



TRANSMITTAL LETTER

Transmittal Number 149

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Policy Manual Number	Title	Action
<a href="#">700.1.1</a>	Policy on Minimum Eligibility Requirements for Undergraduate Admission for the University of North Carolina System	Amended 04/20/23 <i>Redline version attached</i>
<a href="#">200.1</a>	Policy on Dual Memberships and Conflicts of Interest	Amended 04/20/23 <i>Redline version attached</i>
<a href="#">101.3.2</a>	Policy on Grievances Filed Pursuant to Section 607 of <i>The Code</i>	Repealed 04/19/23 <i>Redline version attached</i>
<a href="#">101.3.3</a>	Policy on Delivery of Notices	Repealed 04/19/23 <i>Redline version attached</i>
<a href="#">100.1</a>	<i>The Code</i> Chapter V	Amended 05/25/23 <i>Redline version attached</i>
<a href="#">100.1</a>	<i>The Code</i> Chapter VI	Amended 05/25/23 <i>Redline version attached</i>
<a href="#">100.1</a>	<i>The Code</i> Chapter VII	Amended 05/25/23 <i>Redline version attached</i>
<a href="#">100.1</a>	<i>The Code</i> Appendix 1	Amended 05/25/23 <i>Redline version attached</i>
<a href="#">200.8</a>	Policy on Chancellor Searches and Elections	Adopted 05/25/23 <i>Redline version attached</i>

The actions taken on the above Policies were reviewed and approved by the Board of Governors for inclusion in the UNC Policy Manual following the April 2023 and May 2023, Board of Governors meetings.

The entire UNC Policy Manual is accessible at: <https://www.northcarolina.edu/apps/policy/index.php>

**Policy on Minimum Eligibility Requirements for Undergraduate Admission for the University of North Carolina System**

- I. Purpose. The University of North Carolina (UNC) Board of Governors has, since 1988, established minimum requirements for undergraduate admission to any constituent institution. These requirements serve to provide a common set of minimum standards to be considered for admission as an undergraduate student. Exceptions and special considerations to these minimum eligibility requirements are provided in Sections 700.1.1.1[R], 700.1.1.2[R], 700.7.1, and 700.7.1[R] of the UNC Policy Manual. Any constituent institution may set admissions requirements that exceed the minimums established in this policy upon the approval of their board of trustees.
- II. High School Diploma. All students should hold a high school diploma or its equivalent.
- III. Minimum Course Requirements. The following courses must be completed at the high school level, although those courses may be completed at an earlier time (e.g., middle school).
- A. English: four course units emphasizing grammar, composition, and literature.
- B. Mathematics: four course units in any of the following combinations:<sup>1</sup>
1. Algebra I, algebra II, geometry, and one unit beyond algebra II; or
  2. Algebra I, algebra II, and two units beyond algebra II; or
  3. Common core math I, II, and III, and one unit beyond common core math III; or
  4. Integrated math I, II, III, and one unit beyond integrated math III; or
  5. NC Math 1, 2, 3, and one unit beyond NC Math 3 identified as meeting the 4<sup>th</sup> level mathematics requirement for admission to UNC System institutions.

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<sup>1</sup>Students applying to the University of North Carolina School of the Arts must only complete three mathematics courses in order to be eligible for admission.

C. Science: three course units, including at least:

1. ~~1.~~ One life science unit (e.g., biology, ecology, zoology); and
2. One non-life science unit (e.g., astronomy, chemistry, earth science, environmental science, physical science, physics); and
3. One laboratory science unit~~course~~.

~~D. Second Language: two course units of a language other than English.~~

D. Social Studies: two course units, including one unit in U.S. history.<sup>2</sup>

E. Two additional academic courses from English, mathematics, science, world languages, arts, music, or computer science, or other college preparatory discipline.

~~E.~~ This section III., shall be effective for all students applying for first-time (freshman) admission to constituent institutions beginning with the 2024 fall semester.

IV. High School Grade Point Average and Standardized Test Scores. Students must meet either the minimum high school grade point average (GPA) or standardized test score ~~in order to~~ be considered for admission. All applicants for admission, except those exempted by current UNC policy or regulation, must submit a standardized test score, even if they satisfy the minimum eligibility requirement through the high school GPA.

A. High School GPA: A minimum weighted GPA of 2.5; or

B. Standardized Test Scores: A composite ACT score of 19, or combined SAT (mathematics and evidence-based reading and writing) of 1010.

C. Chancellor's Exceptions: The maximum number of chancellor's exceptions is limited to one percent of the total number of applicants accepted as first-time undergraduates each year. A chancellor's exception may be applied to the SAT/ACT minimum requirement or the high school GPA minimum requirement.

V. Graduates of Cooperative Innovative High Schools (Early College). Each UNC constituent institution must offer to any student who graduated from a cooperative innovative high school program with an associate degree and who applies for admission to a constituent institution the option of being considered for admission as a first-time (freshman) or as a transfer student.

A. The constituent institution shall also provide written information to the student regarding the consequences that accompany each option and any other relevant information that may be helpful to the student when considering which option to select.

B. Beginning March 1, 2017, the Board of Governors shall report annually regarding the number of

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<sup>2</sup>An applicant who does not have the unit in U.S. history may be admitted on the condition that at least three semester hours in that subject be passed by the end of the sophomore (second) year.

students who graduated from a cooperative innovative high school program with an associate degree and which option was chosen by those students when applying for admission to a constituent institution.

VI. Graduates of North Carolina School of Science and Mathematics (NCSSM). Each UNC constituent institution must offer first-time (freshman) admission to any applicant attending the residential program at NCSSM. Such offer of admission shall be contingent upon the applicant:

- A. Successfully completing all NCSSM graduation requirements and remaining enrolled and in good standing at NCSSM through the time of the student's graduation. For the purposes of this policy, "in good standing" shall mean with no pending disciplinary charges or pending academic violations that could lead to dismissal as of the date of graduation;
- B. Meeting the academic program requirements as outlined in Section 700.1.1.3[R] of the UNC Policy Manual;
- C. Completing all application requirements established by the constituent institution by a standard public deadline; and
- D. Satisfying the provisions of Section 700.5.1[R] of the UNC Policy Manual.

This guaranteed offer of admission shall apply only to acceptance to the respective constituent institutions, and shall not apply to any specific school, major, or program of study within the constituent institutions.

This section VI., shall be effective for all NCSSM students applying for first-time (freshman) admission to constituent institutions beginning with the 2022 fall semester.

VII. Notification of Stakeholders and Educational Policymakers. The president is directed to develop plans and further recommendations to inform key stakeholders and education policymakers of the changes in requirements.

VIII. Other Matters

- A. Effective Date. ~~With the exception of~~ Except for sections III and VI., above, the requirements of this policy shall be effective for all first-time students applying for admission at a constituent institution for any semester beginning with the 2020 fall semester through the 2025 fall semester (including students who attended the institution for the first time in the prior summer term).
- 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.
- C. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

### **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)<sup>1</sup> 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),<sup>2</sup> 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),<sup>3</sup> 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.

<sup>1</sup> 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."

<sup>2</sup> 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.
- 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.

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<sup>3</sup> 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.

### **Policy on Grievances Filed Pursuant to Section 607 of The Code**

I. ~~———— Purpose of the Grievance Procedure. Section 607 of *The Code* provides a process for faculty members to seek redress concerning employment related grievances. The function of the grievance procedure is to attempt to reach a consensual resolution of the dispute and, if that fails, to determine whether the contested decision was materially flawed, in violation of applicable policies, standards or procedures. The grievance process is not intended to second-guess the professional judgment of officers and colleagues responsible for making administrative decisions.~~

#### II. ~~———— Initiation of the Grievance Process~~

A. ~~———— Any faculty member who has a grievance, as defined in Section 607(3) of *The Code*, may file a petition for redress in accordance with the procedure established by the constituent institution. The petition of the faculty member shall be in writing and shall set forth in detail the nature of the grievance and against whom the grievance is directed. The petitioner shall set forth any information that he or she considers pertinent to the grievance. The faculty member shall deliver a copy of the petition to the respondent administrator by certified mail or by another means that provides proof of delivery.~~

B. ~~———— When a decision not to promote is made at the same time as a decision not to reappoint a faculty member, all challenges to those decisions will proceed pursuant to Section 101.3.1 of the UNC Policy Manual. When a decision not to promote is not made as a part of a reappointment decision, campus policy shall determine which faculty committee has jurisdiction to hear such disputes.~~

C. ~~———— Unless the parties to the grievance have participated in mediation prior to the faculty member's filing the petition, before taking any action on the petition, the faculty grievance committee shall refer the matter for mediation in accordance with the policies of the constituent institution.~~

#### III. ~~———— Mediation of Grievances~~

A. ~~———— Mediation is a procedure in which disputing parties enlist the assistance of a neutral party to help them in achieving a voluntary, bilateral agreement that finally and definitively resolves all or portions of their dispute, without resorting to adversarial procedures such as grievance hearings, administrative hearings or litigation. Any such mediated agreement that the parties are able to negotiate will be embodied in a written agreement.~~

B. ~~———— The appropriate functions of a mediator are to assist the parties in defining, clarifying, communicating about, and ascertaining the substantiality and relevance of the issues that appear to divide the parties and to aid the parties in generating, considering, and communicating with each other about possible bases for resolving the dispute.~~

C. ~~———— Each constituent institution will have a policy either that requires the parties to a dispute made under Section 607 to participate in mediation as a prerequisite to access to the formal faculty grievance process or that permits the parties voluntarily to do so. While there can be no requirement that forces a party to reach a mediated agreement, a constituent institution may have a policy that require the~~

~~parties to participate in a mediation process about the dispute. If a constituent institution requires participation in mediation, the mediator may assess the value of continuing the mediation. If the mediator determines that the parties are not amenable to a settlement, then the mediator may end the mediation, and the formal grievance hearing process will then begin.~~

~~D. — Each constituent institution will have a mediation process available which:~~

~~1. — Has available the number of campus mediators necessary based on the size of the campus and the estimated need. Mediators may be trained members of the faculty or staff, outside mediators from the community, or mediators from other campuses within the University. Mediators may not be members of the faculty hearing committee that hears Section 607 grievances.~~

~~2. — Requires every mediator to have successfully completed formal mediation training substantially equivalent to that required for certification by the North Carolina Administrative Office of the Courts or to have been formally trained in mediation specifically designed for use in a university setting.~~

~~3. — Determines under what circumstances, if any, attorneys will be allowed to participate in the mediation process.~~

~~4. — Assures the parties that a decision by either party not to pursue mediation beyond the campus required minimum will not be held against that party in any way and that no blame will be attached to either party if mediation does not produce a settlement.~~

~~5. — Provides that no record of a failed mediation process will be produced by the mediator other than an unelaborated written statement to the appropriate authority necessary to invoke the next step in the grievance process, i.e., that mediation was attempted but settlement was not reached.~~

~~6. — Prohibits the mediator from being called as a witness in any subsequent proceeding, and prohibits anything done or said by either party during a mediation process from being referred to or used against a party in any subsequent proceeding.~~

~~E. — The adopted mediation policy of each constituent institution must provide that any mediation agreement that obligates the university must be signed by a university official with the authority to bind the university concerning the particular agreement.~~

~~F. — Any time limit adopted by a constituent institution or by Board of Governors policy concerning the formal resolution of Section 607 grievances will be suspended for the duration of a mediation process being held pursuant to this policy.~~

#### ~~IV. — Administrative Decision~~

~~A. — If the grievance is not resolved through the mediation process, then the matter will be reviewed by the faculty grievance committee established pursuant to Section 607(1) of *The Code*.~~

~~B. — Standard for determining contested grievances. In order to prevail in the grievance process, a faculty member must establish that the faculty member experienced a remediable injury attributable to the alleged violation of a right or privilege based on federal or state law, university policies or regulations, or commonly shared understandings within the academic community about the rights, privileges and responsibilities attending university employment. Examples would be if the decision-maker disregarded an established standard for evaluation, relied on impermissible considerations such as race or sex, or failed or refused to consult with or receive information from mandated advisory bodies.~~

~~C. — If mediation fails to produce a voluntary resolution, the faculty grievance committee must decide whether a hearing should be held in response to the petition. The submission of a petition shall not result automatically in an investigation of or hearing on the petition. The committee shall determine whether the facts alleged merit a detailed investigation. The committee is to consider the content of the grievant's petition. Assuming the truth of the information contained in the petition, the committee is to determine whether the contentions advanced by the grievant justify a hearing. A petition properly is dismissed if the grievant fails to allege an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV.B., above. Dismissal is also required if the petition addresses a problem that is not within the committee's jurisdiction.~~

~~D. — If the petitioner has presented an apparently substantial issue within the purview of the committee's responsibility, the committee will hold an evidentiary hearing. At the hearing, which is to be attended by the grievant and the respondent, the faculty member is to present evidence in support of the faculty member's contentions and the person charged with wrongdoing is to be given an opportunity to respond. The committee is to maintain a complete transcript of all evidence received. Only the evidence so compiled is to form the basis for committee conclusions about the case and any resulting advice to the responsible administrator and the chancellor. The burden is on the grievant to establish by a preponderance of the evidence that the faculty member has experienced an injury that would entitle the faculty member to relief in accordance with the standard set out in paragraph IV.B., above.~~

~~E. — If, after hearing the matter, the faculty hearing committee determines that an adjustment in favor of the aggrieved faculty member is appropriate, the faculty grievance committee shall so advise the faculty member and the dean, department head, or other respondent administrator. If the relevant administrator does not make the recommended adjustment, or a different adjustment satisfactory to the faculty member, within a reasonable period of time, the faculty grievance committee shall advise the chancellor of its recommendation that an adjustment is appropriate.~~

~~F. — If, after reviewing the petition or hearing the matter, the faculty grievance committee determines that no adjustment in favor of the grievant is appropriate, it shall so advise the faculty member and the chancellor.~~

~~G. — The chancellor shall base his or her decision on the recommendation of the faculty committee and the record from the faculty grievance committee hearing. The chancellor may, in his or her discretion, consult with the faculty grievance committee before making a decision. The decision of the chancellor is the final administrative decision.~~

~~H. — The chancellor shall notify the faculty member and the respondent administrator in writing of the chancellor's decision. The notification shall include a notice of appeal rights, if any, and, if the decision is appealable, it shall contain the information specified in paragraph V.C.2., below.~~

~~I. — The faculty grievance process is a process available to current members of the faculty of a constituent institution. A faculty member whose employment is terminated during the pendency of a grievance proceeding is not entitled to continue to pursue the grievance. If the employment of a faculty member is terminated after the grievance is filed, the chancellor may, however, in the chancellor's discretion, determine that it is in the best interest of the institution to continue the grievance process.~~

#### ~~V. — Appeal to the Board of Trustees~~

~~A. — Decisions which may be appealed.~~

~~1. — If the faculty grievance committee did not advise that an adjustment in favor of the grievant was appropriate, then the decision of the chancellor is final and may not be appealed.~~

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

B. — The board of trustees may delegate to a designated committee the authority to make procedural decisions and to make final decisions on behalf of the board concerning appeals of faculty grievances submitted pursuant to section 607 of *The Code*.

C. — Timeline for Appeals

1. — A grievant who seeks to appeal the chancellor's disposition of his grievance must file written notice of appeal with the board of trustees, by submitting such notice to the chancellor, with adequate evidence of delivery, within 10 days after the grievant's receipt of the chancellor's decision. The notice shall contain a brief statement of the basis for the appeal. If the board agrees to consider the appeal, it will do so on a schedule established by the chancellor, subject to any instructions received from the board or from a committee of the board which has jurisdiction of the subject matter of the grievance. The board will issue its decision as expeditiously as is practical. If the grievant fails to comply with the schedule established for perfecting and processing the appeal, the board in its discretion may extend the time for compliance or it may dismiss the appeal.

2. — If the chancellor's decision is appealable, the chancellor's notice of the disposition of a grievant's case must inform the grievant: (a) of the time limit within which the grievant may file a petition for review by the board of trustees, (b) that a written notice of appeal containing a brief statement of the basis for appeal is required within the ten day period and, (c) that, after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established. All such notices of decision are to be conveyed to the grievant by a method which produces adequate evidence of delivery.

3. — To ensure full understanding by the faculty, the appropriate informational document regularly published by the institution (e.g., the faculty handbook), shall include a statement of the time limits established by the Board of Governors or board of trustees policy.

D. — Standard of Review. Unless a board of trustees provides by policy for a broader scope of review, in order to prevail before the board of trustees, the faculty member must demonstrate that the chancellor's decision was clearly erroneous, that it violated applicable federal or state law or university policies or regulations, or that the process used in deciding the grievance was materially flawed.

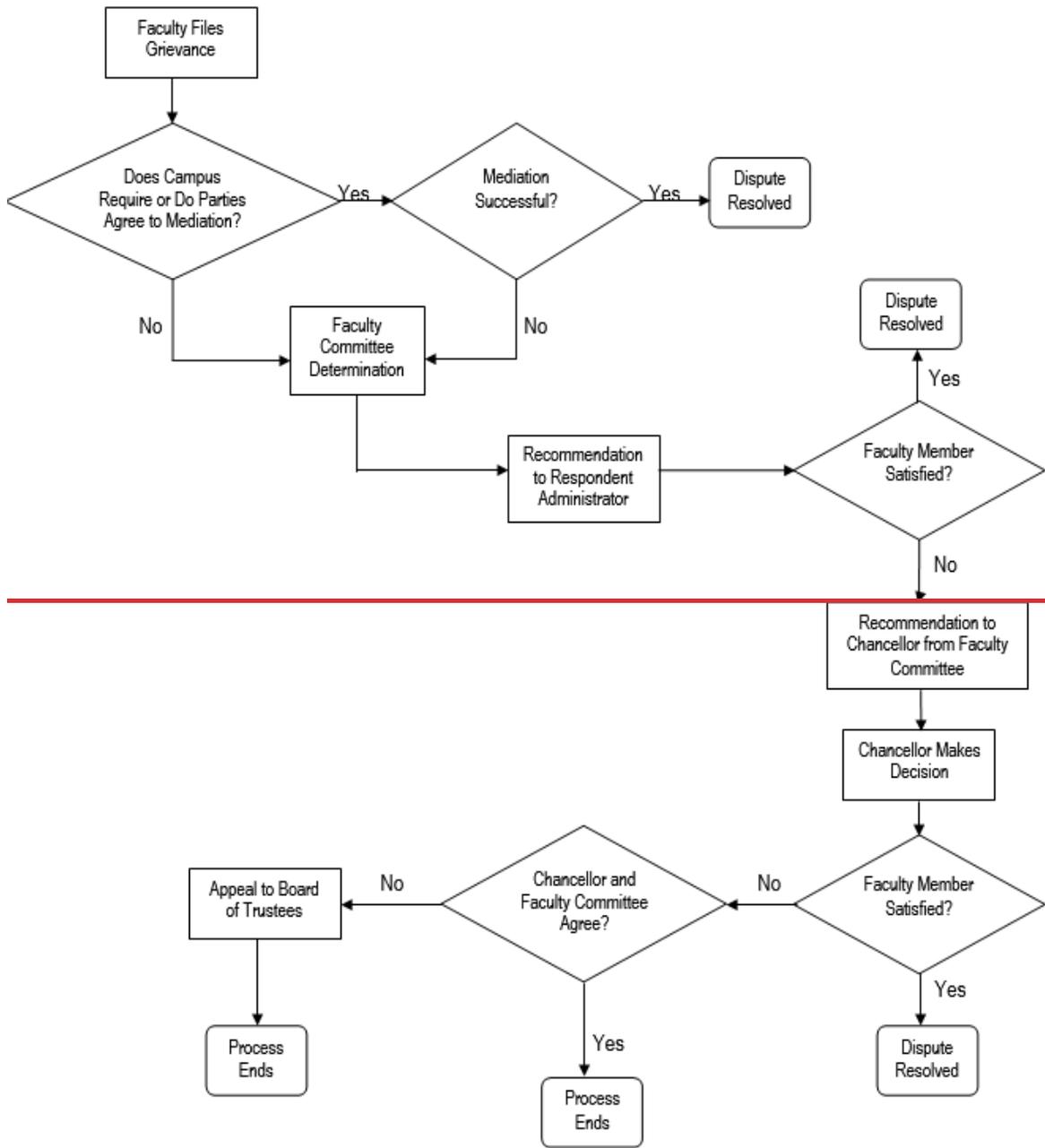
VI. — Other Matters

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

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 related to the subject matter of this policy.

C. — Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

**Appendix for Policy 101.3.2  
Process for Faculty Grievances**



### **Policy on Delivery of Notices**

~~The Code of the University of North Carolina (The Code) specifies a particular mode of delivery for certain notices sent to affected parties in specified personnel actions. This policy will provide clarification and description of those notice requirements.~~

~~In Chapter VI of The Code, in some circumstances, the institution is required to send notice of a personnel action to the affected party by a "method of delivery that requires a signature for delivery." The following paragraphs describe a proper delivery that would meet the requirements of The Code.~~

~~A. — The delivery method must have as a requirement that the deliverer obtain the signature of the affected employee upon delivery. Such modes include, but are not limited to: certified mail, registered mail, Federal Express, or another commercial delivery service that obtains a signature.~~

~~B. — It is not necessary that the signature actually be obtained as long as the method noted above is used and a signature is requested or sought.~~

~~C. — If the signature cannot be obtained, a notation of this fact, the reason therefore if known, and the date of the attempted delivery shall be made and retained in institutional records.~~

~~D. — Personal or hand-delivered service is sufficient under paragraph A as long as the deliverer is an employee of the university and is not directly involved in the personnel action at issue, and the deliverer attempts to obtain a signature from the addressee. If these conditions are met, the delivery is proper and meets The Code requirements. If the deliverer cannot obtain a signature, a notation of this fact, the reason therefore if known, and the date of the attempted delivery shall be made to and retained in institutional records.~~

~~E. — For deliveries outside the United States, if no mode of delivery requiring the signature is available, the institution shall make a reasonable effort to utilize a reliable alternative mode, and the date and result of this attempted delivery shall be noted and retained in institutional records. A delivery meeting the requirement of this paragraph will be proper delivery under The Code provisions.~~

~~F. — Each constituent institution shall have a requirement that each employee provide an accurate and current mailing address to appropriate institutional offices.~~

CHAPTER V - OFFICERS OF THE UNIVERSITY  
SECTION 500. ELECTION OF OFFICERS.

500 A. President and Staff.

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

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

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

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

500 B. Chancellors and Staffs.<sup>1</sup>

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

(2) Unless the Board of Governors has delegated this authority to the president or to an institutional board of trustees, the Board of Governors shall, on recommendation of the president and of the appropriate institutional chancellor, appoint and fix the

compensation of all vice chancellors, senior academic and administrative officers, and persons having permanent tenure. [See G.S. 116-11(5) and 116-40.22(b)]

SECTION 501. PRESIDENT OF THE UNIVERSITY.

501 A. General Authority.

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

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

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

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

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

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

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

(6) The president, consistent with the provisions of Section 500 B(2), shall make nominations for all appointments that are to be acted upon by the Board of Governors and shall make recommendations for all promotions, salaries, transfers, suspensions, and

dismissals that are to be acted upon by the Board. The Board reserves the right, in all instances, to act on its own initiative.

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

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

#### 501 C. Relation of the President to the University.

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

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

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

(4) Repealed.

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

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

(7) The president shall establish administrative organizations to carry out the policies of the University and shall interpret these organizations to the Board of Governors and to the officers and faculties of the University. The president shall ensure that the University and its constituent institutions are properly staffed with personnel competent to discharge their responsibilities effectively. In carrying out the president's duties and responsibilities, the president shall be assisted by staff officers and by the chancellors of the constituent institutions. The president shall prescribe the duties and assignments of the staff officers reporting to the president. The president may establish and define the

duties of all-University councils and committees to advise and assist the president in the execution of the president's duties. The president may delegate to other officers portions of the president's duties and responsibilities, with the required authority for their fulfillment. However, such delegation shall not reduce the president's overall responsibility for those portions of duties which the president may choose to delegate.

## SECTION 502. CHANCELLORS OF CONSTITUENT INSTITUTIONS.

### 502 A. General Authority.

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

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

(1) It shall be the duty of the chancellor to keep the president, and through the president the Board of Governors, fully informed concerning the operations and needs of the institution. Upon request, the chancellor shall be available to confer with and make reports to the president or with the Board of Governors concerning matters that pertain to the institution. [See G.S. 116-34(c)]

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

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

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

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

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

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

(1) It shall be the duty of the chancellor to attend all meetings of the board of

trustees and to be responsible for keeping the board of trustees fully informed on the operation of the institution and its needs. [See G.S. 116-34(b)]

(2) The chancellor shall submit such reports to the board of trustees as the chancellor may deem wise or as the board may require. The chancellor shall seek the counsel of the board of trustees concerning the affairs of the institution.

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

(4) The chancellor shall be the official medium of communication between the board of trustees and all individuals, officials, agencies, and organizations, both within and without the institution.

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

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

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

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

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

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

process. Appeals from these disciplinary decisions are allowable only on the following grounds:

- (a) A violation of due process; or
- (b) A material deviation from the *Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Procedures*, Section 700.4.1 of the UNC Policy Manual.

Where the sanction is ~~suspension or~~ expulsion, an appeal may be made to the board of trustees. No appeal to the president or Board of Governors is permitted.

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

CHAPTER VI- ACADEMIC FREEDOM AND TENURE

SECTION 600. ~~FREEDOM AND RESPONSIBILITY IN THE UNIVERSITY COMMUNITY~~ FREEDOM OF INQUIRY AND RESPONSIBILITY WITHIN THE UNIVERSITY COMMUNITY.

- (1) The University of North Carolina System is dedicated to the transmission and advancement of knowledge and understanding. Academic freedom is essential to the achievement of these purposes. The University therefore supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.
- (2) The University and each constituent institution shall protect faculty and students in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth.
- (3) Faculty and students of the University of North Carolina System shall share in the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.

SECTION 601. ACADEMIC FREEDOM AND RESPONSIBILITY OF FACULTY.

- (1) It is the policy of the University of North Carolina System to support and encourage full freedom, within the law, of inquiry, discourse, teaching, research, and publication for all members of the academic staffs of the constituent institutions. Members of the faculty are expected to recognize that accuracy, forthrightness, and dignity befit their association with the University and their position as ~~men and women of learning~~ faculty members. They should not represent themselves, without authorization, as spokespersons for the University of North Carolina System or any of its constituent institutions.
- (2) The University and its constituent institutions shall not penalize or discipline members of its faculties because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

SECTION 602. ACADEMIC TENURE; NON-DISCIPLINARY SEPARATION.<sup>1</sup>

- (1) To promote and protect the academic freedom of its faculty, the board of trustees of each constituent institution shall adopt policies and regulations governing academic tenure. Policies adopted by a board of trustees regarding academic tenure and promotion shall be effective upon review by the senior vice president for academic affairs and the vice president and general counsel, and approved by the president. The chancellor, or their designee, shall review the constituent institution's tenure policies periodically, but at least every five years, and shall report to the president whether or not amendments or revisions are appropriate. The chancellor shall involve the faculty in this review; however, the chancellor shall make the final decision regarding any proposed amendments or revisions.
- (2) In all instances, the tenure conferred on a faculty member is held with reference to

employment by a constituent institution, rather than to employment by the University of North Carolina System.

(3) The tenure policies and regulations of each constituent institution<sup>2</sup> shall prescribe the procedures by which decisions concerning appointment, reappointment, promotion, and the conferral of permanent tenure shall be made. The length of terms of appointment that do not carry permanent tenure and those faculty ranks or titles whose holders shall be eligible for permanent tenure shall be prescribed. The institutional policies and regulations also shall prescribe the intervals at which the review of candidates for reappointment and promotion, including the conferral of permanent tenure, shall occur. The tenure policies and regulations of each institution, which shall include the complete text of Chapter VI of *The Code*, shall be published by the institution- in a manner accessible to faculty members ~~and distributed to its faculty members.~~

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

(5) The institutional policies and regulations shall specify that permanent tenure may be conferred only by action of the president and the Board of Governors, or by such other agencies or officers as may be delegated such authority by the Board of Governors, which may include the constituent institution's board of trustees.<sup>3</sup>

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

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

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

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

(d) The non-disciplinary separation from employment of a faculty member with permanent tenure or of a faculty member appointed to a specified term of service before the term expires when:

(i) the faculty member is unable to perform the essential functions of the job due to a medical condition or the vagueness of a medical prognosis and the university and the faculty member are unable to reach agreement on a return to work arrangement that meets both the needs of the university and the faculty member's condition and the university has demonstrated a business or operational need to fill the faculty member's position; or

(ii) notwithstanding any unexhausted leave credits and leave benefits, the faculty member is unable to perform all of the position's essential duties due to a court order, or due to the loss of credentials or certification required for the position and that would render the faculty member unable to perform all of the essential functions of the job.

A separation under this subsection (d) is not considered to be disciplinary. A faculty member may file a grievance pursuant to Section 607 with respect to a non-disciplinary separation under this subsection. In the event that such a grievance is filed, the burden shall be on the university (rather than the grievant) to demonstrate that the faculty member was unavailable based on one of the grounds listed in (d)(i) and (ii) and that the university took reasonable steps to avoid separation.

(e) Retirement or Phased Retirement.

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

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

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

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

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

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

SECTION 603. ~~DUE PROCESS BEFORE DISCIPLINARY DISCHARGE, SUSPENSION OR THE IMPOSITION OF SERIOUS SANCTIONS~~ DEMOTION<sup>8</sup>.

(1) A faculty member who is the beneficiary of institutional guarantees of academic tenure shall enjoy protection against unjust and arbitrary application of formal discharge, suspension, or

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<sup>8</sup> A demotion as defined in this Section shall not include a demotion that results in the loss of a faculty member's tenure.

~~demotion~~~~disciplinary penalties~~. During the period of such guarantees the faculty member may be discharged from employment, suspended without pay, or demoted in rank for reasons of:

- (a) Incompetence, including significant, sustained unsatisfactory performance after the faculty member has been given an opportunity to remedy such performance and fails to do so within a reasonable time;
- (b) Neglect of duty, including but not limited to, the sustained failure to meet assigned classes, respond to communications from individuals within the faculty member's supervisory chain, report to their employment assignment and by continuing to be absent for fourteen (14) consecutive calendar days without being excused by their supervisor, or to perform other ~~significant faculty professional obligations~~essential duties of their position; or
- (c) Misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, including violations of professional ethics or engaging in other unethical conduct; violation of university policy or law; mistreatment of students or ~~other~~ employees; research misconduct; financial or other fraud; or criminal, or other illegal, or inappropriate ~~or unethical~~ conduct. To justify ~~serious formal disciplinary action~~discharge, suspension, or demotion, such misconduct should be either (i) sufficiently related to a faculty member's ~~academic~~ responsibilities as to disqualify the individual from effective performance of university job duties, or (ii) sufficiently serious as to adversely reflect on the individual's honesty, trustworthiness or fitness to be a faculty member.

~~These sanctions~~Formal discharge, suspension, or demotion may be imposed only in accordance with the procedures prescribed in this section. For impositions of formal discharge, suspension, or demotion ~~serious sanctions~~ under this section of *The Code*, a faculty member serving a stated term shall be regarded as having tenure until the end of that term. These procedures shall not apply to ~~nonreappointment~~ Non-Reappointment, Denial of Tenure, and Denial of Promotion as provided in (Section 604), or Separation Due to Financial Exigency or Program Curtailment ~~termination of employment as provided in (Section 605), a grievance as provided in Section 607, or any other lesser employment action that is not a formal discharge, suspension, or demotion.~~

(2) Procedures for the Imposition of Discharge, Suspension, or Demotion~~or Serious Sanction~~.

(a) "Notice of Intent to Discharge, Suspend, or Demote"

The chief academic officer of the institution, however titled, shall send the faculty member a written notice of intention to discharge, suspend, or demote a faculty member. The letter must include: (i) the proposed date of discharge, suspension, or demotion; (ii) specific reasons for discharge, suspension, or demotion; (iii) the faculty member's right to request a disciplinary hearing; and (iv) the deadline and process for the faculty member to request a disciplinary hearing in writing. ~~the faculty member or impose a serious sanction together with a written specification of the reasons. The notice and specification of reasons shall be sent by a method of~~ The notice shall be provided in such a manner that provides proof of delivery. mail or delivery that requires a signature for delivery. The statement shall include notice of the faculty member's right, upon request, to a hearing by an elected standing faculty committee on hearings. When the faculty member has been notified of the institution's intention to discharge the faculty member, At any point during these procedures, the chancellor or the chief academic officer shall have the sole

discretion to either reassign the faculty member to other duties or to place the faculty member on administrative leave with pay. ~~Reassignment or placement of a faculty member on administrative leave with pay is not a disciplinary action. Placement of a faculty member on administrative leave with pay shall be in exceptional circumstances, such as to avoid disruption in the work place or protect the safety of members of the campus community.~~

(b) If, within 14 calendar days after receiving the ~~notice and written specifications referred to in paragraph (a) above,~~ the faculty member makes no written request for a disciplinary hearing, the discharge, suspension, or demotion, shall be final and without faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.<sup>4</sup>

(c) If the faculty member makes a timely written request for a disciplinary hearing, the chancellor shall ensure a process is in place so that the hearing is timely accorded before an elected standing committee of the institution's faculty. The hearing shall be on the written specification of reasons for the ~~intended discharge, suspension, or demotion. or imposition of a serious sanction.~~ The hearing committee shall accord the faculty member at least 30 calendar days from the time it receives the faculty member's written request for a disciplinary hearing ~~to schedule the hearing. to prepare a defense.~~ The hearing committee may, upon the faculty member's written request and for good cause, extend ~~this any campus-imposed deadline~~ by written notice to the faculty member. The disciplinary hearing committee will ordinarily endeavor to complete the disciplinary hearing within 90 calendar days except under unusual circumstances such as when a disciplinary hearing request is received during official university breaks and holidays and despite reasonable efforts the disciplinary hearing committee cannot be assembled.<sup>512</sup>

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

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

(f) The disciplinary hearing committee shall make written recommendations to the chancellor within 14 calendar days after its hearing concludes or after the full transcript is received, whichever is later. In reaching its written recommendations to the chancellor, the committee shall consider only the evidence presented at the disciplinary hearing and such written or oral arguments as the committee, in its discretion, may allow. The ~~university institution~~ has the burden to prove by a showing of "clear and convincing" evidence that it had permissible grounds for the discharge, suspension, or demotion. of proof. In evaluating the evidence, the committee shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the

~~recommended action.~~

(g) Following receipt of the disciplinary hearing committee's written recommendations, the decision as to whether to discharge, suspend, or demote the faculty member ~~or impose serious sanction on the faculty member~~ is the chancellor's and shall be effective as of the date of the chancellor's decision and the institution's obligation to continue paying the faculty member's salary shall cease upon issuance of the chancellor's decision. ~~If the chancellor decides to discharge~~ if the chancellor decides to discharge, suspend, or demote the faculty member, the faculty member may appeal the decision to the board of trustees. ~~the faculty member, the institution's obligation to continue paying the faculty member's salary shall cease upon issuance of the chancellor's decision. If the chancellor decides to impose one or more serious sanctions upon the faculty member, the institution may impose such sanctions upon issuance of the chancellor's decision. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final, with no appeal available. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision to the board of trustees.~~ An appeal to the board of trustees must contain a brief statement that alleges one or more of the following as the basis for the appeal: (1) that the process for making the decision was materially flawed, ~~so as to raise questions about whether the faculty member's contentions were fairly and reliably considered~~; (2) that the result reached by the chancellor was clearly erroneous; or (3) that the decision was contrary to controlling law or policy. If the faculty member elects to appeal the chancellor's decision to the board of trustees, this appeal shall be transmitted through the chancellor and be addressed to the chair of the board. Notice of appeal shall be filed with the board of trustees by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member receives the chancellor's decision.

(3) Appeals of Decisions Imposing Discharge, Suspension, or Demotion ~~or Serious Sanction~~. The appeal to the board of trustees shall be decided by the full board of trustees. However, the board may delegate the duty of conducting an initial review to a standing or ad hoc committee of at least three members. The board of trustees, or its committee, shall consider the appeal ~~on the~~ based on the record of the proceedings below, and may, in its discretion, consider written or oral arguments, subject to any policies, regulations or guidelines as may be adopted by the Board of Governors, president, or board of trustees. The board of trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's ~~request for an~~ appeal to the trustees. This decision shall ~~be the end~~ conclude of the University's appeals process.

(4) The procedures prescribed herein shall take effect with any discharge, suspension, or demotion ~~or serious sanction proposed~~ occurring on or after ~~August 1, 2023~~ July 1, 2019.

SECTION 604. NON-REAPPOINTMENT, DENIAL OF TENURE, AND DENIAL OF PROMOTION. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY.<sup>6</sup>

604 A. ~~Notice of Reappointment or Nonreappointment~~ Decisions Subject to Notice.

~~(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given.<sup>7</sup> For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows. The following faculty employment decisions are subject to notice as provided by this section:~~

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

~~(b) Decision not to reappoint a tenure track faculty member after the initial contract period ("Non-Reappointment"); During the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and~~

~~(be) Decision not to confer tenure to a tenure track faculty member ("Denial of Tenure"); and After two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.~~

~~(c) Decision not to promote in rank a tenure track faculty member or a tenured faculty member ("Denial of Promotion").~~

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

~~604 B. Impermissible Reasons for Nonreappointment~~ Notice of Decisions.

~~(1) Non-Reappointment. For a non-reappointment of a tenure track faculty member, the faculty employment decision shall be made by the appropriate institutional faculty and administrative officers early enough to permit reasonable notice to be given. For a full time, tenure track faculty member, timely notice shall be as follows:~~

~~(a) During the first year of service at the institution, the faculty member shall be given not less than 60 calendar days' written notice before the specified term contract expires;~~

~~(b) During the second year of continuous service at the institution, the faculty member shall be given not less than 90 calendar days' written notice before the specified term contract expires; and~~

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

~~(2) Denial of Tenure. For Denial of Tenure the faculty member shall be given not less than 12 months' written notice before the faculty member's appointment expires.~~

~~(3) Denial of Promotion. For Denial of Promotion in rank, the faculty member shall be given written notice within a reasonable time following the final faculty employment decision not to promote.~~

~~In no event shall a decision not to reappoint a faculty member be based upon (1) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution; or (2) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by campus boards of trustees; or (3) personal malice. For purposes of this section, the term "personal malice" means dislike, animosity, ill-will, or hatred based on personal characteristics, traits, or circumstances of an individual.~~

604 C. Review of ~~Nonreappointment~~ Decisions.

(1) Campus-Based Review. Subject to limitations contained in *The Code* and the policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty member may seek review of ~~the~~ a decision regarding non-reappointment, promotion, and tenure as provided in Section 604A. ~~of the constituent institution not to reappoint the faculty member.~~ Such procedures shall at a minimum provide for the following:

(a) ~~A reasonable time of no less than 14 calendar days within which after~~ The faculty member shall have at least 30 calendar days upon receiving the notice of ~~the decision~~ nonreappointment, the faculty member may to request a review of the decision on the grounds that the faculty employment decision was based on an Impermissible Basis (as defined herein). ~~by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of nonreappointment decision in a timely fashion within the campus-defined timeframe, the decision shall be as specified by campus tenure policies, the nonreappointment is final without recourse to any further review- or appeal by faculty committees, the institution, or the Board of Governors.~~

(b) If the faculty member files a request for review within the campus-specified timeframe in a timely fashion, the chancellor shall ensure a process is in place so that a hearing-review by a standing committee of the institution's faculty occurs within a reasonable time from the request for review. The institution and faculty member should endeavor to complete the review within 90 days from the request for review. ~~is timely accorded before an elected standing committee of the institution's faculty.~~

(c) In reaching written recommendations to the chancellor, the review committee shall consider only the evidence presented at the hearing by the faculty member and a representative of the university, including the written record of the decision. ~~and such written or oral arguments as the committee, in its discretion, may allow.~~ The faculty member shall have the burden to prove by a preponderance of the evidence that the decision was based on an Impermissible Basis. ~~of proof. In evaluating the evidence, the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence).~~

(d) Impermissible Basis. A decision under Section 604A shall not be based upon (1) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution; (2) the faculty member's membership in a group protected from discrimination under state or federal law; (3) other violation of state or federal law; or (4) material violation of applicable university policies for reappointment, promotion, and tenure that materially affected the decision. ~~. The purpose of the campus-based review process is to determine~~

~~(i) whether the decision was based on considerations that *The Code* provides are impermissible; and (ii) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.~~

(2) Appeal to the Board of Trustees. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final with no appeal available. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision by filing a written notice of appeal with the board of trustees. This appeal shall be transmitted through the chancellor and be addressed to the chair of the board of trustees, by submitting such notice by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement that alleges one or more of the following as the basis for the appeal: (a) that the campus-based process for reviewing the decision was materially flawed;~~;~~~~so as to raise questions about whether the faculty member's contentions were fairly and reliably considered;~~ (b) that the result reached by the chancellor was clearly erroneous; or (c) that the decision was contrary to controlling law or policy.

(3) The procedures prescribed in this section shall take effect with any faculty employment nonreappointment decision effective on or after ~~July 1, 2019.~~ August 1, 2023.

SECTION 605. ~~TERMINATION OF FACULTY EMPLOYMENT~~SEPARATION DUE TO FINANCIAL EXIGENCY OR PROGRAM CURTAILMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605 C (1), subject to the concurrence by the president and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.<sup>8</sup>

605 B. Timely Notice of Termination.

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

- (a) One who has permanent tenure shall be given not less than 12 months' notice; and
- (b) One who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

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

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

#### 605 C. Institutional Procedures.

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

- (1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.
- (2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.
- (3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.
- (4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.
- (5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.
- (6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

#### SECTION 606. RETIREMENT OF FACULTY SEPARATION DUE TO RETIREMENT.

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

SECTION 607. FACULTY GRIEVANCE ~~COMMITTEE FOR CONSTITUENT INSTITUTIONS~~PROCESS.

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

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

(3) "Grievances" within the province of the grievance committee's power shall include matters directly related to a faculty member's terms and conditions of employment. Grievances must be based upon a decision made by an administrator in a supervisory role over the faculty member. The grievance must allege that the decision was in violation of federal or state law, or UNC Policy or Regulation, or constituent institution policy or regulation and that the faculty member was negatively affected by such decision. employment status and institutional relationships within the constituent institution, including matters related to post tenure review. However, ~~no the grievance committee may not consider a grievance matter that is subject to that grows out of or involves matters related to a formal proceeding Section 603, Section 604, or Section 605 of The Code, or a matter that is not grievable as defined in UNC Policy 101.3.2[R]. for the suspension, discharge or termination of a faculty member, or that is within the jurisdiction of another standing faculty committee, may be considered by the committee.~~

(4) ~~If any faculty member has a grievance, the faculty member~~ A faculty member who has a grievance may submit the grievance may petition to the faculty grievance committee ~~for redress. The petition shall be written and shall set forth in detail the nature of the grievance and against whom the grievance is directed. It shall contain any information that the petitioner considers pertinent to the case. The grievance committee shall decide whether the facts fall within the institution's grievance policy such that the grievance is reviewable by the committee; merit a detailed investigation so that submission of a petition grievance shall not result automatically in consideration or review of the grievance. an investigation or detailed consideration of the petition.~~

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

(6) ~~5) The chancellor shall make the final decision on a grievance. If the decision is not in favor of the faculty member, the decision may be appealed to the board of trustees of the constituent institution. If neither the relevant administrative official nor the chancellor makes an adjustment that is advised by the faculty grievance committee in favor of the aggrieved faculty member, then the faculty member may appeal to the board of trustees of the constituent institution. The decision of the board of trustees is final.~~

SECTION 608. STUDENTS' RIGHTS AND RESPONSIBILITIES.

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

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

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

#### SECTION 609. JURISDICTION OF THE BOARD OF GOVERNORS.

##### 609 A. Discretionary Review.

The Board of Governors may make such inquiry and review into matters as it may from time to time deem appropriate; provided, however, that the Board of Governors shall not review matters or actions that are subject to separate processes under Chapter VI or any other chapter of *The Code*, or for which a designated review, grievance, or hearing process has been established by the UNC Policy Manual, including but not limited to student disciplinary matters, research misconduct matters, other employment matters, first amendment matters, misuse of state funds reports, or audit and compliance matters. Moreover, it is the Board of Governors expectation that campus matters will be appropriately addressed at the constituent institution. Therefore, it is only in extraordinary circumstances, as solely determined by the Board of Governors that the Board of Governors will exercise its discretion to review any matter that has not first been brought to the attention of the designated institutional administrator, chancellor, or president for appropriate review and handling.

##### 609 B. Hearings.

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

##### 609 C. Transmission of Appeals

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

#### SECTION 610. RIGHTS OF SPECIAL FACULTY MEMBERS

(1) Faculty members who are appointed as visiting faculty members, adjunct faculty, lecturers, artists-in-residence, writers-in-residence or other special categories are regarded as

“special faculty members” for purposes of *The Code*. Special faculty members may be paid or unpaid.

(2) Special faculty members who are paid shall be appointed for a specified term of service, as set out in writing in the letter of appointment. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires. The continued employment of a special faculty member during the term appointment may be made expressly contingent on items such as the continued availability of funding from any source, on enrollment levels, or any other contingency established by the institution, in which case the appointment letter must state such contingency.

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

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

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

#### SECTION 611. APPOINTMENT OF AFFILIATE FACULTY

Institutions may confer honorary academic titles to outstanding individuals who have primary employment responsibility outside the university but provide professional expertise or contributions to an academic program. Such honorary academic appointments are necessary to recruit and recognize professionals, especially those in healthcare fields, to serve in critical roles such as preceptors for clinical clerkships or experiential learning. Processes for the selection and appointment of these unpaid faculty roles must reside outside the tenure policies and regulations of each constituent institution as these appointments are not eligible for permanent tenure and shall not be entitled to any rights under any other Section of this Chapter.

#### SECTION 611.2. REVIEW OF PERSONNEL ACTIONS AFFECTING SPECIFIED EMPLOYEES EXEMPT FROM THE NORTH CAROLINA HUMAN RESOURCES ACT (EHRA)

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

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

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

(i) Notice

(A) For senior academic and ~~administration~~administrative officers defined only in Section 300.1.1 I.B., for discontinuations, expiration of term appointments, or terminations of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in Section 300.1.1 III.B. 1., 2., and 3., of the UNC Policy Manual; and

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

(ii) Equal Employment Opportunity and Protected Activity

(A) For the senior academic and administrative officers defined in subsection (i) above, for violations of any provision of subsections III.D. or E. of Section 300.1.1 of the UNC Policy Manual; and

(B) For the other employees exempt from the North Carolina Human Resources Act defined directly above in subsection (ii), for violations of any provision of sections V., or VI., of Section 300.2.1 of the UNC Policy Manual; or

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

(A) For the senior academic and administrative officers defined in subsection (i) above, for discharge for cause or other formal disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Section 300.1.1 III.C. of the UNC Policy Manual; and

(B) For the other employees exempt from the North Carolina Human Resources Act defined above in subsection (ii), for discharge for cause or other formal disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Section 300.2.1 IV. of the UNC Policy Manual; or

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

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

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

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

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

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

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<sup>1</sup>Pursuant to G.S. 116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors delegates certain authorities to the president of the UNC System. See Section 200.6, *Delegation Authority to the President of the University*.

<sup>2</sup>Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, the requirement that the institution adopt tenure policies will be satisfied at those institutions by an employment system based on renewable contracts, which system need not provide for the traditional faculty ranks. Wherever the phrase “tenure policies and regulations” is used in this chapter, it shall mean, for the University of North Carolina School of the Arts and for the North Carolina School of Science and Mathematics, the faculty employment policies of those schools. Wherever the phrase “tenured faculty” is used in this chapter and in the Policies of the Board of Governors, it shall mean, for those schools, a faculty member holding a fixed-term contract.

<sup>3</sup>See Footnote 1, above.

<sup>4</sup>In computing any period of time, the day in which notice is received is not counted but the last day of the period being computed is to be counted.

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<sup>5</sup>To meet this deadline, faculty are encouraged to consider scheduling hearings during the evening, weekend, or other non-class time. It is strongly recommended that several days and times be established for the hearing when scheduling the first day, for the eventuality that they hearing may take two or more sessions.

<sup>6</sup>Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, regular faculty holding fixed-term contracts at those institutions are entitled to the rights afforded in this section.

<sup>7</sup>Faculty at North Carolina School of Science and Mathematics shall be given notice no later than February 15 of the reappointment year.

<sup>8</sup>Because of the unique character and mission of the North Carolina School of Science and Mathematics, when the employment of a faculty member is to be terminated during or at the conclusion of a fixed-term contract because of major curtailment or elimination of a teaching, research, or public-service program that is not founded upon financial exigency, written notice shall be given no later than the November 1 prior to termination. When faculty employment is to be terminated during or at the conclusion of a fixed-term contract because of financial exigency, the school shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give notice no later than the November 1 prior to termination. Terminations at the end of a fixed-term contract for the reasons stated above in this footnote are not subject to Section 604 of *The Code*, but instead are subject to Section 605.

CHAPTER VII - FINANCES, PROPERTY, AND OBLIGATIONS

SECTION 700. BUDGETS AND APPROPRIATIONS.

700 A. Budget Recommendations.

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

700 B. Appropriations and Allocations.

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

700 C. Transfers of Appropriated Funds.

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

SECTION 701. TUITION AND FEES.

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

University of North Carolina shall be extended to the people of the state free of expense, as far as practicable. [See N. C. Constitution, Art. IX, Sec. 9]

SECTION 702. GENERAL POWERS CONCERNING PROPERTY.

702 A. Corporate Powers.

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

702 B. Statutory Powers.

Subject to applicable state law and to the terms and conditions of the instruments under which property is acquired, the Board of Governors may acquire, hold, convey or otherwise dispose of, invest and reinvest any and all real and personal property, with the exception of any property that may be held by trustees of institutional endowment funds under the provisions of G.S. 116-36 or that may be held, under authority delegated by the Board of Governors, either by a board of trustees or by trustees of any other endowment or trust fund. [See G.S. 116-11(2)]

702 C. Transfer of Property and Obligations.

All property of whatsoever kind and all rights and privileges held by the former Board of Higher Education and by the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, University of North Carolina at Pembroke,<sup>1</sup> University of North Carolina School of the Arts,<sup>2</sup> Western Carolina University, and Winston-Salem State University, as said property, rights and privileges may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and vested in the Board of Governors. All obligations of whatsoever kind of the former Board of Higher Education and of the former boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central, University of North Carolina at Pembroke, University of North Carolina School of the Arts, Western Carolina University, and Winston-Salem State University, as said obligations may have existed immediately prior to July 1, 1972, are, effective July 1, 1972, transferred to and assumed by the Board of Governors. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall, from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries, and shall continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property right was acquired. All property of whatsoever kind and all rights and privileges held by the board of trustees of the North Carolina School of Science and Mathematics, as said property, rights and privileges may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Trustees of the North Carolina School of Science and Mathematics as said obligations may have existed immediately prior to July 1, 2007, are, effective July 1, 2007, transferred to and assumed by the Board of Governors of the University of North Carolina. In case a conflict arises as to which property, rights, or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights, or privileges were so held, the Board of Governors shall determine the issue, and the determination of the Board of Governors shall constitute final administrative action. Nothing in *The Code* shall be deemed to

increase or diminish the income, other revenue, or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, it being the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof. [See G.S. 116-12]

702 D. Limitation on Exercise of Powers.

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

SECTION 703. IMMUNITIES.

703 A. Tax Exemption.

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

703 B. Tort Liability.

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

SECTION 704. ENDOWMENT FUND.

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

SECTION 705. ANNUITY OR RETIREMENT INCOME CONTRACTS.

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

system purposes. [See G.S. 116-17]

SECTION 706. REVENUE BONDS.

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

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<sup>1</sup>Designated as Pembroke State University prior to July 1, 1996.

<sup>2</sup>Designated as North Carolina School of the Arts prior to August 1, 2008.

*THE CODE*

Appendix 1 -

DELEGATIONS OF DUTY AND AUTHORITY TO BOARDS OF TRUSTEES

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

I. ACADEMIC AND ADMINISTRATIVE PERSONNEL

A. Appointment and Compensation

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

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

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

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

B. Discharge or Suspension

Subject to regulations of the board of trustees and consistent with applicable policies of the Board

of Governors, all discharges or suspensions of faculty members and administrative personnel, other than those subject to the North Carolina Human Resources Act, shall be effected by the chancellor. A discharged or suspended employee shall have such rights of appeal from the action of the chancellor, or the chancellor's designee, as may be prescribed by *The Code*, policies of the Board of Governors, or regulations of the board of trustees.

#### C. Personnel Policies

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

#### D. Chancellor Selection

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

The search committee, through the chair of the board of trustees, shall make a preliminary report to the president when the committee is preparing a schedule of initial interviews. At the completion of the campus interview process, the search committee shall recommend an unranked slate of no fewer than two candidates to the trustees for consideration.

The board of trustees, following receipt of the report of the search committee, shall, subject to the direction of the president, recommend an unranked slate of no fewer than two candidates for consideration by the president in designating a nominee for the chancellorship for approval by the Board of Governors.

### II. ACADEMIC PROGRAM

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

### III. ACADEMIC DEGREES AND GRADING

Subject to authorization by the Board of Governors of the nature and general content of specific degree programs which may be offered by an institution, each institution shall determine whether an individual student shall be entitled to receipt of a particular degree. Each institution also shall determine what grade a student will be assigned in a particular course. No appeal from any of these decisions or any other academic determination is allowable to the president or to the Board of Governors.

### IV. HONORARY DEGREES, AWARDS AND DISTINCTIONS

The board of trustees shall be responsible for approving the names of all individuals on whom it is proposed that an honorary degree or other honorary or memorial distinction be conferred by the

institution, subject to such policies as may be established by the Board of Governors.

#### V. BUDGET DEVELOPMENT AND ADMINISTRATION

On an annual basis, the board of trustees shall approve a comprehensive, “all-funds” budget of the constituent institution for the upcoming fiscal year. The budget shall reflect estimated General Fund, Institutional Trust Fund, and other revenues and expenditures as defined by and in a manner prescribed by the president or the president’s designee. The board of trustees’ approval of a constituent institution all-funds budget shall not be delegated and shall be made by the full board of trustees.

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

#### VI. PROPERTY AND BUILDINGS

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

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

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

(a) If a proposal involves acquisition or disposition of any interest in real property other than a leasehold, the board of trustees may authorize such a transaction with a value less than \$500,000, and the president may authorize such a transaction with a value less than \$750,000, without obtaining approval of the Board of Governors; and

(b) If a proposal involves acquisition or disposition of a leasehold interest in real property, the board of trustees may authorize such a transaction with an annual value less than \$500,000 and a term of not more than 10 years, and the president may authorize such a transaction with annual value less than \$750,000 and a term of not more than 10 years, without obtaining approval of the Board of Governors;<sup>2</sup> and

(c) If the president or a board of trustees of a constituent institution has been delegated additional authority by the Board of Governors to do so under Section 600.1.3 of the UNC Policy Manual, the president or board of trustees of a constituent institution may authorize acquisition or disposition of an interest in real property with a value greater than that listed in paragraphs (a) and (b), above, without obtaining approval of the Board of Governors.

The Board of Governors, under circumstances which it considers appropriate and following notice from it to the board of trustees, may take action necessary to effect the acquisition or disposition of an interest in real property which is related to or which affects the institution, without receipt of a recommendation from the board of trustees.<sup>3</sup>

All delegations of authority in this section are subject to any necessary authorizations and approvals from state officials and agencies.

#### VII. ENDOWMENTS AND TRUST FUNDS

Subject to applicable provisions of state law and to such terms and conditions as may be prescribed from time to time by the Board of Governors, each board of trustees shall be responsible for the preservation, maintenance, and management of all properties, both real and personal, funds and other things of value which, either separately or in combination, constitute all or any part of the authorized endowment or trust funds, either currently in existence or to be established in the future, for the benefit of the individual constituent institution. [See G.S. 116-11(2); 116-12; 116-36; 116-36.1; 116-36.2]

#### VIII. ADMISSIONS

Subject to such enrollment levels and minimum general criteria for admission as may be established for a constituent institution by the Board of Governors, each constituent institution of the University of North Carolina System shall establish admissions policies and resolve individual admission questions for all schools and divisions within the institution. No appeal concerning an individual admission case shall lie beyond the institutional board of trustees. An appeal to the institutional board of trustees is not required.

#### IX. TUITION, FEES, AND DEPOSITS

##### A. General Authority of Boards of Trustees

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

##### B. Tuition and Fee Deposits

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

##### C. Application Fee

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

D. Acceptance of Obligations in Lieu of Cash

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

E. Fee Recommendations

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

X. STUDENT FINANCIAL AID

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

XI. STUDENT SERVICES

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

XII. STUDENT ACTIVITIES AND GOVERNMENT

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

XIII. INTERCOLLEGIATE ATHLETICS

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

XIV. TRAFFIC AND PARKING REGULATIONS<sup>4</sup>

XV. CAMPUS SECURITY

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

#### XVI. AUXILIARY ENTERPRISES, UTILITIES, AND MISCELLANEOUS FACILITIES

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

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<sup>1</sup>See Section 600.1.1 of the UNC Policy Manual for additional detail.

<sup>2</sup>The value of an interest in real property shall, with respect to a leasehold interest, be deemed the annual rental value thereof.

<sup>3</sup>Board of trustees are authorized to delegate to the respective chancellors the power to authorize for the institutions the acquisition or disposition of any interest in real property valued at less than \$50,000, subject to any necessary approval from state officials and agencies, in accordance with Section 600.1.3 of the UNC Policy Manual.

<sup>4</sup>Legislation adopted by the 1973 session of the General Assembly, on recommendation of the Board of Governors, gave the boards of trustees broad authority in this area and superseded the authority originally granted in this paragraph; hence it is omitted here. [See G.S. 116-44.3, *et. seq.*]

## Policy on Chancellor Searches and Elections

The Board of Governors adopts the following policy regarding the chancellor search and election process.

I. Purpose. Under state law, the chancellor is the administrative and executive head of the constituent institution of the University of North Carolina (UNC) System whose exercise of executive authority is subject to the direction of the president.<sup>1</sup> State law requires the Board of Governors to elect a chancellor on the nomination of the president; and the president to choose the nominee from a list of candidates recommended by the institution's board of trustees.<sup>2</sup> The search for and election of a new chancellor of a constituent institution therefore requires the participation, involvement, and collaboration of the president, the board of trustees of the constituent institution, and the Board of Governors, each of which performs distinct roles and functions. Within the UNC System, chancellors report to the president. The president therefore has the primary responsibility for ensuring there is a thorough and reliable process that reflects the needs of the institution, the System, and the state, results in a pool of exceptionally qualified candidates, and culminates in the election of the chancellor by the Board of Governors.

Consistent with the statutory responsibilities of the board of trustees, president, and Board of Governors, this policy establishes requirements for the chancellor search and election process, describes the search philosophy, and identifies the resources that shall be provided through the UNC System Office and the constituent institutions during each search.

### II. Search Roles and Process

A. President. As further described in this policy, the president or their designee shall serve as an *ex officio* member of the search advisory committee. In addition, the president shall: oversee UNC System Office staff with responsibility for managing and supporting chancellor searches, determine search advisory committee membership, charge the search advisory committee, develop chancellor leadership competencies, interview chancellor finalists, participate in the reference checking process, negotiate the terms of employment for a chancellor-elect consistent with state law and Board policy, and offer a chancellor-elect for final consideration by the Board of Governors.

B. Board of Trustees. As further described in this policy, members of the boards of trustees shall serve as members of the search advisory committee, shall consider candidates proposed by the search advisory committee as potential finalists, and shall refer a final slate of candidates to the president for additional vetting and consideration.

C. Board of Governors. The Chair of the Board of Governors or their designee and the member of the Board of Governors designated by the Committee on University Governance to

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<sup>1</sup> G.S. 116-34.

<sup>2</sup> G.S. 116-11(4).

serve as the liaison to the constituent institution shall serve as *ex officio* members of the search advisory committee. In addition, as further described in this policy, selected members of the Board of Governors shall provide input and advice to the president on a slate of finalists and the governors both in committee and then as the full body shall consider and vote on a proposed chancellor-elect.

D. Search Advisory Committee

1. The president in consultation with the chair of the board of trustees shall appoint a search advisory committee that consists of no more than 13 voting members.

2. The members of the search advisory committee shall consist of individuals knowledgeable of the duties and responsibilities of the chancellor position and broadly representative of the interest of students, faculty, staff, administrators, alumni, and the UNC System.

3. The voting membership must include representatives of the board of trustees, the faculty, the student body, the staff, and the alumni.

4. The voting membership must also include a sitting or retired chancellor from another UNC System university with 24 months or more experience serving as a permanent chancellor.

5. The search advisory committee shall also include as *ex officio*, voting members the president (or their designee), the Chair of the Board of Governors (or their designee), and the member of the Board of Governors designated by the Committee on University Governance to serve as the liaison to the constituent institution.

6. The president in consultation with the chair of the board of trustees shall identify a chair of the search advisory committee; the chair of the board of trustees may serve as chair of the search advisory committee.

7. As further described in this policy, the search advisory committee shall work on behalf of the president to receive the input of stakeholders; to develop in consultation with the president a leadership statement that describes the desired qualities for the new chancellor, including any qualities identified as Systemwide leadership pillars by the UNC Board of Governors; to conduct interviews and consider the qualifications of candidates; and to propose a slate of finalists for consideration of the board of trustees, who recommends a slate to the president.

8. It is essential that the members of the search advisory committee see themselves and function not as representatives of particular special interest groups, but as members of a team dedicated to a single objective: the identification and recommendation of the strongest possible candidates for the chancellorship of the institution.

E. Budget and Staff. Upon the establishment of the search advisory committee, the chair of the board of trustees, in consultation with the president, shall establish a budget and identify staff for the committee. The costs for a chancellor search are the responsibility of the constituent

institution. This shall include the fees and expenses of any engaged outside professional search and/or background investigation firms.

F. UNC System Office. The UNC System Office shall provide the necessary resources and support to effectively carry out a chancellor search, including but not limited to qualified human resources staff with expertise in executive search, logistical and administrative support to the chair of the search advisory committee, and training materials which shall serve to orient trustees and search advisory committee members with respect to their roles and responsibilities in the search process. The System Office may also obtain the support of the constituent institution in providing local logistical support to the operations of the search advisory committee.

G. Search Status. Members of the Board of Governors may elect to receive public notices of search advisory committee meetings and chancellor search open forums.

H. Engagement of Key Stakeholders

1. The chair of the search advisory committee shall ensure that the search process engages a broad cross-section of stakeholders to obtain well-rounded input on the leadership statement and candidates. At the discretion of the search advisory committee chair, such engagement could involve students, faculty, staff, alumni, community members, and other stakeholders familiar with the needs of the institution, region, and state.

2. The search advisory committee chair is encouraged to engage selected members of the Board of Governors who may live within proximity to the institution or otherwise have a particular interest in or knowledge of the institution and its mission to attend constituent forums, candidate receptions, or other events at which candidates are present.

3. All individuals provided the opportunity to meet with chancellor candidates on campus will be expected to sign confidentiality agreements equivalent to that signed by members of the search advisory committee.

I. Confidential Searches and Confidentiality

1. Consistent with state law protecting the identity of applicants<sup>3</sup>, searches for chancellors of the UNC System shall be conducted as “confidential searches,” which shall mean the identity of candidates, semi-finalists, or finalists shall not be disclosed to the general public. Conducting confidential searches is intended to maximize the quality of the candidate pool by not discouraging the interest of individuals who would not otherwise apply in the event of a publicly disclosed candidate pool.

2. Any individual involved in the search process, including but not limited to members of the Board of Governors, the search advisory committee, the board of trustees, and staff, shall keep confidential all search-related records and information that are required by law to be kept confidential. Confidential information includes, but is not

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<sup>3</sup> See G.S. Chapter 126, Article 7, G.S. 126-22 et seq.

limited to, personnel records and information of candidates, attorney-client communications, and closed session deliberations and information.

III. Search Philosophy, Candidates for Chancellor, and Other Items

A. Each chancellor search advisory committee and the boards of trustees for constituent institutions shall, in consultation with the president, undertake reasonable efforts to recruit and consider a diverse pool of exceptionally well-qualified individuals for chancellor vacancies, including candidates with leadership experience and a track record of success in the public, non-profit, or private for-profit sectors.

B. The Board of Governors may, in consultation with the president and with input from constituencies across the university system, choose to identify a limited number of qualities, skills, or attributes (“leadership pillars”) that are critical to chancellor success at any System university and that must therefore be included in every leadership profile developed by a search advisory committee. The Board shall revisit such leadership pillars at its discretion to ensure alignment with current strategic priorities and the role of the chancellor.

C. In order to support proactive talent identification and succession planning efforts and to benefit future applicant pools for the position of chancellor, the president, in consultation with the officers of the Board of Governors, shall undertake reasonable efforts to develop potential chancellor candidates within the UNC System and shall ensure that opportunities for chancellor vacancies are promoted in a manner that encourages interest from well-qualified candidates who are current residents of the State of North Carolina.

D. In keeping with Board policy, in order to avoid actual or potential conflicts of interests, no presently serving member of the Board of Governors or a board of trustees shall be eligible to be appointed as an acting or interim chancellor or to be considered for the position of chancellor unless they first resign their position on said body.

IV. Board of Trustees Recommendations to the President. The board of trustees, following receipt of the report of the search advisory committee shall, subject to the direction of the president, recommend an unranked slate of no fewer than three (3) candidates for consideration by the president in designating a nominee for the chancellorship.

V. Consideration by the President. Once the slate of candidates is received from the board of trustees, the president may choose to interview one (1) or more of the candidates and may include members of his or her senior staff in the interviews, as deemed appropriate. The president may also consider asking the appointed officers of the Board of Governors and the chair and vice chair of the Committee on University Personnel to participate in these interviews to advise on the suitability of the candidates and to build support for a selected finalist before advancing to the next stage of the search process.

VI. Review of Candidate Qualifications and Background Investigation

A. Timing. The president shall initiate a detailed background investigation on one or more of the candidates received from the board of trustees for determining their suitability for election as chancellor.

B. Scope. Any candidate presented to the Board of Governors for election as chancellor must have had a completed background investigation that includes but is not limited to verification of prior work history and educational credentials, confirmation of most recent total compensation, reference checks, criminal background check, credit check, civil litigation check, and scans of relevant social media and news media references applicable to the candidate. This investigation may address any other issues deemed of relevance to the president to confirm the candidate's suitability to serve as a chancellor.

C. Review of Results. The final results of this background investigation shall be reviewed by the president, appropriate members of the president's senior staff, the officers of the Board of Governors, and the chair and vice chair of the Committee on University Personnel. This information may be shared with other members of the Board of Governors only with the direct authorization of the chair and the president when deemed necessary for the proper conduct of a search.

VII. Nomination to the Board of Governors. Following interviews and successful completion of an appropriate background investigation, the president may either identify one candidate for nomination to the Board of Governors or return the slate to the board of trustees with instructions for further action.

VIII. Negotiation of Terms and Conditions of Appointment. The president shall consult with the Board of Governors officers and the chair of the Committee on University Personnel about the president's proposed nomination and negotiation of conditional terms and conditions of appointment. The negotiated terms and conditions may include: compensation (including base salary, consistent with the Board of Governors approved market salary ranges), retirement plan participation; deferred compensation incentive and retention plans; stipends, and allowances.

IX. Election of the Chancellor

A. The Board of Governors shall vote on the president's nominee and the proposed terms of appointment.

B. All the members of the Board shall have no less than seven (7) calendar days to review written materials for the proposed candidate for chancellor-elect prior to being asked to vote on said nomination.

C. Prior to being considered by the full Board of Governors, the Committee on University Personnel shall convene to consider and make a recommendation concerning the president's nomination and the proposed terms and conditions of appointment, including the elements of any employment contract. The Committee on University Personnel meeting shall be scheduled so as to reasonably accommodate participation by Board of Governors members in person or by telephone.

D. Any Board of Governors member who shall have a concern regarding the veracity or accuracy of any element of a candidate's background for chancellor shall address such concern directly to the president. The president shall have the responsibility to investigate and follow-up on such concerns with the Board of Governors in a timely manner.

E. The chancellor-elect shall not be physically present at any Board meeting at which such vote shall be undertaken.

X. Other Matters

A. Effective Date. The requirements of this policy shall apply to all chancellor searches, except that the amendments to the policy adopted by the Board of Governors on XX/XX 2023, shall be effective only for those chancellor searches that commence after XX/XX 2023.

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 or relate to chancellor searches.

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.