



MEETING OF THE BOARD OF GOVERNORS  
Committee on University Governance

January 16, 2020 at 12:30 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 December 12, 2019 ..... David Powers
- A-2. Vidant Medical Center Board of Trustees Appointments..... David Powers
- A-3. Review of the UNC Policy Manual ..... David Powers
  - a. Section 300.5.1 of the UNC Policy Manual (Political Activities of Employees)
  - b. Section 300.5.2 of the UNC Policy Manual (Candidacy for Elective Office; Officeholding (Elective and Appointive Public Office))

### CLOSED SESSION

- A-4. Approval of the Closed Session Minutes of December 12, 2019..... David Powers
- A-5. Legal Affairs Report.....Thomas Shanahan

### OPEN SESSION

- A-6. Adjourn

### Additional Information Available

Report on Technical Corrections to the UNC Policy Manual

## Closed Session Motion

### Motion to 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;
- Consult with our attorney to protect attorney-client privilege, and
  - Consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action for the following cases:

*DTH Media Corp. v. The University of North Carolina, et al.*

*NC Division Sons of Confederate Veterans, Inc. v. The University of North Carolina and the University of North Carolina Board of Governors*

*Sokolowski, Wanda v. Leinweber, Clinton, et al. (East Carolina University)*

**Pursuant to:** G.S. 143-318.11(a)(1) and (3).

## DRAFT MINUTES

December 12, 2019  
University of North Carolina System Office  
Center for School Leadership Development, Room 128  
Chapel Hill, North Carolina

This teleconference meeting of the Committee on University Governance was presided over by Chair David Powers. The following committee members, constituting a quorum, were also present by phone: Thomas C. Goolsby, Thomas H. Fetzer, Terry Hutchens, Jim Holmes, and Pearl Burris-Floyd.

Chancellor participating was Wesley Burks.

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

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

The chair called the meeting to order at 1:00 p.m., on Wednesday, December 12<sup>th</sup>, 2019, and called for a motion to approve the open session minutes of November 14<sup>th</sup>, 2019 and November 27<sup>th</sup>, 2019.

**MOTION:** Resolved, that the Committee on University Governance approve the open session minutes of November 14<sup>th</sup> and November 27<sup>th</sup>, 2019, as distributed.

**Amendment to minutes:** Mr. Fetzer indicated he was not on the November 27, 2019 call when the closed session vote occurred and asked that the minutes reflect this.

**Motion:** Pearl Burris-Floyd

**Motion carried**

### 2. University of North Carolina at Chapel Hill Board of Trustees Appointment (Item A-2)

The chair provided background information on the University of North Carolina at Chapel Hill vacancy. Mr. Dwight D. Stone served on the UNC-Chapel Hill Board of Trustees since July 1, 2013, and served as chair of the board of trustees from 2015-2017. Mr. Stone was appointed by the North Carolina Senate to serve on the UNC Board of Governors effective November 22, 2019. Mr. Munroe Cobey was nominated to fill the vacancy and the committee was provided biographical information.

**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:** Jim Holmes

**Motion carried**

### **3. University of North Carolina at Pembroke Board of Trustees Appointment (Item A-3).**

The chair provided background information on the University of North Carolina at Pembroke Board of Trustees vacancy. Dr. Mary Ann Elliot was elected by the Board of Governors to serve a partial term on the UNCP Board of Trustees on July 1, 2017. Dr. Elliot was re-elected to serve her first full term on July 1, 2019 before resigning on September 20, 2019. Ms. Linda 'Mickey' Gregory was nominated to fill the vacancy and the committee was provided biographical information.

**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:** David Powers

**Motion carried**

### **4. Closed Session**

Mr. Pearl Burris Floyd 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; to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action; to consider the qualifications, competence, performance, or condition of appointment of a public officer or employee or prospective public officer or employee for the following cases: Benjamin Durant v. NCCU, et al.; UNC and ECU v. Vidant Medical Center; and Kadel, et al. v. Folwell, et al. This is pursuant to G.S. 143-318.11(a)(1), (3), and (6).

**Motion:** Pearl Burris-Floyd

**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:** David Powers

**Motion carried**

#### **THE MEETING RESUMED IN OPEN SESSION.**

There being no further business, the meeting adjourned at 1:44 p.m.

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Thomas H. Fetzer, Secretary

**AGENDA ITEM**

A-2. Vidant Medical Center Board of Trustees Appointments ..... David Powers

**Situation:** There are two ex officio vacancies on the Vidant Medical Center (VMC) Board of Trustees.

**Background:** Pursuant to the amended affiliation agreement between the University, ECU, and Vidant Medical Center (VMC), the Board of Governors of the UNC System is responsible for appointing nine of the twenty total seats on VMC's Board of Trustees. Two of the Board appointees on the VMC Board shall be the ECU chancellor, ex officio (or the chancellor's designee) and the dean of the ECU Brody School of Medicine, ex officio. The ECU chancellor (or designee) shall fill seat five and the dean shall fill seat two. Both ex officio members must be appointed by the Board of Governors.

**Assessment:** ECU Interim Chancellor Ron Mitchelson and ECU Brody School of Medicine Dean Mark Stacy will serve as ex officio voting members of the VMC Board of Trustees in seats five and two, respectively, upon appointment by the Board of Governors.

**Action:** This item requires a vote by the committee and a vote by the full Board of Governors.

**ECU Interim Chancellor Ron Mitchelson**

Interim Chancellor Ron Mitchelson is a longtime resident of Greenville, NC. He graduated from State University of New York at Buffalo in 1975 and is a double graduate of The Ohio State University, earning his master's degree in 1977 and PhD in 1979. He has served East Carolina University for more than twenty years in a variety of positions, including as professor, chair of the Department of Geography, interim chair of the English Department, and the provost and senior vice chancellor for Academic Affairs. He has earned several awards throughout his career, including being named the 2010 Educator of the Year by the North Carolina Geographical Society and earning the 2006 Outstanding Service Award from the Southeast Division of the Association of American Geographers. Alongside his service to the community and ECU, he has published distinguished research in the field of geography, chaired several committees at ECU, and has participated in a variety of task forces and work groups. Interim Chancellor Mitchelson has dedicated his life to higher education and has made it a point to dedicate both his time and passion to serving students.

**ECU Brody School of Medicine Dean Mark Stacy**

Brody School of Medicine Dean Dr. Mark Stacy earned his medical degree at the University of Missouri and subsequently completed his residency in neurology at Drexel University in Philadelphia. Before joining the ECU Brody School of Medicine, Dr. Stacy served as the vice dean for clinical research at Duke University, where he oversaw the Duke Office of Clinical Research, at the time engaged in over 6,800 clinical research projects. Before his service at Duke, Dr. Stacy was the director of the Muhammad Ali Parkinson Center in Phoenix. He has been a member of the Parkinson Disease and Movement Disorders Society since 1990 and formerly served as a member of the International Executive Committee and a Fellow of the American Academy of Neurology. Dr. Stacy has given his life to medicine and his devotion to serving others. His commitment to the greater community is evident in his work.

**AGENDA ITEM**

A-3. Review of the UNC Policy Manual .....David 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 whether these policies are still needed, and whether these policies are still meeting their goals and purposes. This review process will help determine when changes are required to improve the effectiveness or clarify the University's policies and procedures.

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

- January 2020 (Deferred from 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 Section 200.2 of the UNC Policy Manual (Election Procedures) the committee will review.

**Action:** This item is for discussion only.

### **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).<sup>1</sup>

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.

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<sup>1</sup> 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).<sup>1</sup>

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.

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<sup>1</sup> 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,<sup>2</sup> 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.)

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<sup>2</sup> 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.