an employee fails to follow the prescribed procedure or declines to resign after failing to rebut the presumed conflict or after being denied a leave of absence, disciplinary action may be brought against him for violation of the terms and conditions of his employment.

B. With respect to candidacy.

Under the terms of the board policy, if a candidacy for election to public office entails a presumed conflict with University employment, the affected employee is required to resign when he becomes a candidate. Resignation from employment may be avoided only if the employee, prior to becoming a candidate, follows prescribed procedures that result either in a finding that in fact there will be no conflict or, alternatively, in the approval of a requested leave of absence. If an employee fails to follow the prescribed procedure or declines to resign after failing to rebut the presumed conflict or after being denied a leave of absence, disciplinary action may be brought against him for violation of the terms and conditions of his employment.

Attachment 1

Sample Summary Of Policy Provisions, for Inclusion in Documents that Prescribe Terms and Conditions of University Employment

University Policies Governing Employee Involvement In Political Candidacy and Officeholding

Policies adopted by the Board of Governors in 1976 establish processes for resolving, in advance, questions about possible conflicts between a University employee's satisfactory performance of employment responsibilities and his involvement in political candidacy and officeholding. All University employees except those subject to the State Personnel Act are covered by the policies. An employee who intends to become a candidate for election or appointment to or to hold any public office is responsible for knowing the terms of and complying with the requirements of the board policies. A copy of the full text of the board policies may be obtained from (official and location). Failure to comply with the policies is a violation of the terms and conditions of University employment and may result in disciplinary action. The following is a summary of the basic provisions of the board policies. The full text of the policies should be consulted by an affected employee. Advice concerning the interpretation and application of the policies may be obtain from (official).

1. Candidacy for election to public office.

Becoming a candidate for election to a full-time or major part-time office is presumed to create a conflict of time that interferes with the employee's satisfactory performance of University employment obligations. The conflict may be avoided by (1) resigning from University employment, (2) seeking an appropriate unpaid leave of absence from University employment, or (3) rebutting the presumption of conflict by demonstrating that there in fact will be no conflict between campaign activity and University employment. An employee who intends to become a candidate must follow prescribed procedures for resolving questions about conflicts in advance of becoming a candidate.

2. Holding public office.

Upon assuming an elective or appointive full-time office, a University employee will be deemed to have resigned his University employment, unless prior to assuming office he requests and is granted a full leave of absence, without pay. Such a leave of absence may not exceed two years.

Upon assuming an elective or appointive major part-time office, a University employee will be presumed to have a conflict of time that necessitates his resignation from University employment; the resignation requirement may be avoided if (1) he requests and is granted an appropriate leave of absence or (2) he rebuts the presumption of conflict by demonstrating that there in fact will be no conflict between officeholding and University employment.

An employee who intends to occupy such an office must follow prescribed procedures for resolving questions about conflicts in advance of assuming the office.

Attachment 2

Instructions Regarding Procedures to be Followed by University Employees who Intend to Become Candidates for or Holders of Political

These instructions pertain to University employees exempt from the State Personnel Act who intend to be candidates for election or appointment to or to hold (a) **full-time public offices**, (b) **membership in the General Assembly** or (c) **major part-time offices for which compensation is more than nominal** (if the employee is a senior academic or administrative officer of the University). Questions concerning candidacy for or holding of all other public offices are to be addressed through procedures established by the boards of trustees of the constituent institutions, consistent with policies of the Board of Governors. Attached is a copy of the policies of the Board of Governors to which these instructions pertain.

1. An affected employee must use the forms/format prescribed herein.

2. Contact the office of the chancellor for advice and assistance. All questions regarding a petition required by these instructions should be addressed to the chancellor. Questions to be considered by the President or the Board of Governors are to be transmitted through the chancellor.

3. Any petitions required by these instructions should be submitted as early as possible, but no later than the following:

For affected academic periods beginning:	Completed petition to be received by chancellor:	Completed petition to be received by board:
January (e.g., for a May primary contest)	October 15 of preceding year	November 1 of preceding year
May/June (e.g., for fall elections affecting summer employment)	March 15	April 1
August/September (e.g., for fall general election)	June 15	July 1
Other periods	90 days prior to beginning of period	60 days prior to beginning of period

4. An employee submitting a petition must present it and all accompanying information to supervisors designated by the chancellor and to the chancellor, in a timely manner, as the basic information upon which they may rely in reaching conclusions required of them as part of the petition process. Any such official may require additional information or explanation from the petitioner, to aid their evaluation of the petition.

5. A separate petition is required for action by the governing board with respect to each stage of involvement in political candidacy and officeholding. For example, an employee who proposes to become a candidate for election to the General Assembly must: (1) present an initial petition to the Board of Governors by no later than November 1 if he intends to be a candidate in the forthcoming May primary; (2) if successful in the primary, present a petition by no later than July 1 if he intends to be a candidate in the November general election; (3) in anticipation of success in the general election, present a petition by no later than November 1 of the election year, with respect to service in the General Assembly during the following year, and thereafter for each succeeding year of service. With respect to a member of the faculty who is elected to the General Assembly, it would be necessary to submit a timely petition for each semester of University employment during which he held such office.

6. Whether the petition relates to candidacy or officeholding, the petition form accords the employee more than one option that could be used to resolve the presumed conflict with University employment, e.g., (a) to rebut the presumption, (b) to seek a partial leave of absence, or (c) to seek a full leave of absence. Typically, an employee may prefer to avoid a leave of absence by seeking to demonstrate that his candidacy or officeholding, contrary to the presumption, in fact will not conflict with University employment. If his petition as initially submitted is limited to that choice, and it is not successful, there may not be sufficient time within the schedule established by the Board of Governors to file a followup petition seeking a leave of absence. Thus, every petitioner is advised to submit a petition that anticipates all contingencies by requesting all of the relevant outcomes alternatively, viz., first choice, a demonstration of grounds for rebutting the presumption that there is a conflict; but failing that, a request for a partial leave of absence and corresponding reduction in pay; and, failing that, a request for a full leave of absence without pay.

Petition Regarding Political Activity

FROM: Name:_____
Institution:_____
Position held:_____

TO: Committee on University Governance
UNC Board of Governors
c/o Office of the President
The University of North Carolina
Post Office Box 2688
Chapel Hill, North Carolina 27515-2688

SUBJECT: Request for review of proposed political candidacy or officeholding

A. In accordance with the University of North Carolina policy regarding political activities of its employees, this petition concerns:

( ) My intention to campaign for election to a full-time or major part-time political office

Title of office: _____

Primary or general election date: _____

Period of proposed campaign activity: _____

( ) My intention to occupy a full-time or major part-time political office, either elective or appointive

Title of office:_____

Term of office:_____

Period of employment affected:_____

B. With respect to my candidacy for election to political office, I request permission:

( ) To maintain my full-time University employment while campaigning; in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)
2. An explanation of proposed campaign activity, demonstrating how such activity will be limited to available personal time, so as not to interfere with the satisfactory performance of full-time employment responsibilities (Attachment B)
3. The written concurrence of my supervisors and the chancellor in the conclusion that engagement in campaign activities will not interfere with the satisfactory performance of my full- time employment responsibilities

( ) If my request to maintain full-time employment is denied, to take a partial leave of absence, with corresponding reduction in pay, for the period (dates of leave) ; in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)

2. An explanation of proposed campaign activity (Attached B)
3. Identification of those employment responsibilities that I propose not to meet, consistent with such a partial leave of absence, and calculation of percentage reduction in employment time (Attachment C)
4. Assurances by my supervisors and the chancellor that granting such a leave is practicable and that alternative arrangements can be made to insure performance by others of the employment responsibilities for which I otherwise would be responsible.

( ) If my request to maintain full-time employment or to be granted a partial leave is denied, to take a full leave of absence, without pay, for the period (dates of leave); in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)
2. Assurances by my supervisors and the chancellor that granting such a leave is practicable and that alternative arrangements can be made to insure performance by others of the employment responsibilities for which I otherwise would be responsible.

C. With respect to my occupancy of a full-time public office:

( ) I request permission to be granted a full leave of absence, without pay, as distinguished from resigning my University employment; I understand that the maximum period of such leave allowed by University policy is two years; in support of my request, I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)
2. Assurances by my supervisors and the chancellor that granting such a leave is practicable and that alternative arrangements can be made to assure performance by others of the employment responsibilities for which I otherwise would be responsible.

D. With respect to my occupancy of a major part-time office, I request permission:

( ) To maintain my full-time University employment while holding office; in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)
2. An explanation of the time requirements associated with holding the public office, demonstrating how such activity will be limited to available personal time, so as not to interfere with the satisfactory performance of my full-time employment responsibilities (Attachment D)
3. The written concurrence of my supervisors and the chancellor in the conclusion that the time requirements associated with holding the public office will not interfere with the satisfactory performance of my fulltime employment responsibilities.

( ) If my request to maintain full-time employment is denied, to take a partial leave of absence, with corresponding reduction in pay, for the period of officeholding; in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A)
2. An explanation of the time requirements associated with holding the public office (Attachment D)
3. Identification of those employment responsibilities that I propose not to meet, consistent with such a partial leave of absence, and calculation of percentage reduction in employment time (Attachment C)
4. Assurances by my supervisors and the chancellor that granting such a leave is practicable and that alternative arrangements can be made to insure performance by others of the employment responsibilities for which I otherwise would be responsible.

( ) If my request to maintain full-time employment or to be granted a partial leave is denied, to take a full leave of absence, without pay, for the period (dates of leave) in support of my request I have provided/attached:

1. A detailed account of my anticipated normal employment responsibilities during the affected period of employment (Attachment A).
2. Assurances by my supervisors and the chancellor that granting such a leave is practicable and that alternative arrangements can be made to insure performance by others of the employment responsibilities for which I otherwise would be responsible.

E. With respect to any request embodied in this petition, the petitioner should offer any additional written explanation or information that in his or her judgment would assist supervisors, the chancellor or the Board of Governors in making a decision whether to grant the request.

Signature of Petitioner	Date submitted
Signature of Chancellor	Date received by Chancellor
Date submitted to Office of the President	
Signature of Secretary of the University	Date received by Secretary

Petition Attachment A

Detailed account of anticipated normal employment responsibilities during the affected period of employment; the information to be provided presupposes a standard eight-hour work day and a forty-hour work week and requires a demonstration of how that amount of employment time is accounted for and scheduled; the petitioner may supplement this form with a narrative account that further explains employment obligations and time commitments.

_____

Name of Petitioner Employment period affected

work day: _____ (number of hours)

Hours of work, from _____ (a.m.) to _____ (p.m.)

1. Days of week to which scheduled work applies Non-faculty employees (for those employees who regularly follow a standard eight-hour day and forty-hour week).

   Length of required:_____

2. Faculty employees (and other employees who do not necessarily follow standard schedule of eight-hour days and forty-hour weeks)

Duties	Hours per week (average)	% of total
Teaching (classroom, laboratory, etc.)		
Instructional preparation		
Counseling students		
Other instructional responsibilities		
Evaluating student performance		
Research and writing		
Institutional Committee service		
Administrative service		
Current professional development		
Other (specify)		
Totals:		

Hours/week

Petition Attachment B

Explanation of nature, extent and schedule of proposed campaign activity

Petition Attachment C

Identification of employment responsibilities not to be performed pursuant to partial leave of absence

Duties to be eliminated or reduced	Hours per week (average)
Totals	hours/week

Percentage reduction in weekly employment time: _____

Note:

Policies of the Board of Governors do not permit partial or full leaves of absence, for a portion of a semester, that would affect adversely the instructional services available to students, e.g., substituting another instructor for the petitioner to teach a course for a portion of the academic term (as distinguished from such substitution for the full term).

Petition Attachment D

Explanation of nature, extent and schedule of required duties as officeholder.