



MEETING OF THE BOARD OF GOVERNORS
Committee on University Governance

September 19, 2019 at 3:00 p.m.
University of North Carolina System Office
Center for School Leadership Development, Room 276
Chapel Hill, North Carolina

AGENDA

OPEN SESSION

- A-1. Approval of the Minutes of May 21, 2019..... David Powers
- A-2. 2018-2019 Committee Annual Report..... David Powers
- A-3. Report on Free Speech and Free Expression Within the
University of North Carolina Thomas Shanahan
- A-4. North Carolina Central University Board of Trustees Appointment..... David Powers
- A-5. Resolution on Clearance Requirements David Powers
- A-6. Review of the UNC Policy Manual David Powers

CLOSED SESSION

- A-7. Approval of the Closed Session Minutes of May 21, 2019 David Powers
- A-8. Legal Affairs Report..... Thomas Shanahan

OPEN SESSION

- A-9. Other Business David Powers
 - a. UNC System Boards of Trustees Workshop
- A-10. Adjourn

Additional Information Available

Report on Technical Corrections to the UNC Policy Manual

DRAFT MINUTES

May 21, 2019
University of North Carolina System Office
Center for School Leadership Development, Room 276
Chapel Hill, North Carolina

This meeting of the Committee on University Governance was presided over by Chair David Powers. The following committee members, constituting a quorum, were also present: Pearl Burris-Floyd, C. Philip Byers, J. Alex Mitchell, Randy Ramsey, and Michael Williford.

Chancellors participating were James Anderson, Wesley Burks, Robin Cummings, and Frank Gilliam.

Staff members present included Tom Shanahan, Meredith Steadman, and others from the UNC System Office.

1. Call to Order and Approval of OPEN Session Minutes (Item A-1)

The chair called the meeting to order at 2:31 p.m., on Tuesday, May 21, 2019, and called for a motion to approve the open session minutes of March 21, 2019.

MOTION: Resolved, that the Committee on University Governance approve the open session minutes of January 24, 2019, as distributed.

Motion: C. Philip Byers
Motion carried

2. 2019 UNC System Boards of Trustees Appointments (Item A-2)

The chair reiterated that, every two years, half of the Board-of-Governors-appointed positions on boards of trustees require either new appointments or reappointments. The Committee on University Governance, working with the institutions and the members of the Board of Governors, identifies candidates, reviews candidates, and makes recommendations to the full Board of Governors for election. The chair explained that the day's vote would consider the slate of nominees as a whole group and not on an individual basis.

The chair then reviewed the slates of nominees from Appalachian State University, Elizabeth City State University, Fayetteville State University, University of North Carolina at Charlotte, The University of North Carolina at Pembroke, Winston-Salem State University, and one partial-term at North Carolina A&T State University.

MOTION: Resolved, that the Committee on University Governance approve the slate of four nominees at Appalachian State University.

Motion: Pearl Burris-Floyd
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the slate of four nominees at Elizabeth City State University.

Motion: Randy Ramsey
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the slate of three nominees at Fayetteville State University.

Motion: C. Philip Byers
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the slate of four nominees at the University of North Carolina at Charlotte.

Motion: Pearl Burris-Floyd
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the slate of four nominees at The University of North Carolina at Pembroke.

Motion: C. Philip Byers
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the slate of four nominees at Winston-Salem State University.

Motion: Michael Williford
Motion carried

MOTION: Resolved, that the Committee on University Governance approve the one partial-term at N.C. A&T State University.

Motion: Pearl Burris-Floyd
Motion carried

3. NC Arboretum Board of Directors Appointments (Item A-3)

The chair called on Ms. Burris-Floyd to provide background information to the committee on the nominations, as well as the roles, responsibilities, and duties of the NC Arboretum Board of Directors.

MOTION: Resolved, that the Committee on University Governance approve Item A-3 and recommend it to the full Board of Governors for a vote.

Motion: Pearl Burris-Floyd

Motion carried

4. UNC-TV Board of Trustees Appointment (Item A-4)

The chair called on Mr. Williford to provide background information to the committee on the nominations, as well as the roles, responsibilities, and duties of the UNC-TV Board of Trustees.

MOTION: Resolved, that the Committee on University Governance approve Item A-4 and recommend it to the full Board of Governors for a vote.

Motion: Michael Williford

Motion carried

5. NC Teaching Fellows Commission Appointments (Item A-5)

The chair provided background information to the committee on six of the seven nominations, as well as the roles, responsibilities, and duties of the NC Teaching Fellows Commission.

MOTION: Resolved, that the Committee on University Governance approve Item A-5 and recommend it to the full Board of Governors for a vote.

Motion: David Powers

Motion carried

6. UNC Press Board of Governors Appointments (Item A-6)

The chair provided background information to the committee on the nominations, as well as the roles, responsibilities, and duties of the UNC Press Board of Governors.

MOTION: Resolved, that the Committee on University Governance approve Item A-6 and recommend it to the full Board of Governors for a vote.

Motion: David Powers

Motion carried

7. Closed Session

Mr. Byers moved that the committee go into closed session to prevent the disclosure of information that is privileged or confidential under Article 7 of Chapter 126 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes. To consult with our attorney to protect

attorney-client privilege; and to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action for the following cases: Shain v. UNC-TV, Kadel, et al. v. Folwell, et al., and Semelka v. UNC-Chapel Hill. This is pursuant to G.S. 143-318.11(a)(1) and (6).

Motion: C. Philip Byers

Motion carried

THE MEETING MOVED INTO CLOSED SESSION.

(The complete minutes of the closed session are recorded separately.)

MOTION: Resolved, that the Committee on University Governance return to open session.

Motion: J. Alexander Mitchell

Motion carried

THE MEETING RESUMED IN OPEN SESSION.

8. Revision to Section 401 A of *The Code* (Item A-9)

The chair called on Mr. Shanahan to review the proposed changes to Section 401 A of *The Code*. Mr. Shanahan explained that the proposed revision to Section 401 A of *The Code* states that, in no event, shall officer elections take place before the swearing in of new board members whose terms commence on July 1. The revision also states that any member of the board shall be eligible to serve as an officer regardless of length of service on the board. Finally, the revision requires officer elections to be held in a manner allowing newly appointed board members the opportunity to fully participate in the nomination, consideration, and election of officers.

MOTION: Resolved, that the Committee on University Governance approve the proposed revision to Section 401 A of *The Code* and the full Board will vote on through consent agenda at the next Board of Governors meeting.

Motion: Michael Williford

Motion carried

9. Other Business (Item A-10)

The chair then recognized that this was the last meeting with the committee and thanked all the members for their outstanding and hard work over the course of the year.

The chair opened the floor to the committee on any other business they would like to discuss.

There being no further business, the meeting adjourned at 3:30 p.m.

Thomas F. Fetzer, Secretary

AGENDA ITEM

A-2. 2018-2019 Committee Annual ReportDavid Powers

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| Situation: | Each standing committee submits an annual report of its activities to the Board of Governors. |
| Background: | Pursuant to Section 302 E of <i>The Code</i> , "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." |
| Assessment: | The annual report on the activities of the Committee on University Governance for fiscal year 2017-2018 is ready for review and submission. |
| Action: | This item requires a vote by the committee to accept the report for submission to the Board of Governors. |

DUTIES AND MEMBERSHIP

The Committee on University Governance is responsible for reviewing and making recommendations for proposed changes to *The Code* and the delegations of duty and authority involving University governance; for nominating individuals for election to the 17 institutional boards of trustees and other University-related boards; and for authorizing the initiation and settlement of litigation and pending litigation in circumstances where that authority has not otherwise been delegated. This report summarizes the work of the committee from July 2018 through June 2019.

The committee was composed of the following Board members: C. Philip Byers, Pearl Burris-Floyd, J. Alexander Mitchell, David Powers, Randy Ramsey, William Webb (July 2018-January 2019), and Michael Williford. Mr. Powers served as chair, Mr. Mitchell served as vice-chair, and both Mr. Webb (July 2018-January 2019) and Mr. Byers (January 2019-July 2019) served as secretary.

Chancellor James Anderson (FSU), Chancellor Robin Cummings (UNCP), Chancellor Frank Gilliam (UNCG), and Dr. Bill Roper (July 2018-December 2018, UNCHCS) and Dr. Wesley Burks (January 2019-July 2019, UNCHCS) also served on the committee.

ACTIONS

Between July 1, 2018 and June 30, 2019, the Committee on University Governance met in eight regularly scheduled meetings. The major actions of the committee are summarized as follows:

Appointments to Boards for Affiliated Entities

Pursuant to the committee's recommendations for affiliated entities to the University, the Board of Governors made the following appointments or confirmations:

| Name of Board | Member | Term Ending |
|---------------------------------|------------------------|---------------|
| Appalachian State University | John Blackburn | June 30, 2023 |
| Appalachian State University | James K. Reaves | June 30, 2023 |
| Appalachian State University | Mark Ricks | June 30, 2019 |
| Appalachian State University | Mark Ricks | June 30, 2023 |
| Appalachian State University | Robert T. Sofield, Jr. | June 30, 2023 |
| East Carolina University | Leigh Fanning | June 30, 2023 |
| East Carolina University | Thomas Furr | June 30, 2023 |
| East Carolina University | Phil Lewis | June 30, 2023 |
| East Carolina University | Angela Moss | June 30, 2023 |
| Elizabeth City State University | Harold Barnes | June 30, 2023 |
| Elizabeth City State University | Kim Brown | June 30, 2023 |
| Elizabeth City State University | Anthony Culpepper | June 30, 2023 |

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| Elizabeth City State University | Christine A. Evans | June 30, 2023 |
| Fayetteville State University | Glenn B. Adams | June 30, 2023 |
| Fayetteville State University | Valencia Applewhite | June 30, 2023 |
| Fayetteville State University | R. Jonathan Charleston | June 30, 2023 |
| Fayetteville State University | John McFadyen | June 30, 2019 |
| Fayetteville State University | John McFadyen | June 30, 2023 |
| NC Arboretum Board of Directors | Undi Hoffler | June 30, 2023 |
| NC Arboretum Board of Directors | Cheryl McMurry Kaynard | June 30, 2023 |
| NC Arboretum Board of Directors | Alison Morrison-Shetlar | June 30, 2023 |
| NC Arboretum Board of Directors | William Sederberg | June 30, 2019 |
| N.C. A&T State University | John W. Bluford, III | June 30, 2023 |
| N.C. A&T State University | William A. Dudley | June 30, 2021 |
| N.C. A&T State University | Kimberly Gatling | June 30, 2023 |
| N.C. A&T State University | Venessa Harrison | June 30, 2023 |
| N.C. A&T State University | Timothy King, III | June 30, 2023 |
| NC Central University | William Bell | June 30, 2023 |
| NC Central University | Keith Chadwell | June 30, 2023 |
| NC Central University | Michael Johnson, Sr. | June 30, 2023 |
| NC Central University | Isaiah Tidwell | June 30, 2023 |
| NC School of Science and Mathematics | Richmond Baker | June 30, 2023 |
| NC School of Science and Mathematics | Jabbar Bennett | June 30, 2023 |
| NC School of Science and Mathematics | Adam Falk | June 30, 2023 |
| NC School of Science and Mathematics | Cindy Goodman | June 30, 2023 |
| NC School of Science and Mathematics | Hugh Holston | June 30, 2023 |
| NC School of Science and Mathematics | Alisa McDonald | June 30, 2023 |
| NC School of Science and Mathematics | Nathan Ramsey | June 30, 2023 |
| NC School of Science and Mathematics | Erik Troan | June 30, 2023 |
| NC State University | Robert Andrews, III | June 30, 2023 |
| NC State University | Stanhope Kelly | June 30, 2023 |
| NC State University | Edwin J. Stack, III | June 30, 2023 |
| NC State University | Dewayne Washington | June 30, 2023 |
| NC Teaching Fellows Commission | Marion Gillis-Olson | June 30, 2021 |
| NC Teaching Fellows Commission | Austin Harris | June 30, 2021 |
| NC Teaching Fellows Commission | Lawrence Somers | June 30, 2021 |
| NC Teaching Fellows Commission | Janet Spriggs | June 30, 2021 |
| NC Teaching Fellows Commission | Michele White | June 30, 2021 |
| NC Teaching Fellows Commission | Kim Winter | June 30, 2021 |
| State Advisory Council on Indian Education | Tiffany Locklear | September 30, 2020 |
| UNC Asheville | Roger Aiken | June 30, 2023 |
| UNC Asheville | Maurice Green | June 30, 2021 |
| UNC Asheville | Richard Lutovsky | June 30, 2023 |

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| UNC Asheville | Robby Russell | June 30, 2023 |
| UNC Asheville | Oscar Wong | June 30, 2023 |
| UNC-Chapel Hill | Teresa Artis Neal | June 30, 2023 |
| UNC-Chapel Hill | David Boliek | June 30, 2023 |
| UNC-Chapel Hill | Gene Davis | June 30, 2023 |
| UNC-Chapel Hill | Allie Ray McCullen | June 30, 2023 |
| UNC Charlotte | Sharon Decker | June 30, 2023 |
| UNC Charlotte | Susan DeVore | June 30, 2023 |
| UNC Charlotte | Christine P. Katziff | June 30, 2023 |
| UNC Charlotte | David Mildenberg | June 30, 2023 |
| UNC Greensboro | Mae Douglas | June 30, 2023 |
| UNC Greensboro | Mona Edwards | June 30, 2023 |
| UNC Greensboro | Linda Fisher Sloan | June 30, 2023 |
| UNC Greensboro | William Hayes | June 30, 2023 |
| UNC Pembroke | Patrick Corso | June 30, 2023 |
| UNC Pembroke | Mary Ann Elliott | June 30, 2023 |
| UNC Pembroke | Bobbi Ann Stanley | June 30, 2023 |
| UNC Pembroke | Alphonzo McRae, Jr. | June 30, 2023 |
| UNC School of the Arts | Emily Cawood | June 30, 2023 |
| UNC School of the Arts | Noel Dunn | June 30, 2023 |
| UNC School of the Arts | Mark Land | June 30, 2023 |
| UNC School of the Arts | Ralph Womble | June 30, 2023 |
| UNC Wilmington | Agnes Beane | June 30, 2023 |
| UNC Wilmington | Yvonne Kidd | June 30, 2023 |
| UNC Wilmington | Henry Miller, III | June 30, 2023 |
| UNC Wilmington | Yousry Sayed | June 30, 2023 |
| UNC Health Care | Hadley Callaway | October 31, 2022 |
| UNC Health Care | Rebecca T. Cobey | October 31, 2022 |
| UNC Health Care | Michael Crabb | October 31, 2022 |
| UNC Health Care | Anne Faircloth | October 31, 2022 |
| UNC Health Care | Tim Humphrey | October 31, 2022 |
| UNC Health Care | John McNeil | October 31, 2022 |
| UNC Health Care | Troy Smith | October 31, 2022 |
| UNC Press Board of Governors | Matthew Morse Booker | June 30, 2022 |
| UNC Press Board of Governors | Malinda Maynor Lowery | June 30, 2024 |
| UNC Press Board of Governors | Vincas Steponaitis | June 30, 2024 |
| UNC Press Board of Governors | Randall Styers | June 30, 2024 |
| UNC Television | Sabrina Bengel | June 30, 2022 |
| UNC Television | Richard Craven | June 30, 2022 |
| UNC Television | Anne Mayo Evans | June 30, 2022 |
| UNC Television | Joe Ely | June 30, 2022 |

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| UNC Television | Teresa Artis Neal | June 30, 2022 |
| UNC Television | Eric Teal | June 30, 2022 |
| UNC Television | Caroline Foy Welch | June 30, 2022 |
| UNC Television | Bill West | June 30, 2022 |
| UNC Umstead | Raiford G. Trask, III | June 30, 2022 |
| Western Carolina University | Casey Cooper | June 30, 2021 |
| Western Carolina University | Kathryn Greeley | June 30, 2023 |
| Western Carolina University | Kenneth Hughes | June 30, 2023 |
| Western Carolina University | J. Bryant Kinney | June 30, 2023 |
| Western Carolina University | Rebecca Schlosser | June 30, 2023 |
| Winston-Salem State University | Coretta Bigelow | June 30, 2023 |
| Winston-Salem State University | Robert Clark | June 30, 2023 |
| Winston-Salem State University | Matthew S. Cullinan | June 30, 2023 |
| Winston-Salem State University | Kelvin Farmer | June 30, 2023 |

Campus Liaison Assignments

Each constituent institution and selected affiliated entities were assigned a “liaison” from the Board. The 2018-19 campus liaisons were:

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| Ms. Burris-Floyd: | N.C. A&T State University UNC Asheville NC Arboretum |
| Mr. Byers: | Appalachian State University UNC Charlotte UNC School of the Arts |
| Mr. Mitchell: | North Carolina Central University NC School of Science and Math UNC-Chapel Hill |
| Mr. Powers: | Elizabeth City State University UNC Greensboro UNC Pembroke Western Carolina University Winston-Salem State University Other Appointments |
| Mr. Ramsey: | NC State University UNC Wilmington |
| Mr. Webb (July 2018-January 2019): | Fayetteville State University UNC Greensboro Winston-Salem State University |
| Mr. Williford: | East Carolina University Fayetteville State University UNC Health Care UNC-TV |

Review of *The Code*, UNC Policy Manual (Policies, Regulations, and Guidelines)

Throughout the year, the committee held ongoing discussions in areas of the UNC Policy Manual that needed to be added, updated, amended, or reviewed. The committee voted to adopt the following revisions.

1. Technical Corrections to the UNC Policy Manual

- a. **Section 100.2.IV.D.** This section of the UNC Policy Manual authorizes the secretary of the University, in consultation with the senior vice president and general counsel, to make technical changes to the UNC Policy Manual. Technical changes are defined as including:
 - Correction of typographical errors;
 - Updates to names, titles, statutory, and regulatory references, and other designations;
 - Correction of inconsistencies among policies that may result due to a more recent policy adoption, amendment, or rescission;
 - Assurance that board delegations and resolutions are accurately reflected throughout *The Code* and the UNC Policy Manual; and
 - Annotation of policies, regulations, and guidelines to cross-reference other provisions of the UNC Policy Manual.

Any corrections or changes made pursuant to this policy are required to be summarized and reported in writing to the chair of the Board of Governors and the Committee on University Governance.

2. *The Code*

- a. **Section 401 A.** Pursuant to North Carolina General Statute 116-32 and Section 401 A of *The Code*, the boards of trustees are prohibited from holding officer elections before June 30. This revision allows newly appointed board members, whose terms start on July 1, to participate in the election of officers and clarifies that newly appointed board members must be allowed to fully participate in officer elections. The revision also states that in no event shall officer elections take place before July 1, or before the swearing in of new board members whose terms commence on July 1 and that any member of the board shall be eligible to serve as an officer regardless of length of service on the board. Finally, the revision requires officer elections to be held in a manner allowing newly appointed board members the opportunity to fully participate in the nomination, consideration, and election of officers.

3. UNC Policy Manual

- a. **Section 100.3.** This section of the UNC Policy Manual provides constituent institutions the ability to request whole or partial waiver from requirements of the UNC Policy Manual. The policy creates a process for constituent institutions to submit waiver requests, and for the president and Board to review and act upon the requests. The policy also recognizes that constituent institution waiver requests may indicate that existing policy manual requirements are ripe for reevaluation.

Department of Defense Classified Research

The committee passed a resolution on Clearance Requirements, which is an annual requirement related to Department of Defense contracts. The Department of Defense requires the UNC System to maintain Facility Security Clearance. Department of Defense regulations permit the exclusion from the personnel clearance requirements of certain members of the Board and other officers, provided that this action is recorded in the corporate minutes. This resolution was included in the Wednesday, October 10, 2018, Consent Agenda.

Duties and Authorities of the Boards of Trustees

In November 2017, the committee began discussion on the duties and authorities of the boards of trustees. By statute, each constituent institution of the University has a board of trustees that serves both as an advisor to the Board on matters pertaining to its institution and as advisor to the chancellor concerning the management and development of the institution. The powers and duties of the boards of trustees are defined and delegated by the Board of Governors, consistent with state law. These delegations are codified in *The Code*, including Appendix I, and throughout the UNC Policy Manual.

As a result, in February 2018, the UNC Board of Governors Committee on University Governance ("Governance Committee") surveyed each constituent institution's board of trustees regarding governing authorities. Every board of trustees responded, focusing their comments and suggestions primarily in the areas of budget and finance, personnel and tenure, educational planning, and governance. Led by the Governance Committee, the Board of Governors and its relevant committees reviewed these responses and adopted changes to *The Code* and the UNC Policy Manual where appropriate by May 2019.

Litigation Requests/Settlements

The committee considered and approved a range of requests to initiate or settle legal matters and heard updates on pending disputes from its counsel.

Report on Free Speech and Free Expression

As required by State law and Section 1300.8 of the UNC Policy Manual, the Committee on University Governance is responsible for preparing an annual report on free speech and free expression within the University that addresses at least the following topics:

- Any barriers to or disruptions of free expression within the University's constituent institutions;
- The administrative handling and discipline relating to disruptions or barriers to free expression;
- Any substantial difficulties, controversies, or successes in meeting the requirements of maintaining institutional neutrality as provided in the law and Section 1300.8 of the UNC Policy Manual; and
- Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

The report reviewed free speech and free expression within the University for the period of time between August 1, 2017, and June 30, 2018, by incorporating both the required topics above and additional topics of interest. Among its findings, the report recognized that over 2017-18 the constituent institutions have been committed to promoting and protecting free speech and free expression, and that disruptions and interference at scheduled speaking or expressive events have been minimal. The report also details steps

that constituent institutions are taking to inform campus constituencies about rights and responsibilities, and provides multiple recommendations for further promoting and protecting free expression at the constituent institutions and across the University.

AGENDA ITEM

A-3. Report on Free Speech and Free Expression Within the University of North CarolinaDavid Powers

Situation: As required by state law and Section 1300.8 of the UNC Policy Manual, the report on free speech and free expression provides information annually on the following subjects:

1. Any barriers to or disruptions of free expression within the UNC System's constituent institutions;
2. The administrative handling and discipline relating to disruptions or barriers to free expression;
3. Any substantial difficulties, controversies, or successes in meeting the requirements of Section 1300.8 of the UNC Policy Manual; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

The UNC System Office staff worked with constituent institutions' Responsible Officers to compile information on the required topics and other issues related to campus speech activity.

Background: G.S. 116-301 requires that the Board designate a standing committee to act as the Committee on Free Expression and report annually to the public, the Board, the Governor, and the General Assembly on issues related to free speech and free expression within the University. The Board has designated the Committee on University Governance to fulfill these responsibilities.

Assessment: This report addresses free speech and free expression at the constituent institutions for the period of time between July 1, 2018, and June 30, 2019. The report finds that constituent institutions are committed to promoting and protecting free speech and free expression, and that disruptions and interference at scheduled speaking or expressive events have been minimal over the past year. The report details steps that constituent institutions are taking to inform campus constituencies about rights and responsibilities, as well as recommendations for improving free expression across the University.

Action: This item requires a vote by the committee.



THE UNIVERSITY OF NORTH CAROLINA SYSTEM

REPORT:

2018-19 Report on Free Speech and Free Expression Within the University

September 19, 2019

**University of North Carolina System
Chapel Hill, North Carolina**

UNC Board of Governors

Committee on University Governance, acting as the designated Board Committee on Free Expression 2018-19 Report on Free Speech and Free Expression Within the University

I. Executive Summary

This report addresses free speech and free expression at the constituent institutions¹ of the University of North Carolina System (“UNC System” or “the University”) for the period of time between July 1, 2018, and June 30, 2019, as required by the [Restore/Preserve Campus Free Speech Act](#) (“the Act”).² In preparing and publishing this report, the UNC Board of Governors Committee on University Governance (“committee”), as the designated Committee on Free Expression,³ was guided primarily on the elements required by the Act.⁴ Additionally, the committee relied on information provided by the constituent institutions, information shared with the president and/or members of the Board of Governors, and on relevant articles and media stories published in the past year.⁵

The committee’s intent in issuing this annual free expression report is to address the specific categories of information identified in the Act, assess institutional compliance with Section 1300.8 of the UNC Policy Manual, survey the expressive events that took place at the UNC System constituent institutions during the relevant time period, review progress since last year’s report, and provide recommendations for the upcoming academic year.

¹ Because of the additional protections afforded to K-12 institutions under the First Amendment, the North Carolina School for Science and Math, the University of North Carolina School of the Arts for its high school students, and any lab schools operated by a constituent institution are not included within the scope of the report. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

² The Restore/Preserve Campus Free Speech Act was enacted in 2017 as [S.L. 2017-196](#) and is codified in the North Carolina General Statutes as Article 36 of Chapter 116.

³ The Act requires the Board of Governors to establish a Committee on Free Expression. N.C. Gen. Stat. § 116-301 (hereinafter G.S.). Section 10.3 of S.L. 2018-5 (“Current Operations Appropriations Act of 2018”) amended G.S. 116-301 to allow the chair of the Board of Governors to designate a standing or special committee of the Board as the Committee on Free Expression.

⁴ G.S. 116-301(c) articulates specific information to be provided in the annual report. See Section IV., herein, for more information.

⁵ See, e.g., Jane Stancill, *UNC faculty pushes importance of free speech by adopting “Chicago principles”* News & Observer (April 13, 2018), <https://www.newsobserver.com/news/local/article208845484.html>; *REPORT: North Carolina is home to some of America’s best colleges for free speech* (September 24, 2018), <https://www.thefire.org/report-north-carolina-is-home-to-some-of-americas-best-colleges-for-free-speech/>; Dillon Davis, *UNCA responds to anti-Semitism concerns over MLK Day speaker Tamika Mallory*, Asheville Citizen Times (January 5, 2019), <https://www.citizen-times.com/story/news/local/2019/01/05/unca-tamika-mallory-speaker-event-anti-semitism-louis-farrakha-asheville-mlk/2489916002/>;

The committee's role in compiling and publishing this report is to describe constituent institutions' efforts in fulfilling the University's commitment to free speech and expression that is detailed in University policy. The Board of Governors' role with regard to free expression on UNC System campuses is primarily confined to setting System-wide policy and providing support to constituent institutions in complying with those statements of policy. Responsibility for policy administration, including ensuring appropriate protection for free speech and expression, resides with each constituent institutions' administrators and board of trustees. Constituent institutions generally fulfill their statutory and policy obligations regarding free expression by adopting, communicating, and enforcing institutional policies, which are tailored to their unique campus environments, and by working collaboratively with members of their campus communities.

With the requirements of the Act in mind, this report provides background on and context for free speech and free expression at UNC System constituent institutions, highlights experiences at our institutions over the past year, identifies some key findings by the committee, and offers recommendations that are aimed at providing more awareness and transparency on issues related to free speech and free expression. Specifically, as will be further detailed in the report, the committee found that:

1. The constituent institutions are committed to promoting and protecting free speech and free expression;
2. Disruptions and interference at scheduled expressive events have been minimal;
3. Constituent institutions have developed and utilized mechanisms for receiving, investigating, and resolving complaints regarding alleged free expression policy violations;
4. The constituent institutions are regularly providing information to campus constituencies about rights and responsibilities associated with expression on campus through policies, training, and other outreach;
5. The Foundation for Individual Rights in Education (FIRE), which rates college and university speech policies, has awarded its highest rating ("green light") to 10 UNC System constituent institutions.⁶ Three constituent institutions have attained green light status since the

⁶ See Foundation for Individual Rights in Education's Speech Code Rating Database, https://www.thefire.org/spotlight/?x=&y=North+Carolina&speech_code=Green&submit=GO. UNC constituent institutions that have been awarded a "green light" rating are Appalachian State University, East Carolina

preparation of the 2017-18 report,⁷ and multiple other institutions are actively revising policies to attain green light status;

6. No constituent institution holds a “red light” rating from FIRE;⁸
7. Some constituent institutions have incurred expected and unexpected financial costs related to security surrounding speakers or expressive events on campus; and
8. Constituent institutions have accepted the recommendations for improvement contained in last year’s report by taking actions, such as:
 - a. Providing both a central way for people to ask questions or raise concerns about speech and expression at the constituent institutions, and an easily accessed institutional complaint process;
 - b. Offering a consistent and user-friendly way to access campus speaker/event information; and
 - c. Providing user-friendly resources for internal groups and/or outside individuals on UNC System’s commitment to free expression and information about holding events on campus.

The committee acknowledges that the UNC System’s constituent institutions have a long record of hosting events without significant disruption or interference, and that many successful events tend not to garner significant publicity or public attention. This past year was no exception.

In addition to work happening on each individual campus, the University’s collection of Responsible Officers, which are designated to ensure compliance with Section 1300.8 of the UNC Policy Manual, have also engaged cooperatively to create and improve resources regarding free expression within the University system. The UNC System Office convened regular Responsible Officer conference calls during the past academic year to analyze emerging free expression issues, discuss questions or concerns, and share policies and practices that campuses have found successful. The UNC System Office also

University, North Carolina Central University, NC State University, UNC-Chapel Hill, UNC Charlotte, UNC Greensboro, UNC Pembroke, UNC Wilmington, and Western Carolina University.

⁷ See North Carolina’s largest university scraps unconstitutional speech policies, earns top free speech rating <https://www.thefire.org/north-carolinas-largest-university-scraps-unconstitutional-speech-policies-earns-top-free-speech-rating/>; WCU, UNC Pembroke bring speech policies in line with the Constitution, earn ‘green light’ rating <https://www.thefire.org/wcu-unc-pembroke-bring-speech-policies-in-line-with-the-constitution-earn-green-light-rating/>

⁸ The other six UNC constituent institutions currently have “yellow light” ratings. See https://www.thefire.org/spotlight/?x=&y=North+Carolina&speech_code=Yellow&submit=GO. NCSSM is not rated by FIRE.

established a webpage dedicated to providing information and resources related to free speech and free expression at UNC.⁹ The webpage allows members of the University community and broader public to access information about laws and policies affecting free expression, find contact information for each constituent institution's Responsible Officer, and access annual editions of the Report on Free Expression.

II. Background

A. University Commitment to Free Speech and Free Expression

As the nation's first public university, the University of North Carolina System affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.¹⁰ Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.¹¹

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, to study and to evaluate, to gain new maturity and understanding.¹² The University 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.¹³ The University has explicitly stated that faculty and students of the University share 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.¹⁴ Academic freedom has indeed been acknowledged by the

⁹ See UNC System Office "Campus Speech and Free Expression" website <https://www.northcarolina.edu/campus-free-speech>.

¹⁰ See, e.g., Sections 601, 604, and 608 of *The Code of the University of North Carolina* ("The Code"). See also Sections 101.3.1, 300.1.1., 300.2.1, 700.4.2, and 1300.8 of the UNC Policy Manual.

¹¹ See Sections 601, 604, and 608 of *The Code*. See also Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual.

¹² See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

¹³ Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

¹⁴ Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

Supreme Court as “of transcendent value to all of us” and “a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”¹⁵

B. Restore/Preserve Campus Free Speech Act

Through statute, the North Carolina General Assembly has affirmed that the primary function of the University of North Carolina System and each of its constituent institutions is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. According to G.S. 116-300(2), “it is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”¹⁶

The General Assembly has also established a number of requirements for the Board of Governors, the University of North Carolina System, and its constituent institutions regarding free expression. In response, the Board of Governors has designated a Committee on Free Expression¹⁷ and adopted a University-wide free expression policy which, among other elements, maintains institutional neutrality.¹⁸ A copy of the policy is included with this report as Attachment A. Additionally, the University meets its statutory obligations by providing training for institutional officers and administrators charged with responsibilities for compliance with the Act and coordinating campus-based training (“Responsible Officers”) and publishing this annual report. A list of the 2018-19 Responsible Officers is included with this report as Attachment B.

¹⁵ *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

¹⁶ G.S. 116-300(2).

¹⁷ Section 10.3 of S.L. 2018-5 (Current Operations Appropriations Act of 2018), which became law on June 12, 2018, amended the requirements for the committee to allow the chair of the Board of Governors to designate a standing or special committee of the Board as the Committee on Free Expression. See <https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S99v6.pdf>. The chair of the Board of Governors has designated the Committee on University Governance as the statutorily mandated Committee on Free Expression.

¹⁸ In this context, “institutional neutrality” specifically means only that “the constituent institution may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.” G.S. 116-300(3).

III. Discussion of Free Speech and Free Expression at the University During the 2018-19 Academic Year and Committee Findings

Pursuant to the Act, the University's policy, and Board's interest in a broad review of free expression across the University, the committee received information from the constituent institutions in 10 areas.

The questions and summaries of the institutional responses are provided below.

| QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS | SUMMARY OF INSTITUTIONAL RESPONSES |
|---|---|
| (1) A description of any barriers to or disruptions of free expression within the constituent institution, including specific incidents and/or particularized complaints. ¹⁹ | <ul style="list-style-type: none">• 12 of 16 institutions indicated no barriers or disruptions of free expression within the academic year.• Four institutions (UNC Asheville, UNC-Chapel Hill, Appalachian, and Western Carolina) provided substantive responses and examples: disruption of a registered student group's materials while group members were distributing information in the campus student union; an alleged assault of a demonstrator; a faculty member complaint regarding Section 1300.8 of the UNC Policy Manual; and an aggressive student at a speaker presentation. |
| (2) A description of the administrative handling and discipline relating to disruption or barriers identified in response to (1). ²⁰ | <ul style="list-style-type: none">• 12 institutions had no administrative action to report.• After unsuccessful attempts to identify the student who disrupted the group's materials, the student group was offered staff support and no further incidents occurred.• 28 criminal citations or trespass orders were issued for incidents stemming from five protests and demonstrations centered on a confederate monument at UNC-Chapel Hill.• The above-referenced faculty complaint was handled informally and withdrawn. |

¹⁹ G.S. 116-301(c)(1) and Section 1300.8, VIII.C.1 of the UNC Policy Manual.

²⁰ G.S. 116-301(c)(2) and Section 1300.8, VIII.C.2 of the UNC Policy Manual.

| QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS | SUMMARY OF INSTITUTIONAL RESPONSES |
|---|---|
| | <ul style="list-style-type: none"> • Disciplinary action was taken against the above-referenced aggressive student and all sanctions were completed in a timely manner. • Some institutions made amendments to policies, training, counselling, and practices regarding imposing sanctions or criminal citations. |
| (3) Identification and description of any difficulties, controversies, and successes in maintaining a posture of administrative and institutional neutrality with regard to political or social issues. ²¹ | <ul style="list-style-type: none"> • Among the 10 constituent institutions that had substantive findings to report: • Successes included expanded training and outreach, additional organized extracurricular lectures, and introduction of comprehensive event planning protocols • Some institutions reported that members of their university community questioned or expressed differing expectations regarding university responses on political and social issues • Multiple institutions reported negative reactions and acute media coverage regarding scheduled expressive events on campus. In these situations, no institutions reported cancelling or prohibiting these events. |
| (4) Any assessments, criticisms, commendations, or recommendation the constituent institution would like the committee to consider in preparing the annual report. ²² | <ul style="list-style-type: none"> • Multiple institutions reported maintaining or improving their speech rating status with FIRE. • Institutions expressed appreciation for the UNC System Office facilitation of Responsible Officer meetings and training. It was suggested that the UNC System Office develop model training materials. |

²¹ G.S. 116-301(c)(3) and Section 1300.8, III and VIII.C.3 of the UNC Policy Manual.

²² G.S. 116-301(c)(4) and Section 1300.8, VIII.C.4 of the UNC Policy Manual.

| QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS | SUMMARY OF INSTITUTIONAL RESPONSES |
|--|---|
| | <ul style="list-style-type: none"> • Institutions that faced criticism for scheduled events on campus reported that these events were not cancelled or otherwise hindered. |
| (5) Confirmation of whether the institution fulfilled the University policy requirements to disseminate information about institutional policies during the 2018-19 academic year. | <ul style="list-style-type: none"> • All 16 institutions indicated that they had disseminated information as required by policy. |
| (6) Identification of representative institutional policies that reinforce commitment to free speech and free expression (e.g., academic freedom, tenure regulations, facilities use, etc.). | <ul style="list-style-type: none"> • In addition to constituent institution policies specifically addressing free speech on campus, the most commonly identified policies relate to use of facilities, student conduct, faculty conduct, and tenure and employment. Institutional policies reinforcing the University's commitment to free speech also relate to harassment and non-discrimination, campus events, solicitation, and advertising. • Several institutions reported amending or adopting policies, including facilities use policies, student codes of conduct, and student organization policies. • One institution reported initiating a review of all institutional policies. • North Carolina leads the nation in the number of public higher education institutions with free speech and free expression policies receiving the Foundation for Individual Rights in Education's highest rating.²³ |

²³ See <https://www.carolinajournal.com/news-article/n-c-a-national-leader-in-protecting-free-speech-on-campus-report-says/>.

| QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS | SUMMARY OF INSTITUTIONAL RESPONSES |
|--|---|
| (7) Examples of speakers or other events that have been held at the institution during the 2018-19 academic year. | <ul style="list-style-type: none"> • Institutions provided representative samplings of events and all institutions reported multiple speakers or free expression events during the academic year. A complete listing of the institutions' event submissions is included as Attachment C to this report. • Several institutions reported instances of speakers engaging in free expression on campus without invitation or registration. |
| (8) Identification of communications, trainings, or other educational outreach regarding free speech and free expression that have been provided during the 2018-19 academic year. | <ul style="list-style-type: none"> • All 16 institutions identified types of communications, trainings, and/or outreach that had taken place. • Many institutions reported that relevant information is readily available in the handbooks and accessible on campus. |
| (9) Information about security and other costs associated with protecting and affirming free expression on campus. | <ul style="list-style-type: none"> • Five institutions did not report additional costs. • Other institutions provided some information (overtime costs for security and law enforcement officers, security fees, potential to cause great financial burden on campus if a major disruption occurred, etc.). • Many institutions utilize on-campus police resources or cooperation with local police departments in protecting and affirming free expression on campus. |

As a result of the information gathered, it appears that (1) the constituent institutions are committed to promoting and protecting free speech and free expression; (2) disruptions and interference at scheduled speaking or expressive events have been minimal over the past year; (3) the constituent institutions are working to provide information to various campus constituencies about rights and responsibilities associated with speech and expression on campus through policies, training, and other outreach; (4) the Foundation for Individual Rights in Education (FIRE), which rates college and university speech policies, has awarded its highest rating ("green light") to 10 UNC System constituent institutions, more than any

other state; and (5) some constituent institutions have incurred additional costs related to security surrounding speakers or expressive events on campus.

IV. Implementation of Past Report Recommendations

Constituent institutions reported a variety of processes and resources that have been introduced or improved to implement recommendations from the committee's 2017-18 free expression annual report. For instance, several institutions reported introducing or improving institutional question and complaint processes, including receiving reports or complaints through an institutional hotline. Most institutions have developed or improved user-friendly mechanisms for accessing campus speaker and event information. These resources include dedicated webpages listing events on campus and providing prospective speakers with information about relevant campus policies, facility reservation information, and contact information for relevant campus units or individuals. Most institutions report improvements or increases in their free expression training for responsible officers, and some institutions have undertaken free speech and free expression training for their boards of trustees.

V. Committee Recommendations for 2019-20

The committee recognizes that there are always opportunities for improving the University's commitment to free speech and free expression. This annual report provides a welcome opportunity to consider options that will demonstrate our System-wide leadership and action in support of free speech and free expression. The committee therefore offers these recommendations for consideration for implementation by the UNC System Office, aimed at providing more awareness, consistency, and transparency on issues related to free speech and free expression starting with the upcoming academic year:

1. Provide training to constituent institution administrators who have transitioned into the Responsible Officer title.
2. Provide training to Responsible Officers regarding topics of institutional neutrality and political speech on campus.
3. Promote and refine constituent institution processes for receiving and resolving complaints related to speech or expression (which may be part of an existing complaint or grievance process).
4. Continue to encourage constituent institutions to further develop accessible resources to publicize information on scheduled speakers and events on campus.

5. Continue to encourage each constituent institution to develop standard resources for potential speakers describing in a user-friendly way how to access or reserve campus spaces, applicable time, place, and manner restrictions, any information about costs that may be assessed.
6. Continue to encourage constituent institutions to regularly review and, as necessary, revise policies impacting free expression to improve clarity and ensure protection of rights to free expression.
7. Develop free speech and free expression training materials that may be shared among the constituent institutions.
8. Expand Boards of Trustees training on the Act and free speech/free expression as part of the board member orientation process or in other ways that would be helpful.

Taken together, these recommendations are designed to provide more visibility and understanding about the ongoing good work and commitment to protecting and promoting free speech and free expression at our constituent institutions; to assure that there are common definitions of certain issues and clear avenues for addressing questions, issues, or concerns; and to build skills and expertise of campus administrators and other constituencies in this important area. The committee looks forward to periodic briefings on the progress of implementing these recommendations.

V. Conclusion

The committee unanimously supports the UNC System Office's and the constituent institutions' work and efforts in promoting and protecting free speech and free expression, increasing awareness and understanding of the broad protections for speech and expressive activities on campus, and taking action, when needed, to prevent substantial disruption or interference in scheduled events. Our constituent institutions offer a range of speakers, topics, and outreach, and we recognize the efforts of our faculty, administrators, and students to invite different, and even unpopular, views and opinions on important issues. We further recognize their efforts to allow (or participate in) protests without undue disruption to or interference with scheduled events, consistent with the constitutional protections of free speech and expression.

We encourage each institution to continue offering a broad range of perspectives in various speech and expressive activities, and we strongly encourage members of the Board of Governors and Boards of Trustees to attend these events. We affirm that the right to speak and the right to protest are values we

share and cultivate across the UNC System, consistent with federal and state law. Among the important responsibilities we have in public higher education are clearly explaining the free expression rights and responsibilities held by students, faculty, staff, and University visitors, and upholding the rights of individuals and groups on our University campuses. We are grateful for the work being done, and acknowledge the UNC System's role in serving as an exemplar in this area for other higher education institutions and systems. With the recommendations we have provided, we look forward to an even more successful year ahead.

Accepted by the Board of Governors Committee on University Governance, the designated Board Committee on Free Expression on September ___, 2019.

Policy on Free Speech and Free Expression Within the University of North Carolina System**I. Purpose**

Consistent with Article 36 of Chapter 116 of the North Carolina General Statutes, the Board of Governors adopts this policy to support and assist the constituent institutions of the University of North Carolina System¹ in their continuing efforts to embrace the free speech and free expression rights of the members of their campus communities, and balance those rights with protections against unlawful activity. This policy supplements other University policies, regulations, and guidelines related to free speech and free expression.²

II. Statement of Commitment

As the nation's first public university, the University of North Carolina affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, to study and to evaluate, to gain new maturity and understanding.³ The University 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.⁴ The University has explicitly stated that faculty and students of the University share 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.⁵ Academic freedom has indeed been acknowledged by the Supreme Court as "of transcendent value to all of us" and "a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."⁶ Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.⁷

The General Assembly has recognized the University's commitment to upholding free speech and free expression, and has reinforced the importance of these rights as well.⁸ Through G.S. 116-300, the General Assembly has affirmed that the primary function of the University of North Carolina and each of its constituent institutions is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.

III. University's Role in Public Policy Controversies

The University's role in supporting and encouraging freedom of inquiry requires assuring opportunities for the expression of differing views regarding many issues in multiple areas of study, research, and debate, including current political and social issues. The constituent institutions serve an essential role in encouraging and broadly protecting freedom of thought and expression. In support of the essential role universities hold, the constituent institutions may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

IV. Free Expression at UNC System Constituent Institutions, Including Access to Campus

Students, staff, and faculty have the freedom to discuss any problem that presents itself, as the First Amendment permits and within the limits of viewpoint- and content-neutral restrictions on time, place, and manner of expression that are necessary to achieve a significant institutional interest. The constituent institutions must assure that any such restrictions are clear, published, and provide ample alternative means of expression.

Students, staff, and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the constituent institution, subject to the requirements of this policy. A "material and substantial disruption" includes, but is not limited to, any or all of the following:

- A. Any action that qualifies as disorderly conduct under G.S. 14-288.4;
- B. Any action that qualifies as a disruption under G.S. 143-318.17;
- C. Any action in violation of a chancellor's designation of a curfew period pursuant to G.S. 116-212;
- D. Any action that results in the individual receiving a trespass notice from law enforcement.

Access to campus for purposes of free speech and expression shall be consistent with First Amendment jurisprudence regarding traditional public forums, designated public forums, and nonpublic forums. Consistent with First Amendment jurisprudence, including any reasonable time, place, and manner restrictions adopted by a constituent institution, campuses of the constituent institutions are open to any speaker whom students, student groups, or members of the faculty have invited.

Even so, all real property on the campus of any constituent institution or the UNC System Office, including without limitation all campus grounds, buildings, facilities, stadiums, or other improvements, that is owned, leased, used, or otherwise controlled by the University or one of its constituent institutions ("University Property"), is dedicated for the specific purpose of furthering the educational, research, and/or service missions of the institution. Consistent with the First Amendment, many areas of University Property are not open for general public use. University Property is routinely utilized for institutional activities and events which can present safety and security issues for the institution. Therefore, all persons on University Property must abide by all applicable laws and regulations as well as policies of the constituent institution and the Board in order to further the missions of the institution and for the protection of the students, faculty members, staff employees and guests of the institution. Thus, a

constituent institution may deny or condition entrance onto or into University Property or remove from the same, any person whose presence substantially interferes with or materially and substantially disrupts the institution's missions, including interfering with or disrupting the classroom environment, laboratory or research environments, or patient care environments, or any person who violates or refuses to comply with any Board or institutional policy or applicable law or regulation. Under no circumstances shall University Property be utilized to carry out unlawful activity.

V. Speech and Expression Not Protected by Policy

Except as further limited by this policy, constituent institutions shall be allowed to restrict speech and expression for activity not protected by the First Amendment under State or federal law, including but not limited to, all of the following:

- A. Expression that a court has deemed unprotected defamation.
- B. Unlawful harassment.
- C. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- D. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- E. An action that materially and substantially disrupts the functioning of the UNC System Office, a constituent institution, or any other unit or entity of the University, or that substantially interferes with the protected free expression rights of others.
- F. Reasonable time, place, and manner restrictions on expressive activities, consistent with G.S. 116-300(4).
- G. Speech that interferes with the treatment of patients.

VI. Dissemination of Information About Institutional Policies

A. Information for Students. All constituent institutions of the University of North Carolina System shall include in any new student orientation programs a section describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided also should include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.⁹

The constituent institutions are required to periodically provide this same information to all students, including returning undergraduate students, transfer students, and graduate and professional students.

B. Information for Faculty and Staff. All constituent institutions of the University of North Carolina System are required to periodically provide to faculty and staff information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

C. Information for Outside Parties. All constituent institutions of the University of North Carolina System are encouraged to make available to outside parties information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

VII. Consequences for Violation of Policy

The right to dissent is the complement of the right to participate in expressive activity, but these rights need not occupy the same forum at the same time. The constituent institutions are encouraged to work with students, faculty members, and staff employees to develop alternative approaches so as to minimize the possibility of disruptions and support the right to dissent.

A. Disciplinary Sanctions. The UNC System Office and each constituent institution shall implement and enforce a range of disciplinary sanctions, up to and including dismissal or expulsion, for anyone under the jurisdiction of the UNC System Office or the constituent institution who materially and substantially disrupts the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interferes with the protected free expression rights of others.¹⁰

A “material and substantial disruption” or “substantial interference” is any action that qualifies under section IV of this policy. Such actions include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (1) has been scheduled pursuant to this policy or other relevant institutional policy, and (2) is located in a nonpublic forum. In determining whether an action is a “material and substantial disruption” or “substantial interference,” the UNC System Office or the constituent institution should consider the degree to which the disruptive activity impedes access to or from any scheduled institution events or the degree to which the activity impedes an audience’s ability to see and hear the expressive activity.

For example, when an expressive activity event is closed to the public, dissent by non-attendees should be limited to activity outside the event that does not impede access or departure from the meeting or substantially interfere with communication inside. When the event is open to the public, whether the dissenters’ actions constitute a substantial disruption or interference will depend upon whether the dissenter is inside or outside the event, and on whether the dissenter is acting before or after the event or during the event. However, it is a substantial disruption or interference for such dissent to interfere substantially with the free flow of traffic into or out of the event or to interfere substantially with the expressive activity.

Anyone who substantially interferes with acceptable forms of dissent is also considered in violation of this policy in the same way as a dissenter who violates the rights of the speaker or the audience.

1. Any University student, faculty member, or staff employee who is found to have materially and substantially disrupted the functioning of the UNC System Office, a constituent institution, or any other unit or entity of the University, or substantially interfered with the protected free expression rights of others shall be subject to a full range of disciplinary sanctions according to the appropriate disciplinary procedures for misconduct, including suspension, or, as appropriate, expulsion or dismissal. Any second finding of a material and substantial disruption or substantial interference shall presumptively result in at least a suspension as provided by the appropriate disciplinary procedures; however, the institution may impose a different sanction if warranted. Any third finding of a material and substantial disruption or substantial interference shall presumptively result in an expulsion of the student or dismissal from employment of the faculty member or staff employee; however, the institution may impose a different sanction if warranted.

2. Any guest or other individual on the campus who is alleged to have substantially disrupted the functioning of the UNC System Office or the constituent institution or substantially interfered with the protected free expression rights of others may be temporarily or permanently barred from all or part of the campus along with facing any other criminal charges, as determined by appropriate law enforcement authorities.

3. Any individual who disrupts a meeting of a public body, including University boards, may be temporarily or permanently barred from all or part of the campus or from future meetings of that public body, and/or may face criminal charges. If such individual is a student or faculty member or staff employee of the University, he or she shall also be subject to discipline according to the appropriate disciplinary procedures for misconduct by his or her constituent institution even if the disruption occurs at a meeting of a public body of a constituent institutions other than the institution which the individual is affiliated.¹¹

B. Procedural Safeguards for Students Involved in Expressive Speech or Conduct Disciplinary Cases.¹² In all student disciplinary cases where disciplinary action is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, students are entitled to a disciplinary hearing under published procedures and Section 700.4.1 of the UNC Policy Manual, including, at a minimum:

1. The right to receive advance written notice of the charges;
2. The right to review the evidence in support of the charges;
3. The right to confront witnesses against them;
4. The right to present a defense;

5. The right to call witnesses;
6. A decision by an impartial arbiter or panel;
7. The right of appeal; and
8. The right to active assistance of counsel, consistent with G.S. 116-40.11.

C. Procedural Safeguards for Faculty Members Involved in Expressive Speech or Conduct Disciplinary Cases. In all faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, faculty members are entitled to the procedural protections provided by Sections 603, 604, and 609 of *The Code*.

D. Procedural Safeguards for EHRA Non-Faculty Employees Involved in Expressive Speech or Conduct Disciplinary Cases.¹³ In all EHRA non-faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, EHRA non-faculty employees are entitled to the procedural protections provided by Sections 300.1.1 and 300.2.1 of the UNC Policy Manual and any additional protections established by the UNC System Office or the constituent institution's relevant disciplinary and grievance policies.

E. Procedural Safeguards for SHRA Employees Involved in Expressive Speech or Conduct Disciplinary Cases. In all SHRA employee disciplinary cases where a demotion, suspension or dismissal is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, SHRA employees are entitled to the procedural protections provided by the University SHRA Employee Grievance Policy and any state or institutional disciplinary policies.

VIII. Designation and Duties of Responsible Officer and/or Office or Department

A. Designation. Each constituent institution must identify the officer(s), office, or department with responsibilities for ensuring compliance with this policy and Article 36 of Chapter 116 of the North Carolina General Statutes ("Responsible Officer" or "Responsible Officers"), and for answering any related questions or concerns from students, faculty members, staff employees, or others. The president or a chancellor of a constituent institution may choose to designate more than one Responsible Officer or to designate a Responsible Officer with Deputy Responsible Officers in other offices or departments as may best assist the constituent institution.

B. Training. Any officer(s) with these responsibilities will receive training on ensuring compliance. Such training will be developed and provided by the UNC School of Government.

C. Duties. Any officer(s) with these responsibilities shall be the primary point of contact for any student, faculty member, staff employee, or other individual's questions or concerns about

compliance with the law or policy or to assist with interpretation of the law or policy. The Responsible Officer(s) shall also coordinate any additional campus-based training or educational opportunities for students, faculty members, staff employees, or others on issues related to free speech and free expression.

In addition, the Responsible Officer(s) and/or appropriate office or department also may be designated by the chancellor to be the primary point of contact for any institutional information requested by the UNC Board of Governors Committee on Free Expression (Committee on University Governance) to meet its annual reporting requirements, including information related to:

1. Any barriers to or disruptions of free expression within the constituent institution;
2. The administrative handling and discipline relating to these disruptions or barriers, consistent with the federal and state confidentiality protections for personnel information and student education records;¹⁴
3. Any substantial difficulties, controversies, or successes in meeting the requirements of this policy, as described in section III, above; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

Each chancellor or chancellor's designee shall notify the senior vice president and general counsel of the Responsible Officer(s) and/or appropriate office or department and provide prompt notification of any changes in this designation.

IX. Other Matters

- A. **Effective Date.** The requirements of this policy shall be effective on the date of adoption by the Board of Governors.
- B. **Relation to State Laws.** The foregoing policies as adopted by the Board of Governors are meant to supplement, and do not purport to supplant or modify, those statutory enactments which may govern the activities of public officials.
- C. **Regulations and Guidelines.** These policies shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

¹ Because of the additional protections afforded to K-12 institutions under the First Amendment, the policy does not apply to the North Carolina School for Science and Math or to the University of North Carolina School of the Arts for its high school students or to any lab schools operated by a constituent institution. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

² See, e.g., Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

³ See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

⁴ Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

⁵ Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

⁶ *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

⁷ See Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

⁸ Article 36 of Chapter 116 of the North Carolina General Statutes.

⁹ The additional duties of the identified responsible officer, office, or department are set forth in section VIII of this policy.

¹⁰ Any complaint about an outside disruption or interference should be communicated to the relevant UNC System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding or sponsoring officer of the meeting or event, as appropriate. This expectation does not limit or supersede the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review for a person under their jurisdiction.

¹¹ Any complaint about an outside disruption or interference should be communicated to the relevant UNC System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding officer of the meeting, as appropriate. This expectation does not limit or supersede the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review.

¹² See also Sections 700.4.1 and 700.4.1.1[R] of the UNC Policy Manual.

¹³ Discontinuation of an at-will position is not considered disciplinary action under this policy, but may separately be covered by a constituent institution's grievance policy.

¹⁴ See 20 U.S.C. § 1232g, 34 C.F.R. pt. 99, and Article 7 of Chapter 126 of the North Carolina General Statutes.

FREE SPEECH/FREE EXPRESSION RESPONSIBLE OFFICERS

| INSTITUTION | RESPONSIBLE OFFICER(S) | TITLE |
|-------------|--------------------------|--|
| APP STATE | Jacqui Bergman | Interim Vice Provost for Faculty Affairs |
| | Jonathon Hyde | AVC and Dean of Students |
| ECU | Donna Payne | University Counsel and Vice Chancellor for Legal Affairs |
| ECSU | Alyn Goodson | General Counsel |
| | Tiffany Hinton | Director of Community Standards |
| FSU | Wanda Jenkins | General Counsel |
| | Angel Powell | Assistant General Counsel |
| | Regina Rudisill | Director of Student Conduct |
| NC A&T | Melissa Jackson Holloway | General Counsel |
| NCCU | Toya Corbett | Assistant Vice Chancellor and Dean of Students |
| NCSU | Warwick Arden | Executive Vice Chancellor and Provost |
| | Brent McConkey | Assistant General Counsel |
| | Lisa Zapata | Senior Associate Vice Chancellor |
| UNCA | Dr. Bill Haggard | Vice Chancellor for Student Affairs |
| | Dr. Karin Peterson | Acting Provost and Vice Chancellor for Academic Affairs |
| UNC-CH | Jean Elia | Associate Provost for Strategy and Special Projects |
| | Becci Menghini | Senior Associate Vice Chancellor, Equal Opportunity/Compliance |
| | Jonathan Sauls | Associate Vice Chancellor for Student Affairs |
| | Kim Strom-Gottfried | Director, Ethics Education and Policy Management, and Smith P. Theimann Distinguished Professor, School of Social Work |
| UNCC | Jesh Humphrey | Vice Chancellor for Institutional Integrity and General Counsel |
| | Samantha Sears | Deputy General Counsel |
| UNCG | Alan Boyette | Senior Vice Provost |
| UNCP | R. Travis Bryant | Assoc. VC for Campus Safety and Emergency Operations |
| UNCSA | David Harrison | General Counsel |
| | Ward Caldwell | Vice Provost & Dean of Student Affairs |
| UNCW | John Scherer | General Counsel |
| WCU | Shea Browning | General Counsel |
| WSSU | Cornelius Graves | Director of Government & Community Relations |
| UNC SYSTEM | John Dougherty | Assistant General Counsel |

| Institution | Representative sampling of free expression events, including invited speakers, during the 2018-2019 academic year. |
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| Appalachian State University | Invited speakers included Toussaint Romain and Stewart Harris |
| Western Carolina University | <ul style="list-style-type: none"> •Women with Vision •An Evening with Denice Frohman •Reception for Greg Howard reading and book signing •Rae Senarighi campus residency •E. Patrick Johnson "Put a Little Honey in my Sweet Tea" •Eve Ensler's THE VAGINA MONOLOGUES •National Coming Out Day •True Colors 2018: We are the Change •Bisexual Awareness Week •Gay? Fine by Me •Drunk Sex Problem: Sexual Assault Training & Keynote •National Hazing Prevention Week Speaker •Civility Summit 2019 •Culture Fest 2019 •2019 MLK Celebration •It's a Privilege Workshop •It's C.U.L.T.U.R.E. Series: Women Living in Color •Sister 2 Sister (Spring) •Artful Identity: A Futuristic View on Culture & Gender (SPRING) •Artful Identity: A Futuristic View on Culture & Gender (FALL) •LWCC Coffee Chat •2019 API Heritage Month Speaker: Kimberly Ming •2019 Pleasure Principle Speaker Series •The Hate U Give-Movie viewing •Dancing Through the Cultures •Sister 2 Sister (Fall) •Susan Bro-Peaceful Unity: A Dream That Lives On •What's the Tea Fall 2018 •Coffee Chat Fall 2018 •TEDxEUC at RCAF •Women in Comics Panel Discussion •The Hate U Give •S.P.A.R.K. Series Speakers •NAACP Unity March •Pledge Purple •Chancellor's Student Leadership Academy Spring 2019 SAMPLE OF FREE SPEECH EVENTS AT EAST CAROLINA UNIVERSITY •Campus Witness-30 occurrences •Campus Witness: Howard Humichen-16 occurrences •Get a Clue •SAO Cannonball •Gideon Distribution (Bibles) •National Coming Out Day •Free Hugs •Prayer Vigil for Tree of Life •Veteran's Week Flag Display-16 occurrences •SHOES •Holocaust Memorial Vigil •CCF Overflow •Annual Easter Egg Hunt •Greek Life Vigil •Barefoot on the Mall •Vegan Outreach Info Table •MFT Exit Experience •Campus Ministry-8 occurrences •"Preaching" on campus by various religious organization representatives |
| Elizabeth City State University | <ul style="list-style-type: none"> • October 12, 2018 Gender & Sexual Orientation Forum • Expert Speakers on Sexual Assault, LGBTQ, Prevention & Awareness topics during Consent Week, and Cupcakes & Conversations and Canvas & Conversations as previously mentioned. • December 4, 2018 LBTQ Safe Zone Training Hosted by the Division of Student Affairs • February 11-12, 2019 Surviving R. Kelly Documentary Series Sexual Abuse, Communication & Counseling • April 1, 2019 Vikings & Verses (Open Mic & Poetry Slam) • April 3, 2019 Cupcakes, Conversations 7 Consent Consent Week Conversations • Office of Venue Reservations (Reservation made through this office) March 23, 2019 Senator Erica Smith Speaker for the NEAAAT School Northeast Academy of Aerospace and Advanced Technologies (Charter School housed on the campus of Elizabeth City State University) *Division of Business and Finance (Auxiliary Services) |
| Fayetteville State University | Attorney Ben Crump, Civil Rights Attorney - Chancellor's Distinguished Speaker Series; John Lewis, Civil Rights leader - Get Out to Vote Rally; Amiyah Scott, Actress, Speaker, LGBTQ Advocate - Pride Week speaker. |
| North Carolina A&T State University | <ul style="list-style-type: none"> •Angelique Graves, Motivational speaker •LaWanna Brown, L.P.C. •Jamele Hill, Television personality •T.D. Jakes, Motivational speaker and pastor •Ericka Armstrong Dunbar, Author •Daymond Milam, Accountant/consultant •MD Motaleb, Professor •Gilbert Min, Professor •Rutina Wilson, Actress •Jamilah Lemiux, Columnist •Drennan Paylor, School Counselor •April Herring, Community Education and Outreach Coordinator •Billy Weeks, Director of Operations •Leoton Harris, Vice-President for Career Development •Alysia Green, General Manager •Langston Clark, Professor |

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| North Carolina Central University | Rock the Lyceum Lecture Series: April Ryan, Michael Vick, Clifford T.I. Harris, Angela Rya, Tarana Burke, Amara La Negra, and Roland Martin. |
| North Carolina State University | <ul style="list-style-type: none"> • Poole College of Management Executive Speaker Series – Gary Stokan (Peach Bowl, Inc.); DeLisa Alexander (Red Hat); Matt King (FanDuel Group) • Shelton Leadership Forum – Dr. Dario Gil (AI and IBM Q); Terry Jones (Travelocity and KAYAK); Jack Uldrich (Global futurist and author); Jean Davis (MCNC); Janet Ramey (Cisco); Sepi Saidi (SEPI Engineering & Construction); Pam Townsend (WSP USA) • Emerging Issues Forums – Jack Cecil (Biltmore Farms LLC); David Brooks (New York Times columnist); Lieutenant Governor Dan Forest; Tracy Greene-Washington (Kate B. Reynolds Foundation & CoThinkk); Karl Stauber (Danville Regional Foundation); Leah Brown (Community-Centric Opioid Research and Data Services) • Homecoming Speaker – Jess Ekstrom (Headbands of Hope) • Yesenia Polanco – Immigration lawyer • Town Hall on mental health • Town Hall on abledness • Remembering Kristallnacht – Q&A with Holocaust survivor, Dr. Peter Stein • Respect the Pack welcome event • Fidelity Investments Leadership in Technology Speakers Series – Erik Troan (Pendo); Larry Weber (Amazon); Jamie Thomas (IBM); Lance Berberian (LabCorp); Devin Shackle (Advance Auto Parts); Steve Grobman (McAfee) |
| UNC Asheville | Supported and protected those who came to campus for the purpose of a variety of free expressions including traveling preachers, those who wish to pass out Bibles or other print material, and student protests on the campus quad. There were no incidents as a result of any of these spontaneous or planned events. |
| UNC Charlotte | <p>Ryan Crocker - International Speaker Series (September 2018) U.S. ambassador to Afghanistan, Iraq, Pakistan, Syria, Kuwait, and Lebanon</p> <p>Kirsti Kauppi - International Speaker Series (October 2018) Ambassador of Finland to the United States</p> <p>Dr. Michio Kaku - Chancellor's Speaker Series (October 2018) Theoretical physicist, bestselling author, acclaimed public speaker, renowned futurist and popularizer of science</p> <p>Manual Zapata - CEO Speaker Series (October 2018) President of Zapata, Inc.</p> <p>Daniel Mulhall - International Speaker Series (January 2019) Ambassador of Ireland to the United States</p> <p>James A. Walsh - International Speaker Series (February 2019) Principal Deputy Assistant Secretary of State</p> <p>Sex Week at UNC Charlotte (February 2019) Informational sessions pertaining to sexual education and health sponsored by student organization (Sex Week UNCC)</p> <p>Ruth G. Shaw - Barnhardt Seminar on Ethics and the World of Business (February 2019) Leader in higher education, business, the corporate boardroom, and in the community; served as second president of Central Piedmont Community College; served as President and CEO of Duke Power</p> <p>H.E. Audrey Marks - International Women's Day speaker (March 2019) Ambassador of Jamaica to the United States</p> <p>Scott Price - CEO Speaker Series (April 2019) Chief Strategy and Transformation Officer of UPS</p> <p>Tayari Jones - TIAA Lecture Series (April 2019) Author of four novels, including An American Marriage, which was named a 2018 Oprah's Book Club Selection</p> <p>Denial: The Final Stage of Genocide, Genocide Awareness conference (April 2019)</p> |

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| UNC Greensboro | <p>Student Organizations: 1. Ratio Christi invited Adam Tucker, Southern Evangelical Seminary to campus to discuss analyzing the common rhetoric used for promoting homosexual behavior and highlighting the flaws in this reasoning, titled “What is love? Responding to Popular arguments for homosexual behavior and same sex ‘marriage’.”</p> <p>2. Students for Greensboro Pregnancy Care Center invited two speakers (Dr. Neil C. Stewart, Cameron Hodge) and a UNCG student to serve on a panel to discuss biblical sexuality.</p> <p>UNCG School of Education: 1. Dr. Sandra Crespo, Professor of Mathematics Education from Michigan State University. "Against All Odds: Teaching Collaborative Learning in the Elementary Mathematics Classroom."</p> <p>2. Laura Rendón, Professor Emerita at the University of Texas at San Antonio. "Educating for Wholeness, Social Justice and Liberation."</p> <p>3. Dr. Barry Houlihan, Archivist at the Hardiman Library, National University of Ireland, Galway. “Information and Empathy: Curating, Connecting, and the Protest of Social Memory”</p> <p>Bryan School of Business: Speakers invited to the Bryan School during 2018-19 academic year included: Marc L. Witorsch, Executive Search Consultant Vice President BB&T, Recruitment and Talent Acquisition; Karen Royster, Senior Director Information Technology Global Brands; Barry Utesch, President Total Computer Solutions; Karen McKeithen Schaede, Attorney Connors Morgan, PLLC; Tim Ward, Executive Vice President Marsh & McLennan Insurance; Thomas Nelson, Executive Vice President-Credit Administration IBERIABANK; Brian Dumbill, VP Finance for the Americas Volvo Financial Services; Roian Atwood , Director of Sustainability VF Jeanswear, Workwear, CASA; Charlie Schwarze, Director Repreve Recycled Business Unifi Manufacturing, Inc.</p> |
| UNC Pembroke | <p>•September 11, 2018: Social Justice Symposium – Dismantling Racism and Discrimination •October 3, 2018: Campus Voter Registration – UNCP Votes student leaders set up in residence halls to register voters •October 16, 2018: Popcorn & Politics, Candidates for the fall 2018 elections set up tables and provided a Q & A session with students and visitors •October 20, 2019: Early Voting Shuttle: Non-partisan student led program taking students to polling location and sharing educational materials regarding candidates •November 6, 2018: Party to the Polls – Students shuttle to the polling locations where connection was made with various student organizations sharing issue-based materials at various booth locations •November 7, 2018: Freedom of Expression in Business Organizations – Dr. Thomas Cushman, Speaker •November 20, 2018: Trans Day of Remembrance Candlelight Vigil •January 16, 2019: The Immigration Debate – Davide J. Bier (Cato Institute) and Jessica M. Vaughan (Center for Immigration Studies), Speakers •February 13, 2019: Where Criminal Justice Reformers Go Wrong: Rafael Mangual, Fellow and Deputy Director, Manhattan Institute, Speaker •April 18, 2019: Controversial Issues Fair – Student organization program that allowed participants to cast a vote to highlight the top 10 topics in politics</p> |
| UNC School of the Arts | <p>Because UNCSA is a conservatory, we do not have invited speakers. However, we have hundreds of performances every year that celebrate free speech and free expression in artistic forms -- from film to drama.</p> |
| UNC Wilmington | <p>https://uncw.edu/studentmedia/freedom-of-expression-week-student-media-uncw.html</p> <p>Our university Student Affairs Division sponsored w/ the support of several student organizations a Freedom of Expression Week in mid November 2018.</p> <p>Besides some student events, we hosted two main speakers, Greg Lukianoff, President of FIRE, and Ken Paulson, dean of the College of Media and Entertainment and president of the Newseum Institute's First Amendment Center. Besides this event, the campus hosted various speakers on multiple topics throughout the year, including hosting an abortion debate b/w Mike Adams (a UNCW faculty member) and an external supporter of pro-choice.</p> |

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| UNC-Chapel Hill | Speakers at Carolina included Linda Sarsour, General H.R. McMaster, Stephen Friedman, Ken Klukowski, and John Grisham, to name a few. |
| Western Carolina University | Rosa Clemente, Ken Langone, and multiple religious and political speakers |
| Winston Salem State University | <p>Hanes Lecture Series: A lecture series sponsored by the WSSU College of Arts, Sciences, Business and Education featured three guest lecturers. They were:</p> <ul style="list-style-type: none"> • "Tuskegee and Obamacare: Fulfilling America's Promise of Healthcare Justice," at 6:30 p.m. on Jan. 15 and presented by Dr. Darryl Scriven, CASBE dean. Scriven argues that the Affordable Care Act (Obamacare) embodies the kind of substantive policy that begins to atone for past healthcare injustice and is necessary to protect vulnerable populations from future abuses. • "The Man-Not," at 6:30 p.m. on Feb. 12 and presented by Dr. Tommy J. Curry, a professor of philosophy at Texas A&M University and a winner of a 2018 American Book Awards for his work "The Man-Not: Race, Class, Genre, and Dilemmas of Black Manhood." • "The Very Idea of the Police," at 6:30 p.m. on March 26 and presented by Dr. Scriven. <p>In addition the Hanes Series which is free and open to the public and has an open forum Q&A period at the end of each lecture, there were numerous events and speakers who visited the campus.</p> |



AGENDA ITEM

A-4. North Carolina Central University Board of Trustees Nomination.....David Powers

- Situation:** North Carolina Central University (NCCU) Board of Trustees has one partial-term vacancy effective August 6, 2019 and ending on June 30, 2023.
- Background:** A Board of Governors appointment to the NCCU Board of Trustees unexpectedly passed away.
- Assessment:** Hellena Huntley Tidwell is recommended for appointment to fill this vacancy.
- Action:** This item requires a vote by the committee and a vote by the full Board of Governors.

Note: The University of North Carolina Board of Governors elected Mr. Tidwell to serve on the Board of Trustees at North Carolina Central University for a two-year period effective May 19, 2017 and ending June 30, 2019. He filled the unexpired term vacated by Mr. Darrell Allison, who was appointed to the UNC Board of Governors. On July 1, 2019, Mr. Tidwell was reappointed to a full term that expires on June 30, 2021. Mr. Tidwell died on August 4, 2019. Recommended to fill this vacancy is Hellena Huntley Tidwell, the wife of the late Mr. Isaiah Tidwell.

Hellena Huntley Tidwell

Hellena Huntley Tidwell, of Atlanta, Georgia, began her distinguished career in non-profit administration and fundraising in Winston-Salem, N.C., initially as director of allocations at the United Way of Forsyth County and later as director of corporate and foundation relations at Winston-Salem State University (WSSU). As a member of WSSU's development team, Ms. Tidwell conducted the university's first capital campaign and secured its first \$1 million gift. She also served as interim president and director of development at the Winston-Salem Arts and Science Council. After relocating to Charlotte, Ms. Tidwell joined the Charlotte Arts and Science Council, where she was senior vice president of resource management. In that role, she managed and implemented a comprehensive re-granting program of public and private resources which, over the course of her tenure, directed more than \$60 million in support and services to more than 50 cultural arts, science, and history organizations. She ended her professional career as an associated consultant with Wolf-Keens & Co., where she assisted in the development of cultural plans for the cities of Philadelphia, Penn., Mobile, Ala., Ft. Worth, Texas, and Durham, N.C.

As a civic volunteer, she has served on the boards of Blue Cross and Blue Shield of North Carolina, Carolina Medicorp (now Novant Health), and Presbyterian Hospital in Charlotte, N.C. She also served as a trustee for the University of North Carolina School of the Arts, the North Carolina Arts Council, Central Piedmont Community College and the Charlotte Mecklenburg Education Foundation. She is a past chair of the board for the Penland School of Crafts, where she led a successful \$12 million capital campaign. Ms. Tidwell broke barriers as the first African-American member of the Junior League of Winston-Salem and of the Reynalda Rotary Club in Winston-Salem. Ms. Tidwell is a graduate of North Carolina Central University.



AGENDA ITEM

A-5. Resolution on Clearance RequirementsDavid Powers

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| Situation: | A resolution is required annually of the Board of Governors by the United States Department of Defense. |
| Background: | The Department of Defense requires the UNC System to maintain a Facility Security Clearance in the performance of classified contracts. In connection with this Facility Clearance, certain senior management officials must obtain an individual security clearance. This resolution is required to exempt members of the Board of Governors and senior officers of the UNC System from the requirement to obtain individual security clearances. |
| Assessment: | This is an annual resolution to be adopted by the Board of Governors. |
| Action: | This item requires a vote by the committee, with a vote by the full Board of Governors through the consent agenda. |



RESOLUTION OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA AUTHORIZING SECURITY CLEARANCE

WHEREAS, current Department of Defense Regulations contain a provision making it mandatory that the Chair of the Board and principal officers meet the personnel clearance requirements established for a contractor's facility clearance; and

WHEREAS, said Department of Defense Regulations permit the exclusion from the personnel clearance requirements of certain members of the Board of Governors and other officers, provided that this action is recorded in the corporate minutes.

NOW THEREFORE BE IT DECLARED that the Chair of the Board, the President of the University of North Carolina, Insider Threat Program Senior Official, and the University's Facility Security Officer and Assistant Facility Security Officer at the present time do possess, or will be processed for, the required security clearance; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as Chair of the Board, the President of the University of North Carolina, Insider Threat Program Senior Official, or as the University's Facility Security Officer or Assistant Facility Security Officer, such individual shall immediately make application for the required security clearance; and

BE IT RESOLVED FURTHER that the following members of the Board of Governors and other officers shall not require, shall not have, and can be effectively excluded from access to **CLASSIFIED** information in the possession of the corporation and do not occupy positions that would enable them to affect adversely corporate policies or practices in the performance of classified contracts for the Department of Defense or the User Agencies of its Industrial Security Program.

| NAME | TITLE |
|-----------------------------|--|
| William Lee Roper | Interim President |
| Christopher Douglas McClure | Interim Chief of Staff |
| Clinton Patrick Carter | Senior Vice President for Finance & Administration and Chief Financial Officer |
| Kimberly Philpot van Noort | Senior Vice President for Academic Affairs and Chief Academic Officer |
| Vacant | Senior Vice President for External Affairs |
| Peter Samuel Brunstetter | Interim Senior Vice President and Chief Operating Officer |
| Thomas Cortland Shanahan | Senior Vice President for Governance, Legal and Risk & General Counsel |

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| Andrew Patrick Kelly | Senior Vice President for Strategy & Policy |
| Matthew Scott Brody | Senior Vice President and Chief Human Resources Officer |
| NAME | TITLE |
| Darrell Timberlake Allison | Member |
| Winston Louis Bissette, Jr. | Member, <i>ex officio</i> |
| Kellie Hunt Blue | Member |
| Robert Preston Bryan III | Member |
| Pearl Burris-Floyd | Member |
| Charles Philip Byers | Member |
| Carolyn Lloyd Coward | Member |
| Namon Leo Daughtry | Member |
| Thomas Harrison Fetzer | Member |
| Thomas Cowart Goolsby | Member |
| James Leroy Holmes, Jr. | Member |
| Martin Luther Holton III | Member |
| Hilton Terry Hutchens | Member |
| William Marshall Kotis III | Member |
| Steven Brent Long | Member |
| John Alexander Mitchell | Member |
| Wendy Floyd Murphy | Member |
| Anna Spangler Nelson | Member |
| Roderick Doyle Parrish | Member |
| David Murphy Powers | Member |
| Randall Clark Ramsey | Member |
| Robert Anthony Rucho | Member |
| Adam James Schmidt | Member, <i>ex officio</i> |
| Orris Temple Sloan III | Member |
| William Leighton Williford | Member |

The foregoing Resolution was duly adopted by the Board at a regular meeting of the Board on the 20th day of September, 2019.

STATE OF NORTH CAROLINA)
)
COUNTY OF ORANGE)

SS:

SECRETARY'S CERTIFICATE
OF AUTHORIZATION

I, Meredith McCullen Steadman, Acting Secretary of the University of North Carolina, *DO HEREBY CERTIFY* that (1) the foregoing is a full, true and correct copy of the approving resolution adopted by the Board of Governors of the University of North Carolina at its regular meeting on September 20, 2019 and appearing in the minutes of such meeting, (2) notice of the meeting of the Board of Governors of the University of North Carolina held on September 20, 2019 was sent to each member of the Board, and (3) a quorum was present at the meeting on September 20, 2019 at which time the foregoing Resolution was adopted.

WITNESS, my hand and the seal of the University of North Carolina this 20th day of September 2019.

[SEAL]

Meredith McCullen Steadman, Acting Secretary
The University of North Carolina

AGENDA ITEM

A-6. Review of the UNC Policy ManualDavid Powers

Situation: The Committee on University Governance will review a number of policies over the 2019-20 academic year. The purpose of the review is to determine if a policy is still needed, and whether the purpose and goal of the policy is still being met. The review is also to determine if changes are required to improve the effectiveness or clarity of the policy and procedures.

Background: The committee will review and update, as needed, the following policies over the 2019-20 academic year.

- September 2019: Section 1300.8 of the UNC Policy Manual (Policy on Free Speech and Free Expression Within the University of North Carolina System)
- November 2019: Section 200.2 of the UNC Policy Manual (Election Procedures)
- December 2019: Section 300.5.1 of the UNC Policy Manual (Political Activities of Employees)
- January 2020: Section 300.5.2 of the UNC Policy Manual (Candidacy for Elective Office; Officeholding (Elective and Appointive Public Office))
- February 2020: Section 200.7 of the UNC Policy Manual (Duties, Responsibilities, and Expectations of Board Members)
- March 2020: Section 200.1 of the UNC Policy Manual (Dual Memberships and Conflicts of Interest)

Assessment: This item includes copies of the above listed policies the committee will review.

Action: This item is for discussion only.

Policy on Free Speech and Free Expression Within the University of North Carolina System**I. Purpose**

Consistent with Article 36 of Chapter 116 of the North Carolina General Statutes, the Board of Governors adopts this policy to support and assist the constituent institutions of the University of North Carolina System¹ in their continuing efforts to embrace the free speech and free expression rights of the members of their campus communities, and balance those rights with protections against unlawful activity. This policy supplements other University policies, regulations, and guidelines related to free speech and free expression.²

II. Statement of Commitment

As the nation's first public university, the University of North Carolina affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, to study and to evaluate, to gain new maturity and understanding.³ The University 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.⁴ The University has explicitly stated that faculty and students of the University share 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.⁵ Academic freedom has indeed been acknowledged by the Supreme Court as "of transcendent value to all of us" and "a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."⁶ Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.⁷

The General Assembly has recognized the University's commitment to upholding free speech and free expression, and has reinforced the importance of these rights as well.⁸ Through G.S. 116-300, the General Assembly has affirmed that the primary function of the University of North Carolina and each of its constituent institutions is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.

III. University's Role in Public Policy Controversies

The University's role in supporting and encouraging freedom of inquiry requires assuring opportunities for the expression of differing views regarding many issues in multiple areas of study, research, and debate, including current political and social issues. The constituent institutions serve an essential role in encouraging and broadly protecting freedom of thought and expression. In support of the essential role universities hold, the constituent institutions may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

IV. Free Expression at UNC System Constituent Institutions, Including Access to Campus

Students, staff, and faculty have the freedom to discuss any problem that presents itself, as the First Amendment permits and within the limits of viewpoint- and content-neutral restrictions on time, place, and manner of expression that are necessary to achieve a significant institutional interest. The constituent institutions must assure that any such restrictions are clear, published, and provide ample alternative means of expression.

Students, staff, and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the constituent institution, subject to the requirements of this policy. A "material and substantial disruption" includes, but is not limited to, any or all of the following:

- A. Any action that qualifies as disorderly conduct under G.S. 14-288.4;
- B. Any action that qualifies as a disruption under G.S. 143-318.17;
- C. Any action in violation of a chancellor's designation of a curfew period pursuant to G.S. 116-212;
- D. Any action that results in the individual receiving a trespass notice from law enforcement.

Access to campus for purposes of free speech and expression shall be consistent with First Amendment jurisprudence regarding traditional public forums, designated public forums, and nonpublic forums. Consistent with First Amendment jurisprudence, including any reasonable time, place, and manner restrictions adopted by a constituent institution, campuses of the constituent institutions are open to any speaker whom students, student groups, or members of the faculty have invited.

Even so, all real property on the campus of any constituent institution or the UNC System Office, including without limitation all campus grounds, buildings, facilities, stadiums, or other improvements, that is owned, leased, used, or otherwise controlled by the University or one of its constituent institutions ("University Property"), is dedicated for the specific purpose of furthering the educational, research, and/or service missions of the institution. Consistent with the First Amendment, many areas of University Property are not open for general public use. University Property is routinely utilized for institutional activities and events which can present safety and security issues for the institution. Therefore, all persons on University Property must abide by all applicable laws and regulations as well as policies of the constituent institution and the Board in order to further the missions of the institution and for the protection of the students, faculty members, staff employees and guests of the institution. Thus, a

constituent institution may deny or condition entrance onto or into University Property or remove from the same, any person whose presence substantially interferes with or materially and substantially disrupts the institution's missions, including interfering with or disrupting the classroom environment, laboratory or research environments, or patient care environments, or any person who violates or refuses to comply with any Board or institutional policy or applicable law or regulation. Under no circumstances shall University Property be utilized to carry out unlawful activity.

V. Speech and Expression Not Protected by Policy

Except as further limited by this policy, constituent institutions shall be allowed to restrict speech and expression for activity not protected by the First Amendment under State or federal law, including but not limited to, all of the following:

- A. Expression that a court has deemed unprotected defamation.
- B. Unlawful harassment.
- C. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- D. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- E. An action that materially and substantially disrupts the functioning of the UNC System Office, a constituent institution, or any other unit or entity of the University, or that substantially interferes with the protected free expression rights of others.
- F. Reasonable time, place, and manner restrictions on expressive activities, consistent with G.S. 116-300(4).
- G. Speech that interferes with the treatment of patients.

VI. Dissemination of Information About Institutional Policies

A. Information for Students. All constituent institutions of the University of North Carolina System shall include in any new student orientation programs a section describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided also should include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.⁹

The constituent institutions are required to periodically provide this same information to all students, including returning undergraduate students, transfer students, and graduate and professional students.

B. Information for Faculty and Staff. All constituent institutions of the University of North Carolina System are required to periodically provide to faculty and staff information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

C. Information for Outside Parties. All constituent institutions of the University of North Carolina System are encouraged to make available to outside parties information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

VII. Consequences for Violation of Policy

The right to dissent is the complement of the right to participate in expressive activity, but these rights need not occupy the same forum at the same time. The constituent institutions are encouraged to work with students, faculty members, and staff employees to develop alternative approaches so as to minimize the possibility of disruptions and support the right to dissent.

A. Disciplinary Sanctions. The UNC System Office and each constituent institution shall implement and enforce a range of disciplinary sanctions, up to and including dismissal or expulsion, for anyone under the jurisdiction of the UNC System Office or the constituent institution who materially and substantially disrupts the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interferes with the protected free expression rights of others.¹⁰

A “material and substantial disruption” or “substantial interference” is any action that qualifies under section IV of this policy. Such actions include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (1) has been scheduled pursuant to this policy or other relevant institutional policy, and (2) is located in a nonpublic forum. In determining whether an action is a “material and substantial disruption” or “substantial interference,” the UNC System Office or the constituent institution should consider the degree to which the disruptive activity impedes access to or from any scheduled institution events or the degree to which the activity impedes an audience’s ability to see and hear the expressive activity.

For example, when an expressive activity event is closed to the public, dissent by non-attendees should be limited to activity outside the event that does not impede access or departure from the meeting or substantially interfere with communication inside. When the event is open to the public, whether the dissenters’ actions constitute a substantial disruption or interference will depend upon whether the dissenter is inside or outside the event, and on whether the dissenter is acting before or after the event or during the event. However, it is a substantial disruption or interference for such dissent to interfere substantially with the free flow of traffic into or out of the event or to interfere substantially with the expressive activity.

Anyone who substantially interferes with acceptable forms of dissent is also considered in violation of this policy in the same way as a dissenter who violates the rights of the speaker or the audience.

1. Any University student, faculty member, or staff employee who is found to have materially and substantially disrupted the functioning of the UNC System Office, a constituent institution, or any other unit or entity of the University, or substantially interfered with the protected free expression rights of others shall be subject to a full range of disciplinary sanctions according to the appropriate disciplinary procedures for misconduct, including suspension, or, as appropriate, expulsion or dismissal. Any second finding of a material and substantial disruption or substantial interference shall presumptively result in at least a suspension as provided by the appropriate disciplinary procedures; however, the institution may impose a different sanction if warranted. Any third finding of a material and substantial disruption or substantial interference shall presumptively result in an expulsion of the student or dismissal from employment of the faculty member or staff employee; however, the institution may impose a different sanction if warranted.

2. Any guest or other individual on the campus who is alleged to have substantially disrupted the functioning of the UNC System Office or the constituent institution or substantially interfered with the protected free expression rights of others may be temporarily or permanently barred from all or part of the campus along with facing any other criminal charges, as determined by appropriate law enforcement authorities.

3. Any individual who disrupts a meeting of a public body, including University boards, may be temporarily or permanently barred from all or part of the campus or from future meetings of that public body, and/or may face criminal charges. If such individual is a student or faculty member or staff employee of the University, he or she shall also be subject to discipline according to the appropriate disciplinary procedures for misconduct by his or her constituent institution even if the disruption occurs at a meeting of a public body of a constituent institutions other than the institution which the individual is affiliated.¹¹

B. Procedural Safeguards for Students Involved in Expressive Speech or Conduct Disciplinary Cases.¹² In all student disciplinary cases where disciplinary action is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, students are entitled to a disciplinary hearing under published procedures and Section 700.4.1 of the UNC Policy Manual, including, at a minimum:

1. The right to receive advance written notice of the charges;
2. The right to review the evidence in support of the charges;
3. The right to confront witnesses against them;
4. The right to present a defense;

5. The right to call witnesses;
6. A decision by an impartial arbiter or panel;
7. The right of appeal; and
8. The right to active assistance of counsel, consistent with G.S. 116-40.11.

C. Procedural Safeguards for Faculty Members Involved in Expressive Speech or Conduct Disciplinary Cases. In all faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, faculty members are entitled to the procedural protections provided by Sections 603, 604, and 609 of *The Code*.

D. Procedural Safeguards for EHRA Non-Faculty Employees Involved in Expressive Speech or Conduct Disciplinary Cases.¹³ In all EHRA non-faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, EHRA non-faculty employees are entitled to the procedural protections provided by Sections 300.1.1 and 300.2.1 of the UNC Policy Manual and any additional protections established by the UNC System Office or the constituent institution's relevant disciplinary and grievance policies.

E. Procedural Safeguards for SHRA Employees Involved in Expressive Speech or Conduct Disciplinary Cases. In all SHRA employee disciplinary cases where a demotion, suspension or dismissal is proposed for materially and substantially disrupting the functioning of the UNC System Office, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, SHRA employees are entitled to the procedural protections provided by the University SHRA Employee Grievance Policy and any state or institutional disciplinary policies.

VIII. Designation and Duties of Responsible Officer and/or Office or Department

A. Designation. Each constituent institution must identify the officer(s), office, or department with responsibilities for ensuring compliance with this policy and Article 36 of Chapter 116 of the North Carolina General Statutes ("Responsible Officer" or "Responsible Officers"), and for answering any related questions or concerns from students, faculty members, staff employees, or others. The president or a chancellor of a constituent institution may choose to designate more than one Responsible Officer or to designate a Responsible Officer with Deputy Responsible Officers in other offices or departments as may best assist the constituent institution.

B. Training. Any officer(s) with these responsibilities will receive training on ensuring compliance. Such training will be developed and provided by the UNC School of Government.

C. Duties. Any officer(s) with these responsibilities shall be the primary point of contact for any student, faculty member, staff employee, or other individual's questions or concerns about

compliance with the law or policy or to assist with interpretation of the law or policy. The Responsible Officer(s) shall also coordinate any additional campus-based training or educational opportunities for students, faculty members, staff employees, or others on issues related to free speech and free expression.

In addition, the Responsible Officer(s) and/or appropriate office or department also may be designated by the chancellor to be the primary point of contact for any institutional information requested by the UNC Board of Governors Committee on Free Expression (Committee on University Governance) to meet its annual reporting requirements, including information related to:

1. Any barriers to or disruptions of free expression within the constituent institution;
2. The administrative handling and discipline relating to these disruptions or barriers, consistent with the federal and state confidentiality protections for personnel information and student education records;¹⁴
3. Any substantial difficulties, controversies, or successes in meeting the requirements of this policy, as described in section III, above; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

Each chancellor or chancellor's designee shall notify the senior vice president and general counsel of the Responsible Officer(s) and/or appropriate office or department and provide prompt notification of any changes in this designation.

IX. Other Matters

- A. **Effective Date.** The requirements of this policy shall be effective on the date of adoption by the Board of Governors.
- B. **Relation to State Laws.** The foregoing policies as adopted by the Board of Governors are meant to supplement, and do not purport to supplant or modify, those statutory enactments which may govern the activities of public officials.
- C. **Regulations and Guidelines.** These policies shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

¹ Because of the additional protections afforded to K-12 institutions under the First Amendment, the policy does not apply to the North Carolina School for Science and Math or to the University of North Carolina School of the Arts for its high school students or to any lab schools operated by a constituent institution. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

² See, e.g., Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

³ See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

⁴ Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

⁵ Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

⁶ *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

⁷ See Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

⁸ Article 36 of Chapter 116 of the North Carolina General Statutes.

⁹ The additional duties of the identified responsible officer, office, or department are set forth in section VIII of this policy.

¹⁰ Any complaint about an outside disruption or interference should be communicated to the relevant UNC System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding or sponsoring officer of the meeting or event, as appropriate. This expectation does not limit or supersede the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review for a person under their jurisdiction.

¹¹ Any complaint about an outside disruption or interference should be communicated to the relevant UNC System Office or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding officer of the meeting, as appropriate. This expectation does not limit or supersede the UNC System Office's or the constituent institution's ability to independently initiate any disciplinary review.

¹² See also Sections 700.4.1 and 700.4.1.1[R] of the UNC Policy Manual.

¹³ Discontinuation of an at-will position is not considered disciplinary action under this policy, but may separately be covered by a constituent institution's grievance policy.

¹⁴ See 20 U.S.C. § 1232g, 34 C.F.R. pt. 99, and Article 7 of Chapter 126 of the North Carolina General Statutes.

Election Procedures

I. Officers. In accordance with Section 201 of *The Code*, a chair, a vice chair, and a secretary (Board offices) shall be elected. Nominations and elections for Board offices shall be conducted pursuant to the schedule set forth in this policy, in the following order: chair, vice chair, and secretary.

II. General Provisions for Board Office Elections

A. Nominations and elections for regular full terms of Board offices shall take place during the Board's last regular meeting before July 1 in each even-numbered year. Alternatively, the Board may schedule a special meeting for the purpose of conducting nominations and election of Board officers before July 1 of an even-numbered year. Nominations and elections for partial terms shall occur only in the event of a vacancy and will be conducted consistent with Section 201 of *The Code*.

B. Only voting members of the Board may make nominations for Board offices, be nominated for Board offices, vote for Board offices, or be elected to Board offices.

C. A voting member may hold only one Board office at a time.

III. Nominations

A. Subject to the requirements of section II., of this policy, any voting member of the Board may be nominated for any office unless prohibited from serving by *The Code*. Self-nominations are permitted.

B. Any voting member of the Board may orally nominate any voting Board member for any office. No "second" to the nomination will be permitted or required. The Board member making the nomination may offer remarks in support of the nomination that do not exceed five minutes. Nominations may be declined by the nominated voting member. Once a Board member is nominated for an office, no additional nominations for the Board member with respect to that office will be received or registered.

C. Nominations shall be made in open session. Every voting member so nominated shall be a candidate for that office, unless the voting member has declined the nomination.

D. Nominees for the offices of chair, vice chair, and secretary may offer remarks in support of their candidacies. Nominees for each office who choose to offer remarks shall be recognized in alphabetical order by last name and may speak for no more than 10 minutes.

IV. Election

A. Written ballots for each office shall be distributed by the Office of the Secretary to each member of the Board who shall cast one vote from the list of candidates for that office. Voting shall be completed for each office separately and in succession, in the order of chair, vice chair, and secretary.

B. After the first and each succeeding ballot, if no candidate receives the requisite majority and when votes are received for three or more candidates, the name of the candidate receiving the smallest number of votes shall be dropped from the list of nominated members and shall cease to be a candidate.

C. All written ballots for each office shall be signed by the member casting the ballot. A committee consisting of no fewer than two chancellors appointed by the chair shall tally the ballots for each office and announce the results to the Board. The ballots shall be collected and retained by the assistant secretary of the Board of Governors for disposition under G.S. 143-318.13(b).

D. If the chair is a candidate for re-election, the vice chair shall preside over the election portion of the meeting. If the chair and the vice chair are both candidates for re-election, the chair shall designate another individual to preside over the election portion of the meeting.

V. Procedures. Except as above modified, the procedure shall be under Section 202 C(4) of *The Code* and *Robert's Rules of Order*.

VI. Other Matters

A. Effective Date. The requirements of this policy shall be effective on July 1, 2018.

B. Relation to Federal and State Laws. The foregoing policy as adopted by the Board of Governors is meant to supplement, and does not purport to supplant or modify, those statutory enactments which may govern or relate to the subject matter of this policy.

Political Activities of Employees

The Board of Governors adopts the following policy concerning political activities by University employees.

I. University employees retain the rights and obligations of citizenship provided in the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States of America. Employees are encouraged to exercise fully and freely their right to participate or refrain from participating in political processes without fear of penalty or reprisal, consistent with the University's commitment to encouraging the full freedom, within the law, of inquiry, discourse, teaching, research, service, and publication. Certain types of activities by University employees related to political processes, however, may be incompatible with the general responsibilities of employment or with the particular responsibilities of University employment.

A. Applicability. This policy applies to all University employees who are exempt from the State Personnel Act (Chapter 126 of the General Statutes) pursuant to G.S. 126-5(c1).¹

B. Definitions. For purposes of this policy:

1. "Campaign" or "campaigning" means all acts done by a candidate and his or her adherents to obtain votes to be cast toward a nomination or in an election.
2. "Candidate" means an individual who seeks nomination or election to any elective public office whether or not the person is elected. Absent any other evidence of candidacy, an individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.
3. "Election" includes a primary, special, runoff, or general election.
4. "Employee" means an individual who is employed by the University of North Carolina and is exempt from the State Personnel Act (Chapter 126 of the General Statutes) pursuant to G.S. 126-5(c1).
5. "Endorse" means a public statement by an individual expressing support or approval of another individual's candidacy for public office.
6. "On duty" means the time period when an employee is: (a) in a pay status other than paid leave, compensatory time off, or excused or authorized absence (including leave without pay); (b) representing the University of North Carolina or any constituent institution or subdivision thereof in an official capacity; or (c) expected to perform services for which he or she receives compensation from the University. Provided, however, an employee who is or may be expected to perform his or her duties on a twenty-four hour per-day basis shall not be considered on duty except during regularly scheduled working hours or at other times when the employee is actually performing the duties of his or her office.
7. "Partisan" when used as an adjective means related to a political party.
8. "Partisan political group" means any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

¹ For employees subject to the State Personnel Act (SPA), political activities are governed by Article 5, Chapter 126 of the North Carolina General Statutes, policies adopted by the Office of State Human Resources (OSHR) and campus policies adopted in accordance therewith.

9. "Partisan political office" means any public office for which any candidate is nominated or elected as representing a political party, but does not include any office or position within a political party or affiliated organization.
10. "Political activity" means actions directed toward the success or failure of a candidate for public office, political party, or partisan political group including, but not limited to, campaigning, political management, and soliciting financial contributions for political purposes.
11. "Political management" means taking an active part in the direction, supervision, or management of a partisan political group or a campaign for public office.
12. "Political party" means a national political party, a state political party, or an affiliated organization.
13. "Political purpose" means an objective of promoting or opposing a political party, candidate for public office, candidate for partisan political office, or partisan political group.
14. "Public office" means any national, state, or local governmental position of public trust and responsibility, whether elective or appointive, which is created, prescribed, or recognized by constitution, statute, or ordinance (other than within the University of North Carolina).
15. "Senior officers" means the president, the chancellors, and the senior academic and administrative officers (SAAO) described in Policy 300.1.1, subpart I.A., who are at the rank of vice president, vice chancellor, provost, dean, and other positions of equivalent rank and responsibility.
16. "Solicit" means to request expressly of another person that he or she contribute something to a candidate, a campaign, a political party, or partisan political group.

II. Political Activities

A. Permissible Activities. An employee may engage in political activity to the extent not expressly prohibited by law or applicable policy.

1. Permissible activities include, but are not limited to:
 - a. Registering, voting, and otherwise participating in elections;
 - b. Becoming a candidate for and holding public office in accordance with University policy;
 - c. Expressing opinions privately and publicly on political subjects;
 - d. Participating in political organizations;
 - e. Participating in political campaigns;
 - f. Engaging in political management; and
 - g. Soliciting, accepting, receiving, and making financial contributions for political purposes to political parties, partisan political groups, and campaign committees of candidates for public office.
2. Nothing in this policy prohibits, or otherwise limits, teaching, inquiry, classroom discussion or discourse concerning political issues, including campaigns, candidates, political groups or issues in campaigns for public office, that are within the subject matter of any academic program, course, curriculum, or study.
3. An employee may participate fully in public affairs in a manner that does not compromise his or her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the University constituent institution or unit in which he or she is employed.
4. The political opinions assumed by employees are personal ones, and employees must ensure that they do not imply that such opinions are endorsed by the University.

B. Prohibited Activities. An employee may not:

1. Participate in political activity while on duty;
2. Use the authority of his or her position, University funds, services, supplies, equipment, information technology resources, vehicles, or other University property, to endorse, campaign for, secure support for or oppose any candidate, political party, partisan political group, referendum, or issue in an election, or affect the results thereof; or
3. Make any promise of preferential treatment (or actually confer such preference) or make any threat of detrimental treatment (or actually impose such detriment) to any person, including with respect to any condition or incident of employment over which the employee has authority, control, or influence, for purposes of inducing support of or opposition to any candidate for public office, political party, or partisan political group.

C. Senior Officers. The University will supply to any candidate for public office information of a substantive nature, whether it is information on agriculture, economics, education or any other topic. It is important that all candidates know they can receive factual information from the University, but it should be made clear that the administration of the University will not be identified with any candidate or any party. Accordingly, in addition to the restrictions set forth in subpart II.B., above, a senior officer may not:

1. Solicit, accept, or receive financial contributions from other persons or organizations on behalf of any candidate for partisan political office or the campaign committee of any candidate for partisan political office; or
2. Endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material.

D. Violations. Violation of the prohibitions contained in subparagraphs B. and C., above, shall be cause for appropriate disciplinary action, including discharge from employment.

III. Other Matters.

A. Effective Date. The requirements of this policy shall be effective upon adoption by the Board of Governors.

B. Policies of Constituent Institutions. The board of trustees of each constituent institution shall adopt policies governing political activities of employees. Policies adopted or substantively amended by a board of trustees regarding political activities of employees shall be effective upon approval by the president.

C. Relation to Other Laws. This policy is designed to supplement, and does not purport in any way to supplant or modify, those statutory enactments and rights which may govern or limit the political activities of employees of the State of North Carolina.

D. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted by the president.

Candidacy for Elective Office; Officeholding (Elective and Appointive Public Office)

The Board of Governors adopts the following policy for University employees concerning candidacy for and holding public office (elective and appointive).

I. This policy applies to all University employees who are exempt from the State Personnel Act (Chapter 126 of the General Statutes) pursuant to G.S. 126-5(c1).¹

A. **Employee Responsibilities.** An employee who intends to become a candidate for election or appointment to any public office, or to hold any public office, is responsible for knowing and complying with the policy set forth herein, in addition to any other applicable policies, regulations, and guidelines including, but not limited to, policies and regulations concerning Political Activities of Employees, Conflict of Interest and Commitment, and External Professional Activities for Pay.

B. **Campus Responsibilities.** 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 public officeholding. Such measures shall include: (1) publication of a notice, of the type established by the president, to be included 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); and (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, or other methods.

C. **Definitions.** The definitions set forth in subpart I.B. of Section 300.5.1 of the UNC Policy Manual are incorporated herein by reference. In addition, for purposes of this policy:

1. "Appointive public office" means a public office filled or obtained by means other than an election.
2. "Compensation which is more than nominal" means with reference to part-time public office (other than membership in the General Assembly) actual annual compensation or expected annual compensation, whichever is greater, in excess of \$10,000, excluding direct reimbursements for expenses incurred by the office holder incident to holding office, whether such expenses are calculated on a per diem basis or on an actual-expense basis.
3. "Conflict of interest" means situations in which financial or other personal considerations, circumstances, or relationships may compromise, may involve the potential for compromising, or may have the appearance of compromising a employee's objectivity in fulfilling their University duties or responsibilities, including research, service, and teaching activities and administrative duties.
4. "Conflict of commitment" relates to an individual's distribution of time and effort between obligations to University employment and participation in other activities outside of University employment. A conflict of commitment occurs when the pursuit of such outside activities involves an inordinate investment of time or is conducted at a time that interferes with the employee's fulfillment of University employment responsibilities.

¹ For employees subject to the State Personnel Act (SPA), activities related to public officeholding are governed by policies adopted by the Office of State Human Resources (OSHR) pursuant to its authority under Chapter 126 of the North Carolina General Statutes.

5. "Elective public office" means a public office filled or obtained through the results of an election.
6. "EPA nonfaculty employee" means an individual who is employed in a position covered by Section 300.2.1 of the UNC Policy Manual.
7. "Full-time employee" means an individual who is employed by the University at least three-quarter (3/4) time, including faculty who are employed on a nine-month per calendar year basis.
8. "Major public office" means (a) any public office requiring full-time service, regardless of the amount of compensation; (b) any public office requiring service on a part-time basis for which the compensation is more than nominal; and (c) membership in the North Carolina General Assembly.
9. "Minor public office" means any public office that is not a major public office.
10. "Part-time employee" means an individual who is employed but who is not a full-time employee.
11. "Public office" means any national, state, or local governmental position of public trust and responsibility, whether elective or appointive, which is created, prescribed, or recognized by constitution, statute, or ordinance (other than within the University of North Carolina).
12. "Senior academic and administrative officer (SAAO)" means an individual who is employed in a Tier I or Tier II position covered by Section 300.1.1 of the UNC Policy Manual.

II. Minor Public Offices. An employee who assumes, or becomes a candidate for election to, a minor public office shall be subject to the requirements of this subpart.

- A. No Presumption of Conflict of Commitment. The candidacy by an employee for election to a minor public office, or the assumption by an employee of a minor public office, whether appointive or elective, is presumed not to create a conflict of commitment with respect to the responsibilities owed by the employee to the University.
- B. Resolution of Potential Conflicts in Particular Cases. If the president (with respect to senior academic and administrative officers (SAAO) and employees of General Administration) or the chancellor (with respect to other employees of the constituent institution, other than senior academic and administrative officers) believes that a material conflict of commitment may exist in a particular case, the president or the chancellor may direct the employee subject to this subpart to submit a petition in accordance with subpart III.B. of this policy, and refer the petition to either the Board of Governors or the appropriate board of trustees for resolution.
- C. Prompt Reporting of Payments Required. An employee who files as a candidate for or intends to assume or accept appointment to a public office subject to this subpart must file promptly with his or her immediate supervisor a written statement setting forth the amount of any payments to which the holder of such office is entitled as officeholder.

III. Major Public Offices. An employee who assumes, or becomes a candidate for election to, any major public office shall be subject to the requirements of this subpart.

A. **Conflict of Commitment Presumed.** An employee who assumes, or announces his or her candidacy for election to, a major public office, is presumed to create a conflict of commitment that interferes with the employee's satisfactory performance of University employment obligations. That presumption is irrebuttable with respect to any full-time employee who assumes any full-time public office. Such conflicts shall be addressed as follows:

1. **Candidacy for major public office.** An employee shall resolve conflicts about candidacy in advance of becoming a candidate by:

a. **Resigning from University employment; or**

b. **Submitting a petition in accordance with subpart III.B., in which the employee (1) requests and is granted an appropriate unpaid leave of absence from University employment; or (2) rebuts the presumption of conflict by demonstrating to the satisfaction of the University that there in fact will be no conflict between campaign activity and University employment. If the employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, such candidacy in fact will not create a conflict of commitment which interferes with responsibilities owed the University, the resignation requirement shall not be applicable. If consistent with the presumption the resignation requirement is found to be applicable, the employee may be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, to be coextensive with the period of candidacy.**

2. **Service in full-time public office by full-time employees.**

a. **Full-time public office.** Upon assuming any public office requiring full-time service, a full-time employee will be deemed to have resigned his or her University employment, unless prior to assuming office the full-time employee submits a petition in accordance with subpart III.B., through which the employee requests and is granted a full leave of absence, without pay. Such a leave of absence may be granted at the option of the University if it is deemed practicable by the University and may not exceed two years in any case.

b. **Part-time public office for which compensation is more than nominal; membership in the General Assembly.** Upon assuming part-time public office for which the compensation is more than nominal, or upon assuming office as a member of the General Assembly, a full-time employee must resign from University employment, unless prior to assuming office such employee submits a petition in accordance with subpart III.B., through which the employee: (1) requests and is granted an appropriate leave of absence; or (2) rebuts the presumption of conflict by demonstrating that there in fact will be no conflict between officeholding and University employment. If the employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, holding such public office in fact will not create a conflict of commitment which interferes with responsibilities owed the University, the resignation requirement shall not be applicable. If consistent with the presumption the resignation requirement is found to be applicable, the employee may, if deemed practicable by the University, be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, applicable to the period for public service. If a full leave of absence is deemed necessary and is granted, it shall not exceed two years in any case. If a partial leave of absence is deemed necessary and is granted, the period of leave shall be at the discretion of the University.

3. **Service in public office by part-time employees.**

a. Full-time public office; membership in the General Assembly. Upon assuming full-time public office, or upon assuming office as a member of the General Assembly, a part-time employee must resign from University employment, unless prior to assuming office such employee submits a petition in accordance with subpart III.B., through which the employee: (1) requests and is granted an appropriate leave of absence; or (2) rebuts the presumption of conflict by demonstrating that there in fact will be no conflict between officeholding and University employment. If the employee by petition is able to establish to the satisfaction of the University that, contrary to the presumption, holding such public office in fact will not create a conflict of commitment which interferes with responsibilities owed the University, the resignation requirement shall not be applicable. If consistent with the presumption the resignation requirement is found to be applicable, the employee may, if deemed practicable by the University, be granted a full or partial leave of absence from University employment, with corresponding suspension of or reduction in pay, applicable to the period for public service. If a full leave of absence is deemed necessary and is granted, it shall not exceed two years in any case. If a partial leave of absence is deemed necessary and is granted, the period of leave shall be at the discretion of the University.

b. Part-time public office for which compensation is more than nominal. A part-time employee who assumes a part-time public office for which compensation is more than nominal shall be subject to the requirements of subpart II of this policy.

B. Petition. Prior to assuming a major public office, or announcing his or her candidacy for election to a major public office, an employee shall submit a petition using the form/format prescribed by the president.

1. Submission and resolution of petitions.

a. Petitions by senior academic and administrative officers, and by all other employees if the petition concerns candidacy for or service in the General Assembly, shall be addressed to and resolved by the Board of Governors,² shall be transmitted through the president, and shall be accompanied by a recommendation from the appropriate chancellor in any case pertaining to an institutional employee. If the petition pertains to a chancellor, it shall be accompanied by a recommendation of the board of trustees.

b. Petitions by University employees other than senior academic and administrative officers, with the exception of petitions concerning candidacy for the General Assembly, shall be addressed to and resolved by the appropriate board of trustees and shall be transmitted through the chancellor. With respect to each such decision rendered by a board of trustees, the chancellor shall transmit to the Committee on University Governance of the Board of Governors a report, containing such information as the committee may specify, concerning the action of the board of trustees.

2. Timely presentation of petitions. An employee shall file a petition well in advance of the period of employment that would be affected by assuming major public office or announcing candidacy for major public office. The petition should be filed in accordance with the timeframes set forth in regulations established by the president, except where the president (for petitions under III.B.1.a.) or the chancellor (for petitions under III.B.1.b.)

² Pursuant to N.C. Gen. Stat. § 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 of Authority to the President of the University*, adopted November 11, 2006.

determines that filing the petition in accordance with the deadline is impracticable and that the University's interests will not be materially impaired by a later filing.

a. **Candidacy for public office.** With respect to an employee who intends to announce as a candidate in a race that requires a May primary contest, any petition submitted to rebut the presumption of conflict of commitment should ordinarily 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 should ordinarily be filed with the appropriate governing board by no later than July 1 of the election year.

b. **Appointment to public office.** The advance notice provided to the prospective appointee is frequently not sufficient to permit compliance with the petition schedule established by the Board. Accordingly, subject to all other board requirements controlling public officeholding, if circumstances do not permit a prospective appointee to file a required petition on the schedule otherwise prescribed for prospective office holders, the petition may be submitted to and resolved by the officer or agency responsible for the class of employment of which the petitioner is a member, viz., the president for senior academic and administrative officers, and the chancellor for faculty and EPA nonfaculty personnel. In such cases, however, it remains University policy that the prospective appointee will lose University employment if he or she assumes the appointive office before receiving an affirmative response from the alternative decision-maker. Thus, even under this expedited procedure, in some cases the prospective appointee may have to defer acceptance of the appointment beyond the normal starting date for the public office. When this alternative procedure is used, the chancellor in each instance shall report the action taken to the Committee on University Governance through the president.

3. **Showings necessary to rebut presumption of conflict.** An employee who wishes to campaign for or assume a major public office and simultaneously maintain his or her full-time University employment must demonstrate that, contrary to the presumption established by the policy, no conflict of commitment in fact will occur.

For purposes of this policy it is assumed 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. In conventional employment contexts, entailing a standard eight-hour workday, an employee will be expected to limit campaign and office-holding activities to evenings and weekends in order to satisfy employment obligations. Faculty members, however, typically follow schedules that vary from day to day and, indeed, from week to week in accruing their forty or more hours per week of employment activity. 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 programs. 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.

Unless there is clear demonstration to the contrary, it will be assumed 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 may seek to demonstrate that his or her 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 employment while campaigning or serving in office, not that he or she will be permitted to reduce in any way his or her full-time University service in order to engage in candidacy for or service in public office. A satisfactory showing therefore must quantify the distribution of time between employment time and personal time devoted to candidacy and officeholding, as required in the petition form prescribed by the president.

C. **Conditions Imposed Incident to Permitting Maintenance of Full-Time Employment.** If the governing board determines that an employee has successfully rebutted the presumption of conflict, the permission to continue full-time University employment during service in or candidacy for public office 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 or officeholding, 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 or Service in Public Office.**

1. In general. If a University employee concludes or a governing board determines that engaging in a contemplated political campaign or serving in public office 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 or her 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. The president will provide 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 or she 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.

2. Faculty requests for partial semester leave. Faculty employment is distinguishable from other types of University employment. Other types of University employment are not necessarily keyed to the semester-based provision of educational services to students. Thus, the absence of such employees for intervals of several weeks or several months during a semester might not have the same potentially negative effects on students as would the comparable absence of faculty members. (For these other employees, however, a similar consideration would apply to employment duties which fall routinely at particular times of the calendar year.)

A faculty member who is assigned a course to teach for a semester will likely 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.

A faculty member who anticipates running for an elective office or serving in public office should broach this issue well in advance of the semester during which such activity will occur and to seek a full or partial leave for all of that semester, rather than for just a portion of the semester. Under such an approach, the institution would have appropriate lead time to assign instructors to the courses in question, students would know in advance the identity of and could make an advertent choice about whether to enroll in a course to be taught by a particular instructor, and there would be no mid-term adjustments confronting students who did enroll in a course.

IV. Consequences of Failure to Comply with Required Procedures.

This 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 or her 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 or her 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.

1. If a full-time employee is elected or appointed to a full-time public office, his or her 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.

2. If a University employee (full-time or part-time) is elected to or assumes office as a member of the General Assembly, or if a full-time employee is elected to or assumes 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 or her for violation of the terms and conditions of his or her 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 or she 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 the employee for violation of the terms and conditions of his or her employment.

V. Other Matters.

A. Appeals. With respect to any decision reached by a board of trustees as prescribed in Section III of this policy, an employee aggrieved by the decision may appeal to the Board of

Governors only on the basis of that such decision was contrary to clearly established controlling law or policy. Any such appeal shall be addressed to the chancellor for transmission to the president, who in turn will transmit the appeal to the Board of Governors.

B. Effective Date. The requirements of this policy shall be applicable prospectively only, on and after the date of adoption by the Board of Governors. No change in the employment status of an employee who was an incumbent in a public office as of the adoption date of this resolution shall be required under the terms of this resolution for the balance of the term of office being served on the effective date of this resolution.

C. Policies of Constituent Institutions. The board of trustees of each constituent institution shall adopt policies governing public officeholding by employees. Policies adopted or substantively amended by a board of trustees regarding public officeholding by employees shall be effective upon approval by the president.

D. Relation to State Laws. The foregoing regulations as adopted by the Board of Governors are designed to supplement, and do not purport in any way to supplant or modify, those statutory enactments which may govern or limit the political activities of employees of the State of North Carolina.

E. Regulations and Guidelines. These policies shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

Duties, Responsibilities, and Expectations of Board Members

I. **Applicability and Purpose.** This policy sets forth the duties, responsibilities, expectations, and standards of conduct for members of the Board of Governors of the University of North Carolina, the boards of trustees of the constituent institutions, and the boards of University-affiliated organizations where membership includes individuals appointed by the Board of Governors.

II. **Definitions.** For purposes of this policy:

A. “Board” means the Board of Governors, a board of trustees of a constituent institution of the University of North Carolina, or a board of a University-affiliated organization with members appointed by the Board of Governors.

B. “Board member” means any member of the Board of Governors, a board of trustees of a constituent institution of the University of North Carolina, or the board of a University-affiliated organization.

C. “Institution” means the University of North Carolina or a constituent institution of the University of North Carolina.

D. “University-affiliated organization” means an institution or organization that the Board of Governors is authorized to establish or to which it is authorized to appoint board members pursuant to statute, but does not include Associated Entities covered by Section 600.2.5.2[R] of the UNC Policy Manual or Centers or Institutes covered by Section 400.5[R] of the UNC Policy Manual.

III. **Duties and Responsibilities.** Board members are responsible for performing essential functions that are central to the governance of the University, as described in Chapter 116 of the North Carolina General Statutes, *The Code* of the University of North Carolina, the Policy Manual of the University, and the policies and by-laws of the constituent institutions. Board members shall adhere to the standards of conduct and fulfill duties and expectations set forth in this policy.

A. **Attendance.** Board members shall attend board meetings. If a member of the Board of Governors is, for any reason other than ill health or service in the interest of the State or nation, absent for four (4) successive regular meetings of the Board, his or her place as a board member shall be deemed vacant.¹ If a member of a board of trustees of a constituent institution is, for any reason other than ill health or service in the interest of the State or nation, absent for three (3) successive regular meetings of a board of trustees, his or her place as a board member shall be deemed vacant.²

B. **Participation in Policy and Oversight Functions.** Board members are expected to prepare for meetings; actively contribute to the work of the board; and act in accordance with the governance, oversight, and advisory functions allocated to the board by:

1. Reviewing and inquiring about materials that involve the institution or University-affiliated organization, such as board minutes and annual reports;

2. Understanding and participating appropriately in the oversight function allocated to the board with respect to the finances and effectiveness of the institution or University-affiliated organization;

¹ N.C.G.S. § 116-7(c).

² N.C.G.S. § 116-31(j).

3. Seeking information from and consulting appropriately with the chief executive officer of the institution or University-affiliated organization to gain additional context, make well-informed policy decisions, and carry out responsibilities for board-level oversight and monitoring of the affairs of the institution or University-affiliated organization;
 4. Participating as requested in the preparation and revision of long-range plans for the institution or University-affiliated organization;
 5. Serving on and contributing to the work of assigned committees;
 6. Listening to and considering differing opinions, and otherwise making reasonable efforts to conduct oneself in accordance with the practices and customs of formality and decorum articulated in Robert's Rules of Order;³
 7. Referring matters of administration and management to the chief executive officer of the institution or University-affiliated organization for handling;
 8. Respecting and following executive leadership, management, and reporting lines when communicating with the University and the constituent institutions, and refraining from directing matters of administration or executive action except through the chief executive officer of the institution or University-affiliated organization; and
 9. Recognizing that board members' authority is collective, not individual, and only arises from their participation with other members of the board when it is officially convened.
- C. Ethical Conduct. Board members shall adhere to high standards of ethical conduct by complying with laws, regulations, and University policies applicable to their service as board members and public officials, which include the obligations to:
1. Exercise authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence, as required by the State Ethics Act.⁴
 2. Keep confidential all information and records that are required by law to be kept confidential, including, but not limited to, personnel records and information, student records and information, attorney-client communications, and closed session deliberations and information;
 3. Comply with North Carolina open meetings and public records laws;
 4. Bring matters of concern, potential or real conflicts of interest, and reports of unlawful and/or noncompliant activity to the attention of the appropriate institutional or organizational officer, such as the president, chancellor, board chair, or committee chair;
 5. Avoid any personal or business interest that may conflict with the member's responsibilities to the institution or University-affiliated organization;
 6. Avoid even the appearance of impropriety when conducting the institution's or University-affiliated organization's business; and

³ Section 202C(4) of *The Code* of the University of North Carolina.

⁴ N.C.G.S. § 138A-2.

7. Recuse oneself from consideration of matters during meetings when required.

D. Support for the Institution. Board members shall discharge their duties to the institution with care, skill, prudence, and diligence by:

1. Exercising the degree of diligence, care, and skill that a prudent individual familiar with such matters would use under similar circumstances in a like position;
2. Acting in good faith with the best interest of the institution or University-affiliated organization in mind;
3. Conducting oneself, at all times, in furtherance of the institution's or University-affiliated organization's goals and not the member's personal or business interests;
4. Providing oversight to ensure that the institution's or University-affiliated organization's resources are dedicated to the fulfillment of its mission; and
5. Becoming knowledgeable about issues that affect the University and seeking to understand the educational needs and desires of all the State's citizens, and their economic, geographic, political, racial, gender, and ethnic diversity.⁵

IV. Removal. A board member may be removed, or recommended for removal, for specified cause by affirmative vote of two-thirds (2/3) of the voting membership of the Board of Governors then in office.

A. Removal of a Member of a Board of Trustees or University-affiliated Organization. The Board of Governors may remove from the board of trustees of a constituent institution or from the board of a University-affiliated organization a board member who was elected by the Board of Governors. With respect to a member of a board of trustees who was appointed by the Governor, the Board of Governors may vote to recommend to the Governor that the member be removed.

B. Removal of a Member of the Board of Governors. The Board of Governors may recommend to the State House of Representatives or State Senate, whichever chamber elected the member, that a member of the Board of Governors be removed.

C. Procedure for Removal; Specification of Cause; Notice and Opportunity to Respond

1. The chair of the Committee on University Governance shall send the board member a written specification of reasons to consider the board member's removal. In the event that the chair of the Committee on University Governance is the subject of the board's consideration of a recommendation of removal, the vice chair of the Committee on University Governance will temporarily serve in the chair's role. The notice shall state that the board member may submit a written response to the chair of the Committee on University Governance within five (5) business days of receipt of the written notice.

2. The Committee on University Governance shall consider the written response of the board member and recommend to the Board of Governors action that the committee deems appropriate. If the board member submits no written response to the chair of the Committee on University Governance within the specified timeframe, the Committee on University Governance may continue with its consideration of removal of the board member, or a recommendation that the appropriate appointing or electing authority remove the board member.

⁵ N.C.G.S. § 116-7.

3. In its consideration of each matter, the Committee on University Governance may review any documents or establish any procedures it considers necessary based on the particular circumstances involved.

V. Other Matters

- A. Effective Date. The requirements of this policy shall be effective on the date of adoption by the Board of Governors.
- B. Relation to State Laws. The foregoing policies as adopted by the Board of Governors are meant to supplement, and do not purport to supplant or modify, those statutory enactments which may govern the activities of public officials.
- C. Regulations and Guidelines. These policies shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

200.1

Adopted 05/11/84

Amended 06/09/89

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Amended 11/09/07

Amended 09/18/09

Amended 12/15/17

Technical Corrections 04/25/19

Dual Memberships and Conflicts of Interest

The Board of Governors seeks at all times to be fair and impartial in carrying out its responsibilities and tries to avoid even the appearance of partiality or undue influence. To promote this objective the following guidelines are adopted as board policy and recommended to the members for their guidance:

1. Service on Foundation Boards or Boards of Visitors of Constituent Institutions

Members of the Board of Governors may, from time to time, be asked to serve simultaneously on a foundation board or a board of visitors or some similar board for one of the 16 constituent institutions. No matter how conscientious or successful a member may be in maintaining impartiality among constituent institutions, service on such a board will undoubtedly be construed by some as showing favoritism. It is also felt that some institutions will feel pressure to name members of the Board of Governors to such boards if service on them becomes commonplace. For these reasons members of the Board of Governors are encouraged to decline any such service.

2. Service on Boards of Private Colleges and Universities

Members of the Board of Governors may be asked to serve simultaneously on the board of a private college or university in North Carolina. While such an invitation is always an honor, there are potential areas of conflict in such dual memberships. A member should satisfy himself or herself that dual service will not interfere with his or her obligations either to the University of North Carolina or to the private institution.

3. Inquiries Concerning Admissions and Job Openings

From time to time a member of the Board of Governors may wish to inquire, either directly or through an officer of the University, about a job opening in the University or about the admission of an individual to an institution or to a program. Sometimes a Board member is asked to write a letter of recommendation on behalf of a candidate for a job or for admission. It is highly inappropriate to use one's position on the Board of Governors in an attempt to influence employment or admissions. It is not inappropriate, however, for a member to make inquiries or to write letters of recommendation on the member's personal or business stationery. It should always be clear that the Board member is not seeking a favor and understands that the decision in all cases will be made strictly on the merits.

4. Appointments by the Board of Governors

In order to avoid any appearance of undue influence, the Board of Governors will not consider for membership on any board to which it makes appointments any person who is a spouse of a Board of

Governors member, a brother or a sister or a lineal ancestor or descendant of a member, or the spouse of any such person. This policy shall not apply, however, to any person who may have been elected or appointed to any such board prior to the time the related person became a member of the Board of Governors. Nor shall the policy apply to any person who may already be serving on any such board at the time of the adoption of the policy. The Board of Governors will not consider for membership on any board to which it makes appointments any person who was a member of the Board of Governors at any time during the two-year period immediately preceding the effective date of the appointment. The boards to which this policy shall apply include the boards of trustees of the constituent institutions and all boards to which the Board of Governors make appointments.

5. Inappropriate Advantage Derived from Board Membership

a. Purpose. It is of critical importance that decisions made on behalf of the University by its governors, trustees, chief executive officers, and chief finance officers 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. The purpose of this policy is assure public confidence in the integrity of the University by preventing members of the governing boards and chief executive and finance officers of the University from using their positions, or appearing to use their positions, to influence the decisions of the University for their personal financial gain while at the same time allowing the University to take advantage of contracts that are advantageous to the citizens of North Carolina and to the University and also avoiding having service to the University be so restrictive that persons with substantial financial interests will be reluctant to serve.

b. Definitions

As used in this policy, the following terms have the following meanings:

- i. "Business entity" means a "business" as defined in G.S. 163A-152(5)¹ or a not for profit corporation.
- ii. "Person" means a member of the Board of Governors or of a board of trustees of a constituent institution, the vice president for finance, a chancellor, or the chief finance officer of a constituent institution.
- iii. "Substantial interest" means any of the following:
 1. A "business with which associated" as that term is defined in G.S. 163A-152(7),² except that ownership of more than \$10,000 in a publicly traded corporation by itself is not a substantial interest; or
 2. A "nonprofit corporation or organization with which associated" as that term is defined in G.S. 163A-152(54),³ except that uncompensated service as a director, officer, or trustee of a not for profit corporation is not a substantial interest.
- iv. "The University" as applied to members of the Board of Governors, the president, and the vice president for finance means the University of North Carolina System Office (UNC System Office) or any of the constituent institutions. The University as applied to

members of the boards of trustees, a chancellor, or a chief finance officer of a constituent institution means the constituent institution on whose board of trustees the member serves or at which the chancellor or chief finance officer is employed.

c. Requirements

i. Each person must contemporaneously submit to the vice president of finance, each Statement of Economic Interests that the person files with the State Ethics Commission pursuant to G.S. 163A-187. These disclosure statements are public records.

ii. Whenever a person has actual knowledge that a business entity in which the person has a substantial interest is attempting or planning to enter, is entering, or has entered into a contract with the University, the person must report the nature of the person's substantial interest and the nature of the contract to the chief finance officer of the institution that is or would be a party to the contract. If the person is a chief finance officer, then the chief finance officer must make this report to the chancellor or to the president of the institution that is or would be a party to the contract. Reports required by this paragraph shall be in writing and will be public records retained by the respective chief finance officers.

iii. The University will not enter into a contract with a value of \$10,000 or more, or with expected payments of \$10,000 or more per year, with a business entity in which a person has a substantial interest, unless one of the exceptions in paragraph c.iv., applies. A person will not in any way:

1. Participate in making a contract;
2. Attempt to cause or influence the University to make a contract; or
3. Attempt to influence the contract specifications or contracting process concerning a contract between a business entity in which the person has a substantial interest and the University.

The vice president for finance and the respective chief finance officers of the constituent institutions are responsible for determining whether the University is entering into a contract with a value of \$10,000 or more with a business entity in which a person has a substantial interest.

iv. The restrictions on entering into a contract in paragraph c.iii., do not apply if the person with the substantial interest does not participate in making or administering the contract and:

1. The contract results from a competitive sealed bid or a competitive request for proposals with specifications and criteria;
2. The contract is for goods or services sold or provided to the general public at a uniform price or is for goods on state contract sold to state agencies at a uniform price, unless the contract is prohibited by state law;

3. The contract is an employment contract with the dependent child or spouse of the president, the vice president for finance, a chancellor, or chief finance officer, or the dependent child of a member of the Board of Governors or a board of trustees and the employment is allowed under Section 300.4.2 of the UNC Policy Manual;

4. The contract is with a bank or a public utility; or

5. The committee of the Board of Governors or of the relevant board of trustees designated pursuant to paragraph d.i., below, finds that the contract is in the best interest of the University. Examples of when a contract might be in the best interest of the University include, but are not limited to, when it has financially advantageous terms, when the goods or services to be provided are demonstrated to be unique, or when the contract is a continuation of a contract that was in effect before the person with the substantial interest became affiliated with the University.

v. If a person is an employee or agent of a business entity, the person shall not attempt to influence the University to enter into a contract with the business entity that employs or retains the person.

vi. A person shall not attempt to influence the administration of or payments under a contract between the University and a business entity in which the person has a substantial interest or between the University and the person's employer.

vii. No person shall disclose or use confidential information or information concerning economic development or technology research or development which the person received in his capacity as a board member or employee of the University for the person's financial gain.

viii. No person shall accept a gift or favor from a business entity, or the principal in a business entity, which has entered into a contract with the University within the past year, who currently has a contract with the University, or who intends to attempt to enter into a contract with the University if the person:

1. Has or will prepare plans, specifications, criteria or estimates for the contract;
2. Awards, approves, negotiates, or administers the contract; or
3. Inspects or supervises the contract.

This paragraph does not prohibit the receipt of advertising items of nominal value, awards such as plaques or trophies, food served at professional meetings or banquets, or gifts from family members or personal friends when it is clear that the friendship extends beyond the business relationship.

ix. A person shall not represent, as attorney, agent, or trustee, a third party who has an adverse relationship with the University. A person shall attempt to dissuade a firm or

business entity in which the person has a substantial interest from engaging in representation adverse to the University.

d. Procedures

i. The chair of the Board of Governors and each chair of a board of trustees shall designate a standing committee to determine whether a potential conflict is a permissible or impermissible activity and to make recommended findings as to whether this policy has been violated.

ii. Potential conflicts:

1. Any person who receives a report of a potential conflict shall forward that report to the chief finance officer of the institution that is or would be a party to the contract.

2. If the person with the substantial interest claims or the chief finance officer believes that the contract is permissible pursuant to paragraph c.iv.1., 2., 3., or 4., above, the determination of whether the contract is permissible or impermissible may be made by the respective president or chancellor, or the president or chancellor may request that the designated committee make the determination. Any determination by the president or a chancellor shall be in writing and shall be a public record.

3. If the person claims that the contract is permissible pursuant to paragraph c.iv.5., above, because the contract is in the best interest of the University, or if a chancellor or the president refers a conflict question to the committee, then the designated committee shall determine whether the proposed contract is a permissible or impermissible activity under this policy and shall enter its determination in the minutes of its proceedings.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts to the committee, and shall abstain from voting.

iii. Allegations of conflict

1. If any person or any senior academic or administrative officer (SAAO) becomes aware or alleges that a person covered by this policy has violated this policy, the person shall report the alleged violation to the chancellor or President of the institution that is or would be a party to the contract.

2. The person who receives the allegation shall forward the allegation:

a. To the designated committee of the board of trustees or of the Board of Governors if the person alleged to have violated this policy is a member of that board;

- b. To the designated committee of the Board of Governors if the president is alleged to have violated this policy;
- c. To the president if the person alleged to have violated this policy is a chancellor or the vice president for finance; or
- d. To the respective chancellor if the person is a chief finance officer of that constituent institution.

3. If the person alleged to have violated the policy is the President or a member of a Board of Governors or of the board of trustees, then the designated committee will determine whether or not the policy has been violated. The chairperson of the designated committee will designate an individual to investigate the allegations and to make a report to the committee. After considering the report of the investigation and any response by the person alleged to have violated the policy, the committee shall make a determination as to whether the policy has been violated and, if so, a recommendation as to the appropriate sanction to the respective board of trustees or Board of Governors. The board of trustees or Board of Governors shall vote to affirm, reject, or modify the recommendation.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts and arguments to the committee on his own behalf, and shall abstain from voting.

5. A Board of Governors member, board of trustees member, or president who is alleged to have violated this policy is entitled to receive notice of the allegation, to be present to hear the report presented to the designated committee, and to inform the committee of any facts or arguments that demonstrate that he or she did not violate the policy.

6. If the vice president for finance, a chief finance officer or a chancellor is alleged to have violated this policy, that allegation will be investigated and acted upon in accordance with the procedures for disciplining, demoting, dismissing, or terminating the contract of employees of that position.

iv. The president will present this policy annually to the Board of Governors and will present it to new members at the beginning of their service. The chancellors will present this policy annually to their respective Boards of Trustees and will present it to new members at the beginning of their service.

e. Sanctions

i. If the Board of Governors or a board of trustees finds that one of its members has violated this policy, the Board may take one or more of the following actions:

- 1. Reprimand or censure the member;

2. Remove the person from any board office the person holds or from any committee chairmanship or assignment; and
 3. Report the violation to the entity that appointed the member.
- ii. If the Board of Governors finds that the president has violated this policy, the Board of Governors may discipline, demote or dismiss the president, as it deems appropriate.
 - iii. If the president finds that the vice president for finance has violated this policy, the president may discipline, demote, or dismiss the vice president, and shall report the violation and the action taken by the president to the Board of Governors.
 - iv. If the president finds that a chancellor has violated this policy, the president may discipline the chancellor and report the action taken to the Board of Governors and the relevant board of trustees, or the president may recommend to the Board of Governors that the employment of the chancellor be terminated and that the chancellor be demoted or dismissed.
 - v. If a chancellor finds that a chief finance officer has violated this policy, the chancellor may discipline, demote or dismiss the chief finance officer and shall report the violation and the action taken to the president and the board of trustees.
 - vi. Pursuant to North Carolina law, any contract between the University and an entity in which a person has a substantial interest which was entered into in violation of state laws governing conflicts of interest is void.

The provisions of Section 5 are effective July 1, 2001. Initial disclosure forms will be filed on or before October 1, 2001. The provisions of paragraph c.iii., will apply to all contracts entered into after January 1, 2002. The Statement of Economic Interest replaces all disclosure forms due to be filed on or after July 1, 2007; the initial Statement of Economic Interest for people employed or in office on January 1, 2008, must be submitted to the vice president for finance by April 15, 2008.

¹ G.S. 163A-152(5) defines a "business" as, "Any of the following organized for profit:

- a. Association.
- b. Business trust.
- c. Corporation.
- d. Enterprise.
- e. Joint venture.
- f. Organization.
- g. Partnership.
- h. Proprietorship.
- i. Vested trust.
- j. Every other business interest, including ownership or use of land for income."

² G.S. 163A-152(7) Business with which associated. A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:

- a. Is an employee.
- b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.

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- c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent of the business, whichever is less, other than as a trustee on a deed of trust.
 - d. Is a lobbyist registered under Article 8 of Chapter 163A of the General Statutes.

For purposes of this subdivision, the term “business” shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

- 1. The covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
- 2. The fund is publicly traded, or the fund's assets are widely diversified.

³ G.S. 163A-152(54) Nonprofit corporation or organization with which associated. Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the state primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Article 8 of Chapter 163A of the General Statutes or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this state.