



TRANSMITTAL LETTER

The University of North Carolina
Office of the President

Transmittal Number 36
November 16, 2004

Subject: Table of Contents of the Policy Manual

Transmittal Letter #35 [Revised]

300.1.1. Senior Academic and Administrative Officers.

300.7.2. The University of North Carolina Phased Retirement System.

300.7.2.1[G]. Guidelines for the Phased Retirement Program.

**600.3.1. Selection Criteria and Operating Instructions for Special Responsibility
Constituent Institutions.**

700.1.4[G]. Guidelines on the Admission of Undocumented Aliens.

1400.1. Policy on the Use of Information Technology.

This letter transmits a revised Table of Contents for the Policy Manual, two amended policies, one newly adopted guideline, as well as one newly adopted policy. Also included is a revised Transmittal Letter #35 along with one policy and one guideline previously transmitted which are being redistributed now with date corrections:

Table of Contents of the Policy Manual. This Table of Contents reflects the deletion of Policy 300.7.3. Implementation of the Phased Retirement Program and of Guideline 300.7.3.1[G]. Guidelines on Implementation of the Phased Retirement Program. It also reflects the addition of 700.1.4[G]. Guidelines on the Admission of Undocumented Aliens and 1400.1. Policy on the Use of Information Technology.

Transmittal Letter #35 [Revised]. This amended transmittal letter is being distributed to give notice of the rescinding of Policy 300.7.3. Implementation of the Phased Retirement Program and of Guideline 300.7.3.1[G]. Guidelines on Implementation of the Phased Retirement Program. Notice of these changes was inadvertently excluded at this transmittal's previous distribution. Please remove these items from the Policy Manual.

300.1.1. Senior Academic and Administrative Officers. This amended policy was approved by the Board of Governors at its meeting on November 12, 2004. Please contact Gretchen Bataille, Senior Vice President for Academic Affairs, at 919-962-4614 with any questions.

300.7.2. Policy: The University of North Carolina Phased Retirement System. This amended policy was approved by the Board of Governors at its meeting on September 10, 2004. Please contact Betsy Brown, Associate Vice President for Faculty Support & International Programs and Interim Director for the William Friday Institute for Higher Education Leadership, at 919-962-4612 with any questions. **This policy is being redistributed to correct date information.**

300.7.2.1[G].Guidelines for the Phased Retirement Program. This amended guideline was approved by the President September 10, 2004. Please contact Betsy Brown, Associate Vice President for Faculty Support & International Programs and Interim Director for the William Friday Institute for Higher Education Leadership, at 919-962-4612 with any questions. **This policy is being redistributed to correct date information.**

600.3.1. Selection Criteria and Operating Instructions for Special Responsibility Constituent Institutions. This amended policy was approved by the Board of Governors at its meeting on November 12, 2004. Please contact Robert O. Nelson, Senior Associate Vice President for Finance, at 919-962-4598 with any questions.

700.1.4[G]. Guidelines on the Admission of Undocumented Aliens. This guideline was signed by President Broad on November 12, 2004. Please contact Leslie Winner, Vice President and General Counsel, at 919-962-4588 with any questions.

1400.1. Policy on the Use of Information Technology. This policy was adopted by the Board of Governors at its meeting on November 12, 2004. Please contact Robyn Render, Vice President for Vice President for Information Resources and CIO, at 919-962-3549 with any questions.

THE UNIVERSITY OF NORTH CAROLINA

POLICY MANUAL

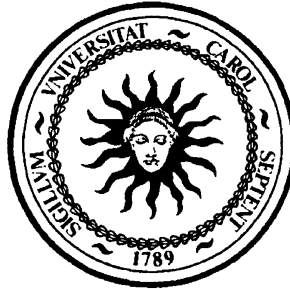


TABLE OF CONTENTS

CHAPTER 100

THE CODE AND POLICIES OF THE UNIVERSITY

100.1	<i>THE CODE OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA</i>	
100.2	ADOPTION OF THE POLICY MANUAL, RESCISSION OF PRIOR POLICIES AND PROMULGATION OF POLICIES	
100.2[G]	Guidelines for Proposing Policies of the Board of Governors and Regulations and Guidelines by the President	
100.3	APPELLATE REVIEW	
REPEALED	100.3.1	APPELLATE REVIEW UNDER SECTION 501C(4) OF <i>THE CODE</i>
REPEALED	100.3.1.1[G]	Guidelines on Determining Proper Routes of Appeal
REPEALED	100.3.2	TIME LIMITS ON APPEALS
REPEALED	100.3.2.1[R]	Regulations on Time Limits on Appeals
REPEALED	100.3.3	POLICY SUSPENDING ESTABLISHED TIME LIMITS ON APPEALS
REPEALED	100.3.4	RECORDING AND PRESERVING EVIDENCE IN FACULTY GRIEVANCE CASES
REPEALED	100.3.5	INTERPRETING <i>CODE</i> PROVISIONS PROHIBITING “PERSONAL MALICE” IN REAPPOINTMENT DECISION-MAKING
REPEALED	100.3.6[G]	Guidelines for Interpreting Section 607 of <i>The Code</i>
	100.3.7[G]	Guidelines on Student Disciplinary Proceedings: Meaning and Effect of “Expulsion”
101.3		
	101.3.1	APPEALS OF NONREAPPOINTMENT DECISIONS UNDER SECTION 604 OF <i>THE CODE</i>
	101.3.2	GRIEVANCES FILED PURSUANT TO SECTION 607 OF <i>THE CODE</i>
	101.3.3	DELIVERY OF NOTICES

CHAPTER 200
BOARD OF GOVERNORS AFFAIRS

- 200.1 DUAL MEMBERSHIPS AND CONFLICTS OF INTEREST
- 200.2 ELECTION PROCEDURES
- 200.3 POLICY AND PROCEDURES FOR THE SELECTION OF THE PRESIDENT OF THE UNIVERSITY OF NORTH CAROLINA
- 200.4 ASSESSMENT PROCESS FOR THE CHIEF EXECUTIVES AND GOVERNING BOARDS OF THE UNIVERSITY OF NORTH CAROLINA
- 200.4.1[G] Guidelines for Presidential Assessment Committee of the Board of Governors
- 200.4.2[G] Guidance for Fourth year Comprehensive Performance Review of the Chancellor
- 200.5 INITIATING AND SETTLING LAWSUITS

CHAPTER 300
PERSONNEL POLICIES

- 300.1 **SENIOR ACADEMIC AND ADMINISTRATIVE OFFICERS**
 - 300.1.1 SENIOR ACADEMIC AND ADMINISTRATIVE OFFICERS
 - 300.1.1.1[R] Regulations Concerning Senior Academic and Administrative Officers
 - 300.1.2 EVALUATION OF POSITIONS FOR DESIGNATION AS SENIOR ACADEMIC AND ADMINISTRATIVE OFFICER
 - 300.1.3 ATTORNEY LICENSING
 - 300.1.4 CAMPUS STATE RELATIONS OFFICERS
 - 300.1.5 OCCUPATION OF OFFICIAL RESIDENCES OF THE CHANCELLORS AND THE PRESIDENT
 - 300.1.6 ADMINISTRATIVE SEPARATION AND/OR RETREAT TO A FACULTY POSITION
 - 300.1.6[R] Regulations on Administrative Separation and/or Retreat to a Faculty Position
- 300.2 **EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT**
 - 300.2.1 EMPLOYEES EXEMPT FROM THE STATE PERSONNEL ACT
 - 300.2.1[R] REGULATIONS ON HEALTH INSURANCE CONTINUATION WHEN A REDUCTION IN FUNDING ELIMINATES AN EPA POSITION
 - 300.2.2 CONFLICTS OF INTEREST AND COMMITMENT AFFECTING UNIVERSITY EMPLOYMENT
 - 300.2.3[R] Regulations Governing Fraudulent Job Applications
 - 300.2.4[R] Regulations on Approval of Academic Personnel Actions
 - 300.2.5[G] Guidelines on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act
 - 300.2.5.1[R] Regulations on the Application of Guidelines on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act (Guideline #300.2.5[G])
 - 300.2.6[G] Guidelines on Reassignment of Duties of Faculty Members
 - 300.2.7[R] Regulations on Recruitment of Employees from Other Campuses Within The University of North Carolina

- 300.2.8 FACULTY MILITARY LEAVE
- 300.2.9[R] Regulations on Interpreting the 2001 Appropriations Act, Part XXVIII. Salaries and Employee Benefits, Section 28.3A, Special Annual Leave Bonus
- 300.2.10 FACULTY COMMUNITY SERVICE LEAVE
- 300.2.11 SERIOUS ILLNESS AND DISABILITY LEAVE FOR FACULTY
- 300.2.11[G] Guidelines on Serious Illness and Disability Leave for Faculty
- 300.2.12[R] Regulations on Interpreting the 2003 Appropriations Act, Part XXX
- 300.3 **STATE PERSONNEL**
 - 300.3.1[R] Regulations on Delegation of Responsibility for Classification and Compensation of SPA Personnel to Constituent Institutions
 - 300.3.2[R] Regulations on Establishing Consultative Bodies Representing Staff Employees and Improving SPA Grievance Systems
 - 300.3.3[G] Guidelines on the “Student-Employee” Exclusion from the State Personnel Act
- 300.4 **IMPROPER RELATIONSHIPS**
 - 300.4.1 IMPROPER RELATIONSHIPS BETWEEN STUDENTS AND EMPLOYEES
 - 300.4.1.1[G] Guidelines on Implementing Improper Relationships Policy
 - 300.4.2 EMPLOYMENT OF RELATED PERSONS (ANTI-NEPOTISM POLICY)
 - 300.4.2.1[G] Guidelines on Implementing Anti-Nepotism Policy
- 300.5 **POLITICAL ACTIVITIES OF EMPLOYEES**
 - 300.5.1 POLITICAL ACTIVITIES OF EMPLOYEES
 - 300.5.2 IMPLEMENTATION POLICY ON POLITICAL CANDIDACY AND OFFICEHOLDING
 - 300.5.3 INTERPRETATION OF POLICY ON POLITICAL ACTIVITIES OF EMPLOYEES
 - 300.5.4 LEAVES OF ABSENCE FOR APPOINTIVE OFFICE
 - 300.5.5 ENDORSEMENT OF CANDIDATES FOR POLITICAL OFFICE BY SENIOR ADMINISTRATORS
 - 300.5.6[G] Guidelines on General Assembly Candidacy and Membership
- 300.6 **EXTERNAL PROFESSIONAL ACTIVITIES**
 - 300.6.1 EXTERNAL PROFESSIONAL ACTIVITIES OF FACULTY AND OTHER PROFESSIONAL STAFF
 - 300.6.1.1[R] Regulations on External Professional Activities and Honoraria
 - 300.6.1.2[G] Guidelines on External Professional Activities of Faculty and Other Professional Staff
- 300.7 **RETIREMENT**
 - 300.7.1 OPTIONAL RETIREMENT PROGRAM
 - 300.7.1.1[R] Regulations on Enrolling Senior Academic and Administrative Officers in the Optional Retirement Program
 - 300.7.1.2[R] Regulations on Expediting Implementation of Guidelines for Offering Optional Retirement Program Enrollment to Senior Academic and Administrative Officers
 - 300.7.2 PHASED RETIREMENT
 - 300.7.2.1[G] Guidelines on Implementing Phased Retirement Policy

- 300.8 **OTHER PERSONNEL POLICIES**
- 300.8.1 SELECTIVE SERVICE REGISTRATION ON APPLICANTS FOR EMPLOYMENT
- 300.8.2[R] Regulations on Seat Belt Use
- 300.8.3[G] Guidelines on Implementing Occupational Safety and Health Program
- 300.8.4[G] Guidelines on Reporting Misuse of State Property by State Employees

CHAPTER 400 ACADEMIC PROGRAMS

- 400.1 **ACADEMIC PROGRAMS**
- 400.1.1 ACADEMIC PROGRAM DEVELOPMENT PROCEDURES
- 400.1.1.1[R] Regulations for Planning and Conducting Degree-Related Extension and Distance Education
- 400.1.1.2[R] Regulations for the Second Academic Concentration Requirement for Teacher Education Programs
- 400.1.2 TERMINATION OF PROGRAMS
- 400.1.2.1[R] Regulations on Terminating Programs
- REPEALED 400.1.3 INTERNATIONAL PROGRAMS
- 400.1.4 THE UNIVERSITY OF NORTH CAROLINA EXCHANGE PROGRAM
- 400.1.4.1[R] Regulations on Implementing The University of North Carolina Exchange Program
- 400.1.5 IMPROVING GRADUATION RATES
- 400.1.5.1[R] Regulations on Improving Graduation Rates
- 400.1.5.2[R] Regulations for Implementing Fifteen Hour Average Courseload Requirement for Full-Time Undergraduates
- 400.1.6 ACADEMIC CALENDARS
- 400.1.7 NURSING EDUCATION
- 400.1.8[R] Regulations on Use of Common Census Date for Reporting Purposes
- 400.1.9[G] Guidelines for the Use of the Continuing Education Unit (CEU)
- 400.1.10[G] Guidelines on Teacher Education Program Actions under Resolution 27 of the 1983 General Assembly
- 400.1.11[G] Guidelines on Contracting with Community Colleges to Offer Remedial Instruction
- 400.1.12 AWARDING OF JOINT DEGREES IN THE UNIVERSITY OF NORTH CAROLINA
- 400.1.12[R] REGULATIONS ON THE AWARDING OF JOINT DEGREES IN THE UNIVERSITY OF NORTH CAROLINA
- 400.2 **LONG-RANGE PLANNING**
- 400.2.1 LONG-RANGE PLANNING
- 400.2.1.1[R] Regulations on Long-Range Planning, 2002-2007
- 400.2.2 ACCOUNTABILITY/GOALS AND ASSESSMENT MEASURES
- 400.3 **TENURE AND TEACHING IN THE UNIVERSITY OF NORTH CAROLINA**
- 400.3.1 TENURE AND TEACHING IN THE UNIVERSITY OF NORTH CAROLINA
- 400.3.1.1[G] Guidelines on Tenure and Teaching

- 400.3.2 THE TENURE REGULATIONS OF THE CONSTITUENT INSTITUTIONS
- 400.3.3 PERFORMANCE REVIEW OF TENURED FACULTY
- 400.3.3.1[G] Guidelines on Performance Review of Tenured Faculty
- 400.3.4 MONITORING FACULTY TEACHING WORKLOADS
- 400.3.5 TRAINING, MONITORING, AND EVALUATING GRADUATE TEACHING ASSISTANTS
- 400.3.5.1[G] Guidelines on Training, Monitoring, and Evaluating Graduate Teaching Assistants
- 400.3.6 UNIVERSITY TEACHING AWARDS
- 400.3.6.1[G] Guidelines on University Teaching Awards
- 400.3.7 EXTENSION FACULTY
- 400.4 **PROGRAMS OUTSIDE THE UNIVERSITY**
- 400.4.1 POLICY ON LICENSING NONPUBLIC INSTITUTIONS TO CONDUCT POST-SECONDARY DEGREE ACTIVITY IN NORTH CAROLINA
- 400.4.2 ESTABLISHING FEES FOR LICENSING NONPUBLIC INSTITUTIONS TO CONDUCT POST-SECONDARY DEGREE ACTIVITY
- 400.4.3 POLICY ESTABLISHING STANDARDS FOR ORGANIZED SERVICE AND ASSISTANCE TO THE PUBLIC SCHOOLS
- 400.5[R] Regulations for Planning, Establishing, and Reviewing Institutes and Centers in The University of North Carolina

CHAPTER 500

SPONSORED PROGRAMS, RESEARCH, AND INTELLECTUAL PROPERTY

- 500.1 UNIVERSITY RESEARCH RELATIONS WITH PRIVATE ENTERPRISE AND PUBLICATION OF RESEARCH FINDINGS
- 500.1.1 CLASSIFIED INFORMATION COMMITTEE AND MANAGERIAL GROUP AND RESOLUTION TO EXCLUDE CERTAIN OTHER PERSONNEL
- 500.2 INTELLECTUAL PROPERTY: PATENT AND COPYRIGHT POLICIES
- 500.2.1[R] Regulations for Establishing a Copyright Use and Ownership Policy
- 500.2.2[G] Guidelines on Photocopying Copyrighted Materials
- 500.3 POLICY ON AUTHORIZING THE PRESIDENT TO EXECUTE GRANT APPLICATIONS AND ASSURANCES OF COMPLIANCE WITH APPLICABLE LAW
- 500.4[R] Regulations on Administering Sponsored Programs
- 500.5 UNIVERSITY RESEARCH FACILITIES AND ADMINISTRATION RECEIPTS REPORTING POLICY

CHAPTER 600

FINANCIAL MATTERS, REAL PROPERTY, ENDOWMENT AND TRUST FUNDS

- 600.1 **REAL PROPERTY**
- 600.1.1 DESIGN, CONSTRUCTION, AND FINANCING OF CAPITAL IMPROVEMENT PROJECTS
- 600.1.1.1[G] Guidelines on the Delegation of Authority to Execute Construction Contracts

	600.1.2	SELECTION OF BOND COUNSEL
	600.1.3	LEASING AND ACQUISITION OF REAL PROPERTY AUTHORITY
	600.1.4[R]	Regulations on Required Clearances for Real Property Transactions
	600.1.5	EQUAL ACCESS IN CONSTRUCTION CONTRACTING
600.2		ENDOWMENTS AND OTHER FUNDS
	600.2.1	ENDOWMENT FUNDS
	600.2.1.1[G]	Guidelines on Expanding Membership of Boards of Trustees of Institutional Endowment Funds
	600.2.1.2[G]	Guidelines on Creating and Operating Endowment Funds
	600.2.2	ENDOWMENT FUND OF THE UNIVERSITY OF NORTH CAROLINA CENTER FOR PUBLIC TELEVISION
	600.2.3	DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND
	600.2.4	CUSTODY AND MANAGEMENT OF INSTITUTIONAL TRUST FUNDS AND SPECIAL FUNDS OF INDIVIDUAL INSTITUTIONS
	600.2.4.1[R]	Regulations Relative to Trust Fund Legislation
	600.2.5	ANNUAL FINANCIAL AUDITS AND OVERSIGHT OF UNIVERSITY-RELATED PRIVATE FOUNDATIONS
	600.2.5.1[G]	Guidelines on Annual Financial Audits of University-Related Private Foundations
600.3		SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS
	600.3.1	SELECTION CRITERIA AND OPERATING INSTRUCTIONS FOR SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS
	600.3.2	DESIGNATION OF SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS
	600.3.3	EXPENDITURE OF FUNDS GENERATED THROUGH LAPSED SALARIES
	600.3.4	GRANTING OF MANAGEMENT FLEXIBILITY TO APPOINT AND FIX COMPENSATION
600.4		DEBT COLLECTION
	600.4.1	HEARINGS UNDER THE SETOFF DEBT COLLECTION ACT
	600.4.1.1[G]	Guidelines on Implementing Setoff Debt Collection Act
	600.4.1.2[G]	Guidelines on Collecting Debts Owed the State by State Employees, Officials, and Legislators
600.5		OTHER FINANCIAL AND REAL PROPERTY MATTERS
	600.5.1	INSTITUTIONAL VENDING FACILITIES
	600.5.1.1[G]	Guidelines on Institutional Vending Facilities
	600.5.2	REPLACEMENT OF LOST SECURITIES
	600.5.3[R]	Regulations on Receipt and Expenditure of Revenue from Collegiate License Plates
	600.5.4[G]	Guidelines on the State Consulting Act
	600.5.5[G]	Guidelines on the Delegation of Certain Contractual Authority at UNC General Administration
	600.5.6[G]	Guidelines on Recycling

CHAPTER 700
ADMISSIONS, MATRICULATION, AND OTHER STUDENT MATTERS

700.1	UNDERGRADUATE ADMISSIONS	
	700.1.1	MINIMUM COURSE REQUIREMENTS FOR UNDERGRADUATE ADMISSION
	700.1.1.1[R]	Regulations on Minimum Undergraduate Admission Requirements
REPEALED	700.1.2	UNIFORM ADMISSIONS REQUIREMENTS FOR NONPUBLIC SCHOOL STUDENTS AND HOME SCHOOLED STUDENTS
	700.1.2.1[R]	Regulations on Supplemental Information about Academic Performance of Nonpublic School Students and Home Schooled Students
	700.1.3	OUT-OF-STATE UNDERGRADUATE ENROLLMENT
	700.1.4[G]	GUIDELINES ON THE ADMISSION OF UNDOCUMENTED ALIENS
700.2	PRIVACY	
	700.2[R]	Regulations of UNC General Administration with Respect to the Family Educational Rights and Privacy Act
700.3	STUDENT GOVERNMENTS	
	700.3.1	POLICY ON THE UNIVERSITY OF NORTH CAROLINA ASSOCIATION OF STUDENT GOVERNMENTS
700.4	DISCIPLINE	
	700.4.1	MINIMUM SUBSTANTIVE AND PROCEDURAL STANDARDS FOR STUDENT DISCIPLINARY PROCEEDINGS

CHAPTER 800
FINANCIAL AID

800.1	SCHOLARSHIP PROGRAMS	
	800.1.1	MEDICAL AND DENTAL SCHOLARS' PROGRAM
	800.1.1.1[G]	Guidelines on Recruiting and Attracting Graduates of Meharry Medical College Who Are North Carolina Residents for Whom State Financial Support Was Provided to Meharry Medical College
	800.1.2[G]	Guidelines on Incentive Scholarship and Grant Program for Native Americans
	800.1.3[G]	Guidelines on Implementing Incentive Scholarship Programs for Certain Constituent Institutions
	800.1.4[G]	Guidelines on Implementing Incentive Scholarship Program for Elizabeth City State University
800.2	SELECTIVE SERVICE ACT COMPLIANCE	
	800.2.1	SELECTIVE SERVICE ACT COMPLIANCE
	800.2.1.1[R]	Regulations on Selective Service Act Registration Compliance
800.3	LEGISLATIVE COLLEGE OPPORTUNITY PROGRAM	
	800.3.1	LEGISLATIVE COLLEGE OPPORTUNITY PROGRAM
	800.3.1.1[G]	Guidelines on Implementing the College Opportunity Program
800.4	FOCUSED GROWTH	
	800.4.1	PROSPECTIVE TEACHERS SCHOLAR PROGRAM

CHAPTER 900
RESIDENCE CLASSIFICATION

- 900.1 STUDENT RESIDENCE CLASSIFICATION FOR TUITION PURPOSES
- 900.2 STATE RESIDENCE COMMITTEE
- 900.3[G] Guidelines on Producing Catalog Statement on Residence Classification

CHAPTER 1000
TUITION AND FEES

- 1000.1 **TUITION RATES**
 - 1000.1.1 ESTABLISHING TUITION AND FEES
 - 1000.1.2 POLICY ON TUITION WITH RESPECT TO STUDENT EXCHANGE PROGRAMS WITH INSTITUTIONS ABROAD
 - 1000.1.3 TUITION RATES FOR SPECIAL TALENT AND GRADUATE NONRESIDENT STUDENTS
 - 1000.1.3.1[G] Guidelines on Establishing Tuition Rates for Special Talent and Graduate Nonresident Students
 - REPEALED 1000.1.4[G] Guidelines on Tuition Rates for Military Personnel and Their Dependents
 - 1000.1.5[G] Guidelines on Establishing Twenty-Five Percent (25%) Tuition Surcharge
 - 1000.1.6[G] Guidelines on In-State Tuition for North Carolina Teachers
- 1000.2 **TUITION WAIVERS**
 - 1000.2.1 TUITION WAIVER FOR PERSONS AT LEAST 65 YEARS OLD AND CERTAIN FAMILY OF DECEASED OR DISABLED EMERGENCY WORKERS
 - 1000.2.2 WAIVER OF TUITION AND FEES FOR FACULTY AND STAFF
 - 1000.2.2.1[R] Regulations on Implementing Policy on Waiver of Tuition for Faculty and Staff
 - 1000.3.1[G] Guidelines for Refunds of Tuition and Fees for Students Serving in the Military or in Case of a National Emergency

CHAPTER 1100
ATHLETICS

- 1100.1 INTERCOLLEGIATE ATHLETICS
- REPEALED 1100.2 ADDITIONAL POLICY STATEMENT ON ATHLETICS
- 1100.3 HEAD COACHES' AND ATHLETIC DIRECTORS' CONTRACTS
 - 1100.3.1[G] Guidelines on Employment Contracts with Head Athletic Coaches and Related Issues

CHAPTER 1200
AFFILIATED ENTITIES

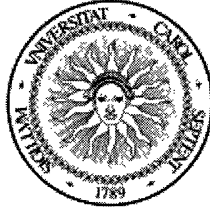
- 1200.1 ESTABLISHMENT OF THE CENTER FOR PUBLIC TELEVISION
- 1200.1.1 BY-LAWS OF THE UNIVERSITY OF NORTH CAROLINA CENTER FOR PUBLIC TELEVISION
- 1200.2 ESTABLISHMENT OF NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS
- 1200.3 THE UNIVERSITY OF NORTH CAROLINA CENTER FOR SCHOOL LEADERSHIP DEVELOPMENT
- 1200.4 POLICY AUTHORIZING THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL TO INITIATE LAWSUITS
- 1200.5 POLICY AUTHORIZING THE INITIATION OF LAWSUITS ON BEHALF OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL FOR THE BENEFIT OF UNC PHYSICIANS AND ASSOCIATES AND ON BEHALF OF EAST CAROLINA UNIVERSITY FOR THE BENEFIT OF THE ECU MEDICAL FACULTY PRACTICE PLAN
- 1200.6[R] REPLACED BY POLICY 400.5[R]

CHAPTER 1300
MATTERS OF UNIVERSITY-WIDE SIGNIFICANCE

- 1300.1 ILLEGAL DRUGS
- 1300.2[R] Regulations on Publications and Mailing Lists
- 1300.3[R] Regulations on Developing Minimum Environmental Criteria under the North Carolina Environmental Policy Act.
- 1300.4[G] Guidelines on Defining “Public Body” within the Meaning of the Open Meetings Act
- 1300.5[G] Guidelines on Use of the Social Security Account Number by the University

CHAPTER 1400
INFORMATION TECHNOLOGY

- 1400.1 THE USE OF INFORMATION TECHNOLOGY



TRANSMITTAL LETTER

The University of North Carolina
Office of the President

Transmittal Number 35 (Revised)
October 12, 2004

Subject: 300.7.2 Policy: The University of North Carolina Phased Retirement System

300.7.2.1[G] Guidelines for the Phased Retirement Program

400.3.6 University Teaching Awards

400.3.6.1[G] Guidelines on University Teaching Awards

This letter transmits two amended policies as well as their respective guidelines. **Please note that Policy 300.7.3. Implementation of the Phased Retirement Program. and Guideline 300.7.3.1[G]. Guidelines on the Initiation of the Phased Retirement Program. have been rescinded and should be removed from the Policy Manual.**

300.7.2. The University of North Carolina Phased Retirement System. This amended policy was approved by the Board of Governors at its meeting on September 10, 2004. Please contact Betsy Brown, Associate Vice President for Faculty Support & International Programs and Interim Director for the William Friday Institute for Higher Education Leadership, at 919-962-4612 with any questions.

300.7.2.1[G].Guidelines for the Phased Retirement Program. This amended guideline was approved by the President September 10, 2004. Please contact Betsy Brown, Associate Vice President for Faculty Support & International Programs and Interim Director for the William Friday Institute for Higher Education Leadership, at 919-962-4612 with any questions.

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400.3.6.1[G]. Guidelines on University Teaching Awards. This amended guideline was approved by the President September 10, 2004. Please contact Betsy Brown, Associate Vice President for Faculty Support & International Programs and Interim Director for the William Friday Institute for Higher Education Leadership, at 919-962-4612 with any questions.

Adopted 11/14/86
 Amended 10/12/90
 Amended 02/18/94
 Amended 04/21/95
 Amended 11/08/96
 Amended 07/11/97
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 Amended 06/08/01
 Amended 1/11/02
 Amended 11/08/02
 Amended 3/21/03
 Amended 10/10/03
 Amended 11/12/04

SENIOR ACADEMIC AND ADMINISTRATIVE OFFICERS

The duties and responsibilities of the President and the chancellors, and of their respective senior staff members, and their relationships to one another, to the Board of Governors, to the Boards of Trustees, and to all other officers and agencies within and without the University are set forth in Chapter Five of *The Code of The University of North Carolina*. To complement the provisions of Chapter Five and further to clarify these duties, responsibilities, and relationships, the following regulations are adopted by the Board of Governors:

I. Definition of “Senior Academic and Administrative Officers”

- A. Senior officers of the University of North Carolina who are subject to the provisions of Section II of this policy are: the President [N.C.G.S. 116-14(a)]; the vice presidents, associate vice presidents, assistant vice presidents, and other members of the President’s professional staff designated by the Board of Governors on recommendation of the President [N.C.G.S. 116-14(b)]; the chancellors of the constituent institutions [N.C.G.S. 116-11(4)]; the vice chancellors, provosts, and deans of the constituent institutions, and the directors of major administrative, educational, research and public services activities of the constituent institutions designated by the Board of Governors [N.C.G.S. 116-11(5)].
- B. Other senior officers of the University of North Carolina who are subject to the provisions of Section III of this policy are: (1) members of the President’s professional staff other than those identified in subparagraph A above [N.C.G.S. 116-14(b)]; and (2) associate and assistant vice chancellors; associate and assistant deans; and other administrative positions within the constituent institutions, other than those identified in subparagraph A above, that have been designated by the President. [N.C.G.S. 116-11(5)].¹

¹ Other officers include (a) members of the chancellor’s professional staff; (b) those responsible for the administrative direction of separately designated divisions or departments of institutional activity commonly associated with institutions of higher education; (c) those positions whose primary responsibility is to attract external funds for and/or market the University; and, (d) other officers holding positions characterized by active, continuing involvement in formulating, interpreting, and implementing institutional policy and exercising substantial

II. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.A. above, Shall Be Subject to the Following Regulations.

A. Appointments and Discontinuation of Appointments

1. All senior officers as defined in Section I.A. above, are employed in their administrative positions pursuant to this policy. Except with regard to the appointment of the President and the Chancellors, no contract or other writing (except for *The Code*) may vary these terms, nor may any oral agreement modify these provisions. The appointments of these senior officers are subject to the approval of the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors. Such officers do not have tenure in their administrative positions. Except for the President and the Chancellors, they serve at the discretion of their employer and are not appointed to serve for specified periods of time. "Employer" in this context means, respectively, the official or entity designated in paragraphs (a) through (d) below. The continuance of these administrators in office therefore is at all times subject to determination by the appropriate authority, as follows:
 - (a) The President's continuance in office is determined by the Board of Governors.
 - (b) The continuance in office of members of the President's professional staff is determined by the President.
 - (c) The continuance in office of the chancellor of a constituent institution is determined by the Board of Governors, which may act to terminate such an appointment upon its own initiative or upon recommendation of the President. The Board of Governors in all instances shall consult the appropriate chair of the Board of Trustees prior to terminating the appointment of a chancellor. The President may place a chancellor on temporary leave, with or without pay, if the President has reason to believe that illness, injury, misconduct, neglect of duty, or other circumstances may interfere with the chancellor's performance of the duties of the position. Before placing a chancellor on temporary leave, the President shall consult with the Chairman of the Board of Governors, the chair of the Committee on Personnel and Tenure, and the appropriate chair of the Board of Trustees.
 - (d) The continuance in office of vice chancellors, provosts, deans, and directors of major educational, research and public services activities of the constituent institutions shall be determined by the chancellor of the institution.
 - (e) Notwithstanding the provisions of (b) and (d) above, the Board of Governors, in accordance with the provisions of Section 501B(6) of *The Code*, reserves the right to initiate action to terminate appointment of those officers when it deems such action to be necessary in the best interests of the University.

independence of administrative authority and discretion in areas such as program planning and design and allocation of resources.

2. Senior officers of a constituent institution are subject to the direction and control of the chancellor and serve at the chancellor's discretion. They are employees at will; thus, the chancellor may not purport to confer on any such officer a period of employment of fixed duration or otherwise confer any property interest in such employment. However, such an officer may be appointed to a period of employment not to exceed a specified number of years, so long as the instrument accomplishing such an appointment states clearly that the incumbent officer is subject to removal at any time, during that period, at the option of the chancellor.
3. Tenure status as a member of the faculty of a constituent institution, held concurrently by any senior officer of the University is separate and distinct from the administrative office, and such tenure status is governed by the provisions of Chapter Six of *The Code* and by the tenure policies of the relevant constituent institution. Those tenure policies have no bearing upon and do not govern the administrative appointments covered by this policy.
4. Appointment of Chancellors
 - a. The appointment of chancellors shall be made by the Board of Governors upon the recommendation of the President, in accordance with N.C.G.S §116-11(4).
 - b. The Board of Governors may approve a contract with a chancellor as recommended by the President. The contract may specify the chancellor's term of employment, salary, benefits, and performance based deferred or supplemental compensation; provisions for the termination of the chancellor's employment; and any other terms recommended by the President.
 - c. In all other regards, the employment of chancellors is subject to *The Code*, the Policies of the Board of Governors, and the North Carolina General Statutes.
 - d. Except as specifically otherwise provided in the contract, and except as provided in ¶ II.A.1(c) of this policy, after the Board of Governors has approved a contract with a chancellor, it will be the sole responsibility of the President to implement the terms of the contract.

B. Compensation

The compensation of senior officers shall be set by the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors.

No chancellor and no senior academic and administrative officer may be paid, in addition to his or her salary as established pursuant to the foregoing requirements, for any services rendered to any institution-related foundation, endowment, or other entity that was established by officers of the University, that is controlled by the University, or that is tax exempt based on being a support organization for the University.

C. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University. There shall be no discrimination in positions covered by this policy on the basis of race, color, creed, national origin, sex, religion, disability, age, or

honorable service in the armed services of the United States.² Employment in positions covered by this policy shall be conducted in accordance with all provisions of State or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

D. Political Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §§300.5 *et seq.*, as they may be revised from time to time, shall apply to positions covered by this policy.

E. Holiday and Leave Entitlement

1. Holidays

A senior officer shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

2. Annual Leave

A senior officer shall be entitled to 26 work days of annual leave each year.³ The maximum number of unused days of annual leave that may be accrued and carried forward from one year to the next shall be 30 work days. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year. A senior officer who has accrued such unused annual leave as of the date of discontinuation of employment shall be paid for such unused annual leave, subject to a maximum of 30 days.

Subject to institutional policy and approval by the employee's supervisor, a senior officer may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period.

3. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave, and Special Annual Leave Bonus

A senior officer shall be entitled to such sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However, with respect to sick leave, subject to institutional policy and approval by the employee's supervisor, a senior officer may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a

² Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or federal law, may be applied to positions covered by this policy.

³ For the purposes of determining leave under this policy, "year" shall be defined by the employing institution as either a "fiscal year" (July 1 – June 30) or a "calendar year" (January 1 – December 31). Institutions currently defining a "year" as a "contract year" may continue to do so.

twelve-month period.

4. Miscellaneous Leaves of Absence

A senior officer who desires a leave of absence for an interval of 90 days or less must obtain the approval of the President, who shall report all such arrangements to the Board of Governors. A leave of absence for a period exceeding 90 days shall require the approval of the Board of Governors.

5. Voluntary Shared Leave

A senior officer shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

F. Educational Entitlement

A senior officer is entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by N.C.G.S. § 116-143.G.

G. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

A senior officer enjoys the protections of and is subject to the provisions of Article 7 of N.C.G.S. 126, entitled “The Privacy of State Employee Personnel Records.”

2. Employment Preference for Veterans

A senior officer enjoys the protections of and is subject to the provisions of N.C.G.S. §§ 128-15 and 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

3. Employment of Related Persons

A senior officer is subject to the policy concerning employment of related persons, Policy §300.4.2, as it may be revised from time to time.

H. Retirement

A senior officer may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes (“Retirement System of Teachers and State Employees”).

III. Senior Academic and Administrative Officers of the University of North Carolina as Defined in Section I.B. above, Shall Be Subject to the Following Regulations.

A. Appointments

1. All senior academic and administrative officers as defined in Section I.B. above,

are employed in their administrative positions pursuant to this policy. The authority to make appointments and determine salaries for positions within Section I.B. (1) is exercised by the Board of Governors, on recommendation of the President, or a Board of Trustees delegated such authority by the Board of Governors; for positions within Section I.B. (2), such authority is delegated by the Board of Governors to the chancellors and the respective Boards of Trustees of the constituent institutions.

2. Every appointment within a constituent institution covered by this policy shall be made by the chancellor, or the chancellor's delegate, by means of a letter of appointment that fulfills the requirements of this Section III.
3. Every letter of appointment to a position covered by this policy shall include:
 - (a) the title of the position;
 - (b) the initial salary;
 - (c) provision for periodic review of compensation⁴;
 - (d) provision consistent with Sections III.A.4. and III.A.5. below, if contingencies based on availability of funding are applicable;
 - (e) the annual leave entitlement of the employee;
 - (f) except as provided in subparagraph (h) below, notice that the employment conferred is an "employment at will" subject to continuation or discontinuation at the discretion, respectively, of the President or of the chancellor; and
 - (g) notice that the employment is subject to this policy as originally adopted and as it may be periodically revised from time to time, and a copy of the policies shall be attached to the letter of appointment.
 - (h) Contracts or letters of appointment of Directors of Athletics may be for a term of years and are governed by Policy 1100.3 and Guidance 1100.3.1 [G].
4. When a position covered by this policy is funded in whole or substantial part from sources other than continuing State budget funds or permanent trust accounts, the letter of appointment shall state that continuation of the employee's service in that position is contingent upon the continuing availability of funds from such other sources to support that position, shall specify the source of such funds, and shall state that the effect of such contingency may apply without the additional notice otherwise required by Sections III.B.1., III.B.2., and III.B.3.; provided, that the affected employee shall be informed at the earliest practicable date of the occurrence of such a funding contingency.
5. When an employee is to serve simultaneously in both a position covered by this policy and a position of University employment not covered by this policy, with the result that two different prescriptions may appear to obtain with respect to a

⁴ Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

particular condition of employment or a right or responsibility of the employee, one position shall be designated the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a position covered by this policy occurs subsequent to an appointment to a position not covered by this policy, the letter of appointment to the position covered by this policy shall embody the required designation of base employment; conversely, if appointment to a position covered by this policy precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

Any funding contingency of the type referred to in Section III.A.4. shall be set forth separately for the position covered by this policy and for the other position, since the operation of any such contingencies may be independent.

When an appointment to a position covered by this policy is to be accompanied by appointment to a faculty position that is intended to be nominal or honorary, or to create a faculty affiliation not entailing significant duties or compensation, the term “adjunct,” or similar nomenclature, shall be used to identify the faculty appointment.

B. Discontinuation of Employment

1. Discontinuation of appointment, with notice or severance pay

Employment within a position covered by section III of this policy that is established by the letter of appointment to be an employment at will is subject to discontinuation at any time at the discretion, respectively, of the President or of the chancellor; provided, that such a discontinuation (as distinguished from discharge for cause, Section III.B.4.) shall be subject to advance timely notice of discontinuation or the payment of severance pay, in calendar days, as follows:

- (a) during the first year of service, not less than 30 days notice prior to discontinuation of employment or the payment of severance pay for 30 days;
- (b) during the second and third years of service, not less than 60 days notice prior to discontinuation of employment or the payment of severance pay for 60 days; and
- (c) during the fourth and all subsequent years of continuous service, not less than 90 days notice prior to discontinuation of employment or the payment of severance pay for 90 calendar days.

The chancellor or the president may provide the employee with a combination of notice and severance pay that totals the respective required number of days. The determination of whether the employee shall receive notice of discontinuance of the appointment or severance pay or a combination of the two shall be in the sole discretion of the respective chancellor or the president.

2. Expiration of term appointment

Employment within a position covered by this policy that is established by the letter of appointment dated prior to December 1, 2004 to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be extended at the option of the employer on an employment at will basis, by written notice satisfying the requirements of Section III.A. If the employer intends not to extend the employment, (1) with respect to a term of one year or less, no notice of intent not to extend shall be required; (2) with respect to a term of more than one year but less than four years, notices of intent not to extend shall be transmitted in writing at least 60 days prior to this expiration date of the term; (3) with respect to a term of four years or more, notice of intent not to extend shall be transmitted in writing at least 90 days prior to the expiration date of the term. Failure to provide written notices as required in subsections (2) and (3) above shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the date the notice is given to the employee.

3. Termination of employment because of financial exigency or program curtailment or elimination

Employment within a position covered by this policy that is established by the letter of appointment to be for a stated definite term may be terminated prior to expiration of the stated term because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a program. "Financial exigency" is defined to mean a significant decline in financial resources of the University that compels a reduction in the university's or the institution's budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or an elimination of a program shall be made, respectively, by the President or by the chancellor, with advance notice to and approval by the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the contractual obligation to an employee within a position covered by this policy cannot be met, the employment of the individual may be terminated, subject to the following notice requirements;

- (a) during the first year of service, not less than 30 days notice prior to termination;
- (b) during the second and third years of employment, not less than 60 days notice prior to termination; and
- (c) during the fourth and all subsequent years of service, not less than 90 days notice prior to termination.

4. Discharge for Cause

Any employee occupying a position covered by this policy may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section III.B.1.), automatic expiration of term (Section III.B.2.), and termination (Section III.B.3.). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of

duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the grievance procedures of Section III.C. of this policy. When an employee occupying a position covered by this policy has been notified of the intention to discharge for cause, the President or chancellor, as applicable, may suspend the employment at any time and continue the suspension until a final institutional or presidential decision concerning discharge has been reached by the procedures adopted pursuant to paragraph C.1. below; such suspension during this time period shall be with full pay. If the final institutional or presidential decision is to discharge the employee, then the employee may be discharged without further pay without regard to whether there is an appeal to the Board of Governors in accordance with Section 609 C of *The Code*.

C. Review of Employment Decisions and Grievances

1. The Office of the President and each constituent institution respectively shall adopt and publicize procedures applicable to relevant cohorts of employees, under which covered employees may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of this policy; provided, however, that grievances concerning discontinuations or terminations of employment with notice, pursuant to Sections III.B.1, III.B.2., and III.B.3, may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section III.D. or III.E. of this policy.
2. Decisions reached pursuant to such grievance procedures concerning the discontinuation or termination of employment may be appealed to the Board of Governors in accordance with the provisions of Section 609 C of *The Code*.

D. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University. There shall be no discrimination in positions covered by this policy on the basis of race, color, creed, national origin, sex, religion, disability, age, or honorable service in the armed services of the United States.⁵ Employment in positions covered by this policy shall be conducted in accordance with all provisions of state or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

E. Political Activity

Employment in positions covered by this policy shall not be adversely affected by the exercise of rights guaranteed by the First Amendment of the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in positions covered by this policy shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §300.5, *et seq.* as they may be revised from time to time, shall apply to positions covered by this policy.

⁵ Bona fide occupational qualifications or other exceptions to those general prohibitions, specifically provided for by State or Federal law, may be applied to positions covered by this policy.

F. Holiday and Leave Entitlement

1. Holidays

Employees in positions covered by this policy shall be subject to the same State-prescribed holidays given employees subject to the State Personnel Act.

2. Annual Leave⁶

(a) Basic Leave Policy

The amount of annual leave to which a permanent full-time employee (1.00 FTE) in a position covered by this policy shall be entitled to accrue is 24 workdays per year. Annual leave is accrued at a monthly rate and is adjusted proportionately for permanent part-time employees who work halftime or more (.50 - .99 FTE). The monthly earnings amount is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay. Monthly leave is earned when an employee works or is on approved leave with pay at least half the working days of a month. An employing institution shall define a year as either "fiscal year" (July 1 - June 30) or "calendar year" (January 1 - December 31). (Note: Employing institutions that have previously defined a year as "contract year" may continue to do so.) The scheduling of an employee's annual leave shall be subject to the approval of the employee's supervisor. With respect to an incumbent employee who is earning more than 24 days per year as of the date this policy becomes effective, such employee shall be entitled to continue to earn leave at the current rate.

The maximum number of unused days of annual leave that may be carried forward from one year to the next shall be 30 workdays. Annual leave in excess of 30 days will be automatically converted to sick leave at the end of the year.

(b) Transfer of Accrued Annual Leave

An employing institution must establish campus-wide uniform guidelines regarding the transfer of accrued annual leave from a UNC constituent institution or State or local governmental agency whose leave is currently transferable in accordance with the policy prescribed for employees subject to the State Personnel Act [See State Personnel Manual, Section 5-1]. Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see (d) below] or transfer the remaining balance of any unused annual leave to another State or local governmental agency, subject to the receiving agency's approval.

⁶ Effective July 1, 2001.

(c) Advancement of Annual Leave

Subject to institutional policy and approval by the employee's supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the year or during a twelve-month period. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employing institution must determine the amount of leave that the employee must repay to the institution and make deductions from the employee's final salary check accordingly.

(d) Payout of Accrued Annual Leave

An employee in a position covered by this policy who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave. The amount paid to an employee who has been employed an aggregate of 24 months or less by one or more State or local governmental agencies is equal to one day for each month worked less the number of days of annual leave taken during the employment period. An employee who has been employed for more than 24 months shall be paid subject to a maximum of 30 such days. Each institution shall establish guidelines for payout of leave if a change in employment status occurs and such employee is no longer covered by this policy.

3. Sick Leave, Family and Medical Leave, Family Illness Leave, Civil Leave, Military Leave, Community Service Leave and Special Annual Leave Bonus

Employees in positions covered by this policy shall be subject to the same policies concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus (awarded to employees in leave earning status on 9/30/02) as may be prescribed for employees subject to the State Personnel Act. However with respect to sick leave, subject to institutional policy and approval by the employee's supervisor, an employee may be advanced the amount of sick leave that can be accrued during the remainder of the year or during a twelve-month period.

4. Leave of Absence Without Pay

Employees in positions covered by this policy may request a leave of absence without pay, subject to approval of such leave by the President or by the chancellor, as applicable.

5. Voluntary Shared Leave

Employees in positions covered by this policy shall be subject to the same provisions concerning shared leave as are applicable to employees subject to the State Personnel Act with the exception that the donation and acceptance of such leave shall be computed on the basis of days rather than hours.

G. Educational Entitlement

Employees in positions covered by this policy are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by N.C.G.S. § 116-143.

H. Statutory and Other Rules of Employment**1. Privacy of Personnel Records**

Employees in positions covered by this policy enjoy the protections of and are subject to the provisions of Article 7 of N.C.G.S. 126, entitled “The Privacy of State Employee Personnel Records.”

2. Employment Preference for Veterans

Employees in positions covered by this policy enjoy the protections of and are subject to the provisions of N.C.G.S. §128-15 and 128-15.1, which provide for preference in employment for veterans of United States military service and their spouses and widows or widowers.

3. Employment of Related Persons

Employees in positions covered by this policy are subject to the policy concerning employment of related persons. Policy §300.4.2 as it may be revised from time to time.

I. Retirement

Employees in positions covered by this policy may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes (“Retirement System of Teachers and State Employees”).

**THE UNIVERSITY OF NORTH CAROLINA
PHASED RETIREMENT PROGRAM**

I. PURPOSE.

The University of North Carolina Phased Retirement Program (the "Program") is designed to provide an opportunity for eligible full-time tenured faculty members ("Eligible Faculty Members") to make an orderly transition to retirement through half-time (or equivalent) service. The goals of the Program are to promote renewal of the professoriate in order to ensure institutional vitality and to provide additional flexibility and support for individual faculty members who are nearing retirement. The Program is entirely voluntary and will be entered into by a written agreement between an Eligible Faculty Member and the institution. The Program, first announced in January 1998, was approved as a continuing benefit for UNC faculty by the Board of Governors in May 2001. The Program is subject to the employing institution having in place supplemental procedures and participation standards ("guidelines"). Enrolling Eligible Faculty Members may elect to begin receiving the benefits they have accrued under either the N. C. Teachers' and State Employees' Retirement System ("TSERS") or the UNC Optional Retirement Program (the "ORP"), but they are not required to do so.

II. ELIGIBILITY AND APPROVAL.

A. The Program is available only to full-time tenured faculty members. Non-tenured and tenure-track faculty are not eligible for the Program. Participating faculty must be at least age 50, have at least five years of full-time service at his or her current institution, and be eligible to receive a retirement benefit under either TSERS or the ORP. Faculty are individually responsible for providing to the institution age and service data needed to determine their Program eligibility. Faculty who occupy full-time administrative or staff positions are not eligible for the Program until they vacate the administrative or staff position. Thus, services rendered while in phased retirement will be only those teaching, research, and administrative duties under faculty appointment.

B. Once made, a decision to enter the Program is binding.

C. If an Eligible Faculty Member and the employing institution tentatively agree to the faculty member's participation and "work plan," the decision to enter or not enter the Program rests with the Eligible Faculty Member. An application to enter the Program must be made at least six (6) months but not more than eleven (11) months before the effective date of participation in the phased retirement program.

D. Eligible Faculty Members do not have an absolute right to participate in the Program. Departments, schools, or institutions may limit participation in the Program based on three conditions. One condition is the finding that financial exigencies prohibit enrollment in the Program. The second condition is that further enrollment in the Program will substantially weaken academic quality or disrupt program sequence. Further, a department or school or an institution may each establish a cap or limit on the number of Eligible Faculty Members who may enter the Program.

E. An application to enter the Program must be submitted to the Eligible Faculty Member's Department or Division Head. It is subject to final approval by the Institution's Chief Academic Officer.

F. The Program has been made a continuing benefit of the University, subject to reservation by the University Board of Governors of the right to modify, suspend, or discontinue the Program. Eligible Faculty Members may timely seek to enter the Program for the number of years uniformly specified by the employing institution for all of its participating faculty.

III. TERMS AND CONDITIONS.

A. Phased retirement under the Program is subject to the following terms and conditions:

1. Upon entering the Program, Eligible Faculty Members give up tenure. They terminate full-time employment and contract for a period of half-time service to their institution. Half-time responsibilities may vary by institution and among departments in the same institution. Half-time service may consist of full-time work for one-half of a year (e.g., full-time work for one semester of an academic year) or half-time work for a year (e.g., half-time work in each of the two semesters of an academic year). Under either pattern the Program enrollment period begins with the fall semester. Teaching, research, and service assignments during the period of phased retirement are individually negotiated by the Eligible Faculty Member and the appropriate supervisors and/or personnel committee(s). The details of the half-time service ("work plan") must be set forth in a UNC Phased Retirement Application and Reemployment Agreement (the "Agreement").

2. In conjunction with the Agreement executed under the Program an Eligible Faculty Member must execute a waiver of rights and claims under the Age Discrimination in Employment Act (the "ADEA") and other laws (the "Release"). The Release must fully comply with the requirements for knowing and voluntary waivers as provided in the ADEA. After the Agreement is drafted, it must be delivered to the Eligible Faculty Member and the Eligible Faculty Member has no fewer than forty-five (45) calendar days within which to consider

the Release. Eligible Faculty Members are encouraged to consult an attorney prior to executing the Release. The Release does not become effective and enforceable for a period of seven (7) calendar days following its execution, and during such period the Eligible Faculty Member may unilaterally revoke the Release. If the Eligible Faculty Member elects to revoke the Release within the seven-day period, the Eligible Faculty Member must immediately be restored to the same full-time employment status as the faculty member held prior to execution of the Release, and the Agreement becomes null and void. Revocations must be in a writing personally signed by the faculty member and must be effected by personal delivery or posting to the office or official to whom the prior application to participate in the Program had been submitted.

3. Participating Faculty Members initially receive a salary equal to fifty percent (50%) of the salary they received prior to phased retirement during their last nine- or twelve-month term of employment incident to full-time service. Compensation is paid over twelve (12) months irrespective of the pattern of duties under the Faculty Member's work plan. Subject to any limitations imposed under the State Retirement System and the legislative appropriations process, Participating Faculty Members are eligible for salary increases and merit pay in subsequent years of Program participation based on annual evaluations.

4. Participating Faculty Members will remain subject to The Code of The University of North Carolina.

5. Phased retirement under the Program may be for a period of at least one but not greater than five years. Each institution will set the length of phased retirement for its faculty. All Eligible Faculty Members at each institution will have the same participation period of phased retirement.

B. Eligible Faculty Members who elect into the Program will retain their professorial rank and the full range of responsibilities, rights, and benefits associated with it, except for tenured status. (The employing institution, however, will keep records of participation so as to note those faculty who are in Phased Retirement [PR].) The employing institution shall develop a list of employee benefit plans or programs in which Eligible Faculty Members may participate during the phased retirement period.

IV. GENERAL PROVISIONS.

A. Nothing in the Program precludes a participating Faculty Member from terminating his or her phased retirement at any time upon the mutual agreement of the parties.

B. Eligible Faculty Members participating in the Program do not enjoy the benefits of tenure. They may not serve on committees if applicable procedures require that members be tenured. Otherwise, participants have the same academic freedoms and responsibilities as other faculty members and have access to all grievance and appeal procedures available to non-tenured members of the faculty who are not participating in the Program.

C. Participating Faculty Members are expected to maintain high levels of professional commitment to their institution.

V. PHASED RETIREMENT PROGRAM DOCUMENTS.

Current Office of the President documents related to the Phased Retirement Program, including the Phased Retirement Program Application and Employment Agreement and the Phased Retirement Program General Release, are available from the UNC Office of the President Division of Academic Affairs, Legal Affairs, or Human Resources. The documents are also available on the UNC Office of the President Division of Human Resources web site:

<http://www.northcarolina.edu/content.php/hr/benefits/retirement/phased/phased.htm>

Guidelines for the Phased Retirement Program

I. PURPOSE.

The University of North Carolina Phased Retirement Program (the "Program") provides an opportunity for eligible full-time tenured faculty members to make an orderly transition to retirement through half-time service (or its equivalency) for a predetermined number of years. It is completely voluntary, and the terms of an Eligible Faculty Member's participation will be implemented by written agreement between the enrolling faculty member and The University of North Carolina ("the University"). The Program will be available for application on a continuing basis beyond the original period of five years (which, otherwise, was to end with the 2002-2003 academic year), and Eligible Faculty Members or faculty members who become eligible may elect annually to seek to enroll in the Program during the enrollment life of the Program, with active participation to commence with the fall semester next following acceptance by the institution for participation.

II. ELIGIBILITY.

Except as set out in Part III, below, the Program is available to all full-time tenured faculty members who (1) have five years of full-time service at the constituent institution of the University at which he or she is currently employed ("the Institution"), (2) are age 50 or older, and (3) are eligible to receive retirement benefits through either the Teachers' and State Employees' Retirement System ("TSERS") or the Optional Retirement Program ("ORP"). Tenured faculty occupying full-time administrative or staff positions are not eligible to participate in the Program until they vacate such positions. Thus, services rendered while in phased retirement will be only those teaching, research, and administrative duties under faculty appointment.

The Phased Retirement Program contemplates actual retirement and reemployment of participating faculty on part-time status for a limited period. For those who have not yet reached "normal retirement age" retirement must be demonstrated by a clear break in service of at least 30 days between cessation of full-time employment and return to institutional employment under the Program. For purposes of the Program, "normal retirement age" is the age at which the participating faculty member would have first satisfied an age-and/or-service requirement for "service" (unreduced) retirement if enrolled in the Teachers' and State Employees' Retirement System (TSERS). Under TSERS "unreduced" retirement is available if one is age 60 with 25 years of credited service time, if one is age 65 with five years of credited service, or if one has 30 years of credited service, at whatever age. If a person has achieved any one of these three service levels, the person has reached "normal retirement age" and need not undertake a break in service prior to entering the Phased Retirement Program.

It is the individual faculty member's responsibility to insure that the Institution has all information necessary for it to determine the eligibility of the applicant as to age, service at the Institution, and retirement benefit eligibility within either TSERS or the ORP. For these purposes the Institution shall determine an applicant's age and service longevity with reference to the August 1 that follows submission of an application for participation.

III. LIMITATIONS ON ELIGIBILITY.

The Program provides that the institutions may limit participation in the Program as follows:

- (1) An institution may establish departmental or school and/or institutional caps on faculty participation in the Program.
- (2) A department, school, or institution may deny an application to participate in the Program in response to a *bona fide* finding that financial exigencies of the employing institution prohibit further enrollment in the Program. This finding must be based on quantifiable budget constraints of the affected institution and consistent with Section 605A. of the Code.
- (3) A department, school, or institution may also deny an application to participate in the program upon a finding that granting the application would substantially weaken academic quality or disrupt program sequence. This finding should be supported by external measures of program quality such as accreditation standards. (See Section IV [2] below).

All enrollments in the Program shall commence with the fall semester of the academic year next following execution of an agreement between the Institution and the participant for PRP employment whether or not services are performed during the fall semester.

IV. INSTITUTIONAL PROGRAM GUIDELINES.

Each institution must develop Institutional Guidelines for its implementation of the Program ("Institutional Guidelines"). Once developed, or when substantively amended, each institution's Institutional Guidelines must be forwarded to the President for the President's approval.

Each set of Institutional Guidelines shall include, or be accompanied by, an official description of any of the following participation policies adopted by the institution:

- (1) a list of any caps on participation referencing the level (department, school, or institution) to which a cap pertains. A cap should be applied with reference to predetermined, non-subjective criteria such as length of service or percentage of faculty. The cap of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.) A cap may be an

absolute number or a formula that produces a number; the cap should be consistent over a substantial period of years, not less than five.

- (2) a detailed description of any limitations the department, school, or institution places on participation because of financial exigencies. This section should include specific references to the budget constraints which prohibit participation and to the means to determine that such exigencies exist. The limitation with respect to constraints of financial exigencies of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.)
- (3) a detailed description of any departmental, school, or institutional limitations on the number of eligible faculty who can participate in the Program based on preservation of academic quality. The description should include reference to objective factors which require limitations on participation; e.g., shortage of professors in a department or school, required number of faculty necessary for the department or institution to operate, student/faculty ratios, etc. These factors should not be based in any way on age or the expected retirement of specific faculty members. The limitation with respect to preservation of academic quality of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.)
- (4) A list by faculty rank, age, and department (but without name) of those faculty eligible and those ineligible to participate in the Program. This list should include those faculty ineligible to participate because they currently occupy full-time administrative positions; their listing should include both faculty and administrative titles. Faculty are individually responsible for providing to the Institution age and service data needed to determine their Program eligibility.
- (5) the number of academic years that participants will be allowed to remain on phased retirement. One uniform time period must be adopted by the institution with the same number of years for all participants, between one and five, and may not vary by department or school within the Institution. Participation in the Program may not be extended or renewed beyond completion of those years.
- (6) a detailed description of the procedures that the Institution will use to ensure that Eligible Faculty Members are informed about the Program.
- (7) a detailed description of the procedures the Institution will use to receive, review, and approve applications for participation.

- (8) a schedule of potential services for the institution or for each department or school if they differ among departments or schools. The services that comprise a faculty member's individual work plan under the Program will be drawn from this schedule. A typical work plan will likely call for services to be rendered over the two regular-term semesters of the academic year. The work plan may call for services over all 12 months of the participation year, as often occurs under research professorships. However, no work plan may include duties incident to summer school curricula.

V. DISTRIBUTING INFORMATION ON THE PHASED RETIREMENT PLAN.

The following materials should be prepared and distributed to every tenured Faculty Member who appears eligible or likely to become eligible for the Program.

- The UNC Phased Retirement Program Policy (UNC Policy Manual 300.7.2)
- A letter announcing the Program
- A copy of the Model University of North Carolina Phased Retirement Application and Reemployment Agreement
- A copy of the Model Phased Retirement Release
- A Chart reflecting information regarding persons who are eligible and those who are ineligible for the Program. (See example at Section VI.E.2., below.)

At the time of each distribution of the Program materials to Faculty the institution should place a notice of the Program in an institutional newsletter or other organ of general circulation among faculty that invites faculty who believe they may be eligible to inquire at an identified institutional office about their Program eligibility.

The Institution should distribute these materials by September 1 of the calendar year preceding the academic year in which it appears that the Faculty Member could first apply to participate in the Program.

A Faculty Member may apply for the Program not earlier than eleven (11) months prior to commencement of the first semester of Program participation and not later than six (6) months prior to that semester.

For purposes of this Program a semester will be deemed to commence on the date that faculty rendering services under an individual work plan are required to begin performing services with respect to the pertinent semester.

VI. APPLICATION PROCEDURES.

A. Time Periods.

Faculty group meetings should be held or at least made available at each institution for all persons eligible to elect into the Program. Persons who plan to apply to participate in the Program should meet with the officials appointed or designated by their institution to answer questions about the Program. Faculty may then approach their respective department chair or school dean to negotiate participation and their half-time work plan for the phased retirement period. When this negotiation has been completed, the electing Eligible Faculty Member will be provided a completed Phased Retirement Application and Reemployment Agreement (the "Agreement") and a Release (the "Release") to consider and sign. As required by the Age Discrimination in Employment Act ("ADEA"), the person shall have at least forty-five (45) calendar days to execute and return the Agreement and the Release to the Institution. The forty-five day period begins with the date of the Institution's "final offer." (The date of the final offer is the date on which the Institution physically delivers to the faculty member the completed, but as yet unsigned, Agreement and Release, or the date on which the documents are posted to the faculty member; the postmark date or date of receipt for postal handling of the documents shall be prima facie evidence of the date of final offer.)

Persons electing to participate in the Program also have the right under the ADEA to revoke the Agreement and the Release anytime within seven (7) calendar days of the date both documents are fully executed by the parties. An election to participate in the Program does not become final until after that date. Revocations shall be in a writing personally signed by the affected faculty member and shall be effected by personal delivery of the revocation, or by submission of it for postal delivery to the office or official to whom the prior application to participate in the Program had been submitted. (The date of revocation is the date on which the faculty member physically delivers the revocation to the appropriate institutional officer or office or the date on which the revocation is posted to that officer or office; the postmark date or date of receipt for postal handling of the revocation shall be prima facie evidence of the date of the revocation.)

If the Agreement and the Release are effectively revoked, the Agreement is void.

B. Questions and Answers.

There are sure to be numerous questions about the Program. Each institution shall designate specific officials who will be the only persons authorized to respond to these questions. They will likely be Human Resource personnel, such as the campus Benefits Officer or other Personnel Department staff. The number of individuals appointed for this purpose should be kept to a minimum. The more individuals an institution authorizes to answer questions, the greater the risk that an institution's answers to questions will not be uniform. Each institution must ensure that the information provided faculty members is accurate and consistent. This may be aided by presentations at scheduled Program orientations, like the faculty group meetings suggested in section VI.A., above. These faculty and administrative personnel designated to provide Program information should be told not to respond to interpretive policy questions about the operation of the Program and, instead, advised to refer such questions to a single designated official of the Institution.

Institutions may seek assistance from representatives in the UNC Office of the President Divisions of Academic Affairs, Legal Affairs, or Human Resources. This assistance is intended to be a source of information for each institution's Program officials, not a hotline for faculty members.

A frequent question will likely be, "Should I apply to participate in the Program?" Faculty members should be advised that the decision to seek to enter the Program is a personal one and one they will have to make on their own. An institution **SHOULD NOT** advise a faculty member to seek or not seek to participate in the Program. For example, a Program officer should not say, "If I were in your shoes, I would seek to participate," or "I think this is a good opportunity for you since you are close to retirement age."

The following do's and don'ts also may be helpful:

DO

- Spend as much time with the faculty member as necessary to fully explain the Program.
- Answer any question the faculty member has about the operation of the Program or the eligibility and disqualification provisions of the Program.

DON'T

- Provide an opinion to a faculty member on whether he or she should seek to participate in the Program.

- Indicate to a faculty member that anything about his or her current position and work at the institution will change if he or she does not seek to participate in the Program.
- Give out names of faculty members who are participating or not participating in the Program.
- Discuss the effect that a faculty member's decision may have on another faculty member's opportunity to participate in the Program.
- Discuss or mention in any fashion or form age, race, gender, national origin, disability, creed, color, military service, sexual orientation, or religious affiliation. These circumstances should play no part in information the institution provides regarding the Program.

C. Participation Limits or Caps.

Some departments, schools, or institutions may have approved limits or caps on the number of Program participants independent of limitations based on financial exigency or compromise of academic quality. If the department, school, or institution receives more qualified applications for the Program than it has available spaces, it should select participants based on non-subjective criteria, e.g., their employment start date at the Institution (that is, by institutional seniority, with the qualified person having the most institutional seniority being selected first).

D. Work Plans.

The Program permits Eligible Faculty Members to work half-time (or its equivalent) for half-time compensation. Each institution is responsible for developing an individual half-time work plan with faculty who wish to participate in the Program. These agreements should be between an institutional officer designated for this purpose (such as a dean or department chair) and the Eligible Faculty Member.

Before beginning discussions with Eligible Faculty Members, each institution should devise a half-time schedule of potential services. The schedule may vary by department or school but should always cover the complete range of contracted faculty activities, for example, teaching, research and creative activities, service, advising, writing of grants, and publications. The schedule should be as detailed as possible and may be used as an attachment to the agreements with Eligible Faculty Members accepted to participate in the Program.

Once the duties and arrangements with an Eligible Faculty Member are fully determined, the agreement to participate in the Program must be stated in writing in a formal Agreement and co-signed by the faculty member, the chair of the employing department, dean of the school or division, and the Chief Academic Officer. In cases where the Institution and the Eligible Faculty Member cannot agree on a half-time plan, the Eligible Faculty Member will not be allowed to participate in the Program. Once an Agreement is finalized, the parties by mutual accord may still terminate the Agreement at any time.

Each institution should strive to make the Agreements as uniform as possible within each department or school. The Agreements must be based on the objective needs of the employing department, school, or institution. Under no circumstances should “deals” be made to encourage faculty members to accept the Program. Likewise, each institution must not take unacceptably harsh positions to dissuade a faculty member from participating.

E. Agreement and Release.

1. Procedure.

The last step in the application process is to obtain a Release from the electing Eligible Faculty Member. The requirements for a valid release are set out in detail under the ADEA and, thus, it is mandatory that each institution follow the steps outlined below:

- a. After an Agreement is completed and executed, the electing Eligible Faculty Member should also execute a Release. Both documents should be retained as part of the Agreement and Release Package.
- b. The Agreement and Release Package should contain:
 - (i) The letter announcing the Program;
 - (ii) The Program Summary;
 - (iii) The Agreement;
 - (iv) The Release; and
 - (v) The job title and age Chart for the institution and the department or school.

It is essential to the validity of the Agreement and the Release that all of this Package has been provided to the Eligible Faculty Member when he or she is offered the completed Release for execution.

- c. The Eligible Faculty Member has at least forty-five (45) calendar days from the time he or she receives the Agreement and Release Package to execute the Release. The Eligible Faculty Member should be encouraged to use the full 45 days and to consult an attorney. Under no circumstances should the Eligible Faculty Member be requested or pressured to return the package in a shorter period.
- d. The Eligible Faculty Member may sign the Release before the end of the 45-day period if he or she so desires. Again, the Eligible Faculty Member should be encouraged by the institution to utilize the full 45-day period.
- e. Once the Eligible Faculty Member signs the Agreement and the Release, he or she has seven (7) calendar days to revoke them. Consequently, an Eligible Faculty Member's Agreement may not be binding until almost two months after he or she receives the Agreement and the Release to execute.

2. The Job Title and Age List.

The ADEA requires that for the release of age discrimination claims to be valid, the Release must include the job titles and ages of all individuals eligible for the Program, and the ages of all individuals in the same job classification or organizational unit who are not eligible. The Chart each institution must attach to the Agreement and Release Package is meant to satisfy this requirement.

Each institution is responsible for preparing this Chart, showing eligibility/ineligibility for the institution as a whole by department or school. The Chart should be in the format of the Example set forth below. The Chart must reflect the faculty members by job title and age. The Chart should also include as persons ineligible to participate those tenured faculty members who meet the eligibility requirements but who are disqualified for one of the reasons identified under the Program, as well as tenured faculty members who do not meet the basic eligibility requirements. Data appearing initially on the Chart were required to reflect projected age and service as of August 1, 1998. The Chart should be updated each year as of August 1, reflecting projected age and service as of the next August 1, to the extent known or reasonably predictable.

<u>Example</u>			
Job title*	Age*	Number Eligible*	Number Ineligible*
History Professor	60	2	0
“ “	59	0	1
[This age 59 professor is under admin. appoint. so also give admin. title.]			
Assoc. History Professor	51	1	1
“ “ “	43	0	2
“ “ “	41	<u>0</u>	<u>1</u>
<u>Subtotal (History Dept.)</u>		3	5
Latin Professor	62	1	0

TOTAL (Institution)	103		237

* This Chart is based upon current institutional information. However, if any error or omission is detected, it should be promptly reported to the appropriate academic department or school. Faculty are individually responsible for providing age and service data needed to determine their Program eligibility.

This Chart should be prepared by individuals not involved in any other aspect of the institution's implementation of the Program. The age data used to prepare the Chart should not be made available to any person who is involved in determining limits on participation in the Program or who is developing individual agreements under the Program. This information is very sensitive and should be treated accordingly.

VII. Implementation of the Program

A. Applications.

Applications to participate in the Program will be taken in two different formats, depending on the situation.

- (1) Where There Are Openings Available Under a Quota Or Openings Without Limitation.

In institutions, departments, or schools with openings available under a preset participation limit or cap larger than the number of applicants or which do not have a limitation on the number of participants, timely applications will be accepted on a first come, first eligible basis. When an Eligible Faculty Member submits an application for the Program, the application shall be processed in the manner described in Sections VI.D. and E., above.

- (2) Where Number of Applicants Exceeds Openings Available Under Quota Or Other Institutional Limitation After Announcement of Such Limitation.

Where the pertinent institution, department, or school has established, pursuant to Sections III. and IV., above, a limitation on PRP participation by means of a cap, a bona fide finding of restricting financial exigency, or the need to deny participation to preserve academic quality or program sequence integrity, the Institution shall limit its consideration of applications for positions in such restricted positions to those applications timely submitted as required under Section VI.A., above. If, under these conditions, more timely applications are received than spaces are available, the Institution shall cease accepting applications for the pertinent positions and shall announce to all Eligible Faculty members who had timely submitted a relevant application that each is to have a period of two weeks (14 calendar days) from the date of the institutional announcement to submit the Eligible Faculty Member's written response, conveying a determination to continue pursuing or to cease pursuing the

corresponding Phased Retirement position. (The date of institutional announcement and the date of faculty response shall each be determined with reference to their date of physical delivery to the addressed party, their postmark date, or date of receipt for postal handling, whichever is earliest.)

The Institution shall promptly and appropriately acknowledge its receipt of all faculty responses. The seniority procedures established in Section VI.C., above, shall then be used with respect to all applications that continue viable.

B. Data.

The data discussed in Section VI.E.2., above, must be updated for the Application and the Release to remain valid. The Chart's revision date should appear in the upper right hand corner. A Chart will be deemed current with respect to an application if the Chart has been updated as of the August 1 next preceding the date on which the application is timely received from a faculty member.

Adopted 09/13/91
 Amended 09/09/94
 Amended 09/08/95
 Amended 09/13/96
 Amended 05/22/97
 Amended 11/13/98
 Amended 08/13/99
 Amended 02/13/04¹
 Amended 11/12/04

Selection Criteria and Operating Instructions for Special Responsibility Constituent Institutions

A. Achieving and Retaining Status as a Special Responsibility Constituent Institution

Management Staffing Standards and Internal Controls and Safeguards

1. Responsibilities of Special Responsibility Constituent Institutions

The following standards and safeguards must be met and maintained in order to receive and retain the designation as a special responsibility constituent institution.

- a. The Chancellor/Executive Director must assume personal responsibility and also establish the appropriate administrative and internal control procedures for carrying out the special delegations of authority. In this regard, the Chancellor/Executive Director must certify that the administrative capability on campus in the areas of budgeting and accounting, personnel, and purchasing, as noted in b., c., and d. below, are sufficient to carry out the increased flexibility being granted.
- b. The capability of the staff and the system of budgeting, accounting and internal controls must be sufficient to administer the increased budget flexibility given to the designated institutions.
- c. The personnel capacity, which must be exercised under the direction of appropriate administrative officials, must be available on campus to evaluate jobs, classify positions appropriately, set compensation properly, and carry out the related functions of position management at the level of authority provided by the delegation.
- d. The on-campus expertise must be available to purchase properly the equipment, supplies, and other goods and services for the institution up to the benchmark level established by the Board of Governors for the institution pursuant to G.S. 116-31.10.

¹ On February 13, 2004, the Board placed into policy changes to these criteria that it had adopted on 2/08/02 and 9/12/03.

- e. The institution must maintain its financial records in such a manner that there are no significant findings in the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office.
- f. Each Chancellor/Executive Director shall prepare a plan for the uses of appropriations carried forward from the previous fiscal year and anticipated lapsed salary funds for the current fiscal year, which should be submitted to the Office of the President by July 15 of each year.
- g. Chancellors/Executive Director may delegate the authority for approving departmental plans for expenditures authorized under budget flexibility, but may not delegate the authority below the level of the appropriate Vice Chancellor.
- h. The Chancellors/Executive Director shall review an annual internal audit report on expenditures authorized under budget flexibility.
- i. The Chancellor shall ensure that procedures and support systems are in place to provide for the effective operation and maintenance of all existing campus buildings and infrastructure. New facilities financed by the 2000 Higher Education Bond Program or any other sources of funds shall become a part of an effective program of preventive maintenance from the time that construction is completed. Procedures shall also be in place to assure proper accountability and safeguarding of all fixed assets and other items purchased by the University.

2. Responsibilities of the President and the Board of Governors

The President is directed to establish the administrative procedures necessary to carry out the following rules:

- a. The President and her/his staff shall review the annual financial audit reports, special reports, electronic data processing reports, performance reports, management letters, or any other report issued by the State Auditor's Office for each special responsibility constituent institution.
- b. The President shall take immediate action regarding reported weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations. In any instance where significant findings are identified, the President shall notify the Chancellor/Executive Director of the particular special responsibility constituent institution that the institution must make satisfactory progress in resolving the findings, as determined by the President of The University, after consultation with the State Auditor, within a three-month period commencing with the date of receipt of the published financial audit report, any other audit report, or management letter.
- c. If satisfactory progress is not made within a three-month period, the President shall recommend to the Board of Governors at its next meeting that the designation of the particular institution as a special responsibility constituent institution be terminated until such time as the exceptions are resolved to the satisfaction of the President of

The University of North Carolina, after consultation with the State Auditor. However, once the designation as a special responsibility constituent institution has been withdrawn by the Board of Governors, reinstatement may not be effective until the beginning of the following fiscal year at the earliest.

- d. Any actions taken by the Board of Governors with respect to withdrawal or reinstatement of an institution's status as a special responsibility constituent institution shall be reported immediately to the Joint Legislative Education Oversight Committee.
- e. The President and her/his staff, after consultation with the State Auditor, shall review and consult with the Director of the Office of State Personnel and the Director of the Division of State Purchasing and Contracts in ascertaining whether or not a constituent institution has the management staff and internal financial controls to administer the additional authorities authorized under G.S. 116-30.2, 116-30.4, and 116-31.10. Such review and consultation must take place no less frequently than once each biennium.
- f. The President shall review plans submitted by the Chancellors/Executive Director for uses of funds carried forward from the previous fiscal year and anticipated lapsed salary funds and, upon approval, present a summary of these plans to the Board of Governors at its August meeting each year.

B. Budget Administration

1. Appropriations to Special Responsibility Constituent Institutions

- a. All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to each budget code of the institution for each year of the fiscal period for which the appropriations are being made.
- b. Notwithstanding G.S. 143-23(al), G.S. 143-23 (a2), G.S. 143-23(a3), and G.S. 120-76(8), each special responsibility constituent institution may expend the General Fund monies so appropriated to it in the manner deemed by the Chancellor/Executive Director to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors including but not limited to the following:
 1. A current institutional expenditure plan for each budget code must be established and maintained under the direction of the Chancellor/Executive Director.
 2. No action shall be taken that would materially change the capability of the institution to carry out its educational mission as defined by the Board of Governors. The Board of Governors will retain program responsibility. No actions taken should have the effect of either establishing a new academic, research, or public service program or closing such a program without the specific approval by the Board. Reallocation of academic program resources

should not be made to the extent that a particular existing program is seriously weakened or effectively discontinued, or a new activity not expressly authorized by the Board of Governors is initiated.

3. Reallocations of interinstitutional program resources should not be made to the extent that campus participation in a particular program is materially weakened without specific approval by the Board.
 4. No action should be taken which would have the effect of establishing a new community service or student financial aid program without specific approval by the Board of Governors.
 5. Appropriations providing support for Distance Education/Extension degree credit instruction at off-campus locations cannot be reallocated for other purposes without specific approval by the Board of Governors.
- c. The quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution.
 - d. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions.
 - e. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions.
2. Reversions and Carry-Forwards of Appropriations

Of the General Fund current operations appropriations credit balance remaining in each budget code of a special responsibility constituent institution, at the close of a fiscal year, any amount of the General Fund appropriations for that budget code, may be carried forward by the institution to the next fiscal year and may be used for one-time expenditures that will not impose additional financial obligations on the State.

However, the amount carried forward under this section shall not exceed two and one-half percent (2 1/2%) of the General Fund appropriation. The Director of the Budget, under the authority set forth in G.S. 143-25, shall establish the General Fund current operations credit balance remaining in each budget code of each institution. *(Note advanced approval requirement in Sections A1.f. and A2.f. above.)*

C. Personnel Administration

The Chancellor of a special responsibility constituent institution, when he finds that to do so would help to maintain and advance the programs and services of the institution, may establish and abolish positions, acting in accordance with:

- (1) State Personnel policies and procedures if these positions are subject to the State Personnel Act and if the institution is operating under the terms of a Performance

Agreement or a Decentralization Agreement authorized under Chapter 126 of the General Statutes; or

- (2) Policies and procedures of the Board of Governors if these positions are exempt from the State Personnel Act.

The results achieved by establishing and abolishing positions pursuant to the conditions set forth in subdivision (1) of this section shall be subject to postauditing by the Office of State Personnel.

With respect to personnel actions taken under subdivision (2) of this section, no action should have the effect of either establishing a new academic program or administrative unit or closing an existing academic or inter-institutional program or administrative unit. No action should be taken which permanently reduces the number or amount of Regular Term budgeted teaching positions supported by General Fund appropriations thereby changing the student-faculty ratio or the budgeted average teaching salary established by the Board of Governors.

Implementation of all personnel actions shall be subject to the availability of funds within the institution's current budget to fund the full annualized costs of these actions.

D. Purchasing

Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than \$500,000. The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

Institutions with an expenditure benchmark greater than \$250,000 but not greater than \$500,000 shall submit to the Division of Purchase and Contract for that Division's approval, or other action deemed necessary by the Division, a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division.

The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance and disposition of real and personal property and services shall be subject to, and exercised in accordance with, the provisions of Chapter 143 and 146 of the General Statutes and related sections of the North Carolina Administrative Code, except when a purchase is being made that is not covered by a State term contract and either:

- (1) The funds used to procure personal property or services are not moneys appropriated from the General Fund or received as tuition or, in the case of multiple fund sources, moneys appropriated from the General Fund or received as tuition do not exceed thirty percent (30%) of the total funds; or

- (2) The funds used to procure personal property or services are contract and grant funds or, in the case of multiple fund sources, the contract and grant funds exceed fifty percent (50%) of the total funds.

When a special responsibility constituent institution procures personal property or services under condition (1) or (2) above, the special responsibility constituent institution is delegated the authority to procure the property or services without approval by the Board of Governors, and the requirements of Chapter 143, Article 3 shall apply, except the approval or oversight of the Secretary of Administration, the State Purchasing Officer, or the Board of Awards shall not be required, regardless of dollar value.

Special responsibility constituent institutions shall have the authority to purchase equipment, materials, supplies, and services from sources other than those certified by the Secretary of Administration on term contracts, subject to the following conditions:

- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract;
- (2) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts;
- (3) The cost of the purchase shall not exceed the benchmark established under G. S. 116-31.10; and
- (4) The special responsibility constituent institution notifies the Department of Administration of purchases consistently being made under this provision so that State term contracts may be improved.

E. Impact on Education

Each special responsibility constituent institution shall include in its institutional effectiveness plan those assessment measures that are determined by the Board to be measures that will assure some standard measure of student learning and development in general undergraduate education. The intent of this requirement is to measure the impact of G.S. 116–30.1 through G.S. 116–30.5, establishing and administering special responsibility constituent institutions, and their implementation on undergraduate student learning and development. The measures shall be taken from accountability reports to the Board and any other performance measures developed for this purpose by the Board.

F. Reporting Requirements

1. Monthly Report

Each designated institution must prepare a monthly operating report for each budget code in the format of the current BD–701 report. The "Authorized Budget" included in this report, which may be changed under the direction of the Chancellor/Executive Director, will show the institution's current expenditure plan. The current Chart of Accounts will be used for reporting purposes.

2. Fiscal Year Plan

Each Chancellor/Executive Director of a special responsibility constituent institution must prepare a fiscal year plan, due to the President by July 15, as follows:

- a. An annual plan specifying programmatic, and major expenditure classification detail, for expending funds carried forward from the previous fiscal year as allowed under G.S. 116-30.3.
- b. An annual plan for expending anticipated lapsed salary funds for the fiscal year. This portion of the plan would be a projection of the amount of lapsed salaries and the programmatic priorities for expending the estimated funds.

3. Annual Report

An annual report, and other reports as may be directed by the President, are required from each special responsibility constituent institution. The annual report must be submitted to the Office of the President by October 10 following fiscal year end, and shall include the following information:

- a. an annual operating report in the same format as the monthly report described above
- b. the impact on undergraduate student learning and development as demonstrated by the standard assessment measures related to this topic
- c. fiscal savings
- d. management initiatives undertaken
- e. increased efficiency and effectiveness achieved, including institutional purchases under the expenditure benchmark established by the Board of Governors for the institution
- f. other outcomes made possible by the flexibility provided
- g. documentation of any reallocation of resources which distinguishes between one-time and permanent transfers, including the actual uses of funds reallocated during the fiscal year as a result of lapsed salaries
- h. the actual uses of appropriations carried forward from the previous fiscal year
- i. any additional costs incurred
- j. a schedule of positions established and positions abolished
- k. list of positions that were vacant for more than 9 months during the fiscal year and an explanation for the length of the vacancy
- l. compliance certification letter to the President from each SRCI Chancellor/Executive Director

Each institution must establish the administrative procedures necessary to accumulate this information for reporting purposes.

Adopted: 11/12/2004

Guidelines on the Admission of Undocumented Aliens

Undocumented aliens are eligible to be considered for admission as undergraduates at UNC constituent institutions based on their individual qualifications with limitations as set out below:

1. An undocumented alien may be considered for admission only if he or she graduated from high school in the United States.
2. Undocumented aliens may not receive state or federal financial aid in the form of a grant or a loan.
3. An undocumented alien may not be considered a North Carolina resident for tuition purposes; all undocumented aliens must be charged out of state tuition.
4. All undocumented aliens, whether or not they abide in North Carolina or graduated from a North Carolina high school, will be considered out of State for purposes of calculating the 18% cap on out of State freshmen pursuant to Policy 700.1.3.
5. When considering whether or not to admit an undocumented alien into a specific program of study, constituent institutions should take into account that federal law prohibits the states from granting professional licenses to undocumented aliens.

Adopted:11/12/2004

The Use of Information Technology

The UNC Board of Governors (BOG) encourages the constituent institutions to use **standards based, compatible, and interoperable** information & communication technologies which support their individual missions and enable interaction and information exchange among the UNC campuses, UNC affiliates, and the UNC Office of the President.

Through appropriate and effective practices and with information technology management flexibility, the BOG seeks to affirm that each institution is making steady progress in the appropriate uses of information and communication technologies. These include the use of information and communication technologies as a tool in enabling quality teaching, creating administrative efficiencies, performing effective research and conducting public service. Effective information technology planning and management should be evident in the institution's plans and annual reports. The BOG encourages the UNC President to review these plans and annual reports for demonstrations of effective and efficient uses of information and communication technologies.

The President should acknowledge and recognize campuses that achieve excellence in these and other technology areas and should address areas for improvement or take remedial action as appropriate. Retaining delegated authority of IT management flexibility is contingent upon evidence of effective and efficient use of IT.

Each constituent institution should demonstrate progress by:

- establishing and maintaining a minimum baseline of IT infrastructure including human resources, networking, communications applications, and enterprise systems.
- providing the appropriate instructional tools, faculty development, and support services to enhance and maintain teaching and learning inside and outside of the classroom.
- providing access to various technologies for faculty and students to conduct research and collaborate with colleagues across the university, around the state, the country, and the world. This capability will assist in attracting and retaining excellent faculty and students, sponsored programs and external funding.
- increasing access, outreach, and economic development through distance learning, resource management, online applications and communications with internal and external communities who engage in public service
- providing planned and cyclical rotation of information systems and components so that campuses do not operate obsolete systems.
- establishing distance-learning opportunities for North Carolina's K-12 students.

- recognizing the innovative and creative uses of information and communication technologies by the faculty.
- ensuring that the institution's use of information technology is properly aligned with its mission and that its Chancellor and his/her team establish the resource priorities.