

ADMINISTRATIVE MEMORANDUM

SUBJECT Modifications to regulations for
 the Optional Retirement Program

NUMBER 339

DATE 10/12/93

This Administrative Memorandum supersedes Administrative Memorandum Number 323 (dated June 19, 1992): it restates and extends provisions of the prior memorandum, including those that address vesting and withdrawal of contributions to the Optional Retirement Program. This Administrative Memorandum implements certain revisions to the Optional Retirement Program (ORP) adopted by the Board of Governors of The University of North Carolina on October 12, 1990, October 11, 1991, and October 8, 1993.

This Administrative Memorandum supplements pages III-S-1 and -2 in The Administrative Manual of The University of North Carolina. This Administrative Memorandum will itself be supplemented as needed and may be superseded at such time as statements of the policies and regulations for the ORP are consolidated.

1. Effective date. The Optional Retirement Program as amended by the Board of Governors on October 11, 1991, to add as approved carriers Lincoln National Life Insurance Company and the Variable Annuity Life Insurance Company (VALIC), is effective July 1, 1992.
2. Election of the ORP. Persons eligible to participate in the ORP are required by State statute to elect either the ORP or the Teachers' and State Employees' Retirement System (TSERS) "at the same time of entering upon eligible employment." This will be understood to mean that an eligible employee has 30 days from the date of commencing eligible employment to execute the form electing the ORP and submit it to the employing institution. Failure to meet this deadline means that the employee should be enrolled in TSERS; this is, effectively, an irrevocable election.
3. Selection of ORP carrier(s). A participant in the ORP may elect to allocate both the participant's ORP contributions and the employer's

ORP contributions to any one of the three authorized carriers or may direct the participant's contributions to one carrier and the employer contributions to another. (Such allocations may be changed with respect to any future month for which the pertinent payroll office can accommodate the change.) In addition, those participating in the ORP prior to July 1, 1992, may elect to retain their prior contributions with TIAA-CREF as well as elect to allocate future ORP contributions in the manner of those enrolling in the ORP on or after July 1, 1992. This would permit ORP participants enrolled prior to July 1, 1992, to have investment accounts with one, two, or all three approved carriers. Participation with any approved carrier shall be only with respect to funds of that carrier approved by the Board of Governors. (A current list of approved funds is attached as Appendix A to this Administrative Memorandum.)

4. Ownership of annuity contracts.

- a. TIAA-CREF annuity contracts of participants in the ORP who enrolled prior to July 1, 1992, will continue to be held in the name of the individual participant. [Contributions to those contracts through June 30, 1985, are tax-favored under IRC Section 403(b); contributions after that date are tax-favored under IRC Section 403(a).]
- b. Should a participant transfer all or part of an investment account established prior to July 1, 1992, from TIAA-CREF to another carrier, the new annuity contract issued in consequence of that transfer will continue to be in the name of the participant to the extent that transferred balances are attributable to pre-July 1, 1985, contributions. Such transferred account balances will be placed in the name of The University of North Carolina for the benefit of the participant to the extent that they are attributable to post-June 30, 1985, contributions.
- c. Annuity contracts of participants enrolling in the ORP on or after July 1, 1992, will be issued in the name of The University of North Carolina for the benefit of the participant.
- d. Former ORP participants who are 100% vested in their accounts on termination of employment occurring on or after July 1, 1992, will receive as a distribution an annuity contract in their name.

- e. A person who terminates employment with The University of North Carolina having less than five years eligible service in the ORP but who timely enrolls in a like retirement plan will be issued an annuity contract in his or her own name to the extent that the participant's ORP account assets meet the conditions for either vesting or nonforfeiture set forth in Section 5, below.

5. Vesting of retirement contributions.

- a. The participant's contributions to the ORP vest to the benefit of the participant immediately; the University's contributions vest to the benefit of the participant following five years of eligible service under the ORP.
- b. A year of eligible service means completion of the number of months during a contract year of the participant sufficient to satisfy the service requirement of the employment agreement for that contract year. Service completed during a contract year totaling less than the total months of the contract year will be credited as a fraction whose numerator is the number of months of completed service during that contract year and whose denominator is the number of months of that contract year (e.g., 5/9, 9/9, 10/12, 12/12).
- c. Should a participant having less than five years of eligible service in the ORP cease employment within The University of North Carolina and either retire or proceed to employment for which the participant does not initiate, as the participant's core retirement plan, contributions under annuity contracts of underwriting insurance companies previously subscribed, or available, under the ORP, those ORP account contents attributable to contributions by The University of North Carolina will be forfeited and paid over to the State of North Carolina as provided by law. However, a participant with less than five years eligible service in the ORP will not forfeit ORP account assets attributable to contributions by The University of North Carolina if the participant timely enrolls in a like retirement plan of a subsequent employer as the participant's core retirement plan.

- (1) "Subsequent employer" means an employer with whom the employee commences employment service next

following service under the ORP with The University of North Carolina.

- (2) "Like retirement plan" means a retirement plan of an institution or organization of higher education in which the employee participates, in fact, through only the annuity contracts of companies with whom the employee did participate in the ORP, or could have participated, were the participant to have continued enrolled in the ORP.
- (3) "Timely enrollment" in a like retirement plan of a subsequent employer means formal enrollment in such a plan in the manner prescribed by the subsequent employer; provided, that timely enrollment shall not include enrollment which has not been effected within 12 months following termination of participating service under the ORP.
- (4) "Core retirement plan" means the primary retirement plan of an employee that the participant's employer provides by reason of the employment.
- (5) "Retired" means the status of a former ORP participant who, either:
 - (a) has announced in writing to The University of North Carolina General Administration, or to the constituent institution of The University of North Carolina with which the person was last employed, that he or she has retired or has ceased indefinitely to be employed; or
 - (b) during the 12 months immediately following the end of participating service under the ORP, has not both (1) actively become the common-law employee of a subsequent employer and (2) become enrolled in a timely manner in a like retirement plan of the subsequent employer.

6. Transfer of account funds and reallocation of ORP contributions. Transfer and reallocation options for ORP assets by ORP participants, former ORP participants, and retirees are set forth on the attached Chart of Transfers and Reallocations (Appendix B to this Administrative Memorandum).
 - a. "Transfer" is an action moving present assets from one ORP carrier to another ORP carrier, or an action moving present assets from one fund of an ORP carrier to another fund of that carrier.
 - b. "Reallocation" is a change in the ORP carrier(s), and/or the funds of an ORP carrier, that are to receive future contributions under the ORP.

7. Rollovers and withdrawals of ORP assets. Rollovers and withdrawals of ORP account assets are subject to the restraints set out on the Chart of Rollovers and Withdrawals (Appendix C to this Administrative Memorandum).
 - a. "Rollover" is the moving of assets out of an ORP account directly into a non-ORP retirement plan or other non-ORP account having tax-qualified status under the same Internal Revenue Code section as that qualifying the ORP account. (This means, for example, that funds may not be moved between tax-sheltered annuity [TSA] accounts [which are tax-favored under IRC Section 403(b)] and accounts of qualified plans like the ORP [which are tax-qualified under IRC Section 403(a)].)
 - b. "Withdrawal" is the receipt of assets from an ORP account, usually constituting a taxable event under the Internal Revenue Code.

8. Repurchase of ORP assets. When an ORP participant terminates employment with less than five years participation under the ORP and is deemed "retired" (as defined in Section 5, above), unvested assets of the participant's ORP account(s) must be repurchased from the ORP account carrier(s). The information needed to determine that repurchase is necessary, or may become necessary, should be obtained by the employing institution through use of the Acknowledgment for Disposition of Account Contributions (Form ORP-3, made Appendix D to this Administrative Memorandum).

The proceeds from repurchase of ORP account assets attributable to University contributions should be paid by the ORP account carrier(s) to The University of North Carolina General Administration for its remittance, in turn, to the North Carolina Teachers' and State Employees' Retirement System. If the participant requests repurchase of his or her own contributions, those proceeds, subject to any appropriate withholding, should be paid by the account carrier directly to the participant. The University General Administration is responsible for initiating the request that an ORP account carrier effect repurchase and that the proceeds be remitted, as required, to the participant and the University. These responsibilities will be undertaken by General Administration upon its receipt from the employing institution of an executed Form ORP-3.

Until Form ORP-3 can be printed in self-duplicating, three-copy format, the institutions should see that one original and two photocopies of the executed form are produced each time it is used--the original for General Administration, one photocopy for the employing institution, and one photocopy for the departing faculty member.

9. Issuance of annuity contract to participant. When repurchase of ORP account assets is required, the former ORP participant may choose either to leave his or her own contributions in the ORP accounts or to receive their value by repurchase. Retention of the ORP assets in accounts with the carrier(s) still requires, however, that the former participant receive in the participant's own name an annuity contract for those assets, as a distribution.

Likewise, when an ORP participant leaves University employment, whether for retirement or not, the participant should be issued an annuity contract for all vested ORP assets whether attributable to contributions by the participant or by the University. Again, it is the University General Administration that will notify the appropriate ORP carrier(s) to issue an annuity contract once General Administration has received from the former employing institution the necessary information about participation by the employee under the ORP and, if applicable, information from the subsequent employer about carrier choice under a successor core retirement plan.

10. Loans.

- a. ORP account assets attributable to current ORP participants, whether vested or not, may not be borrowed or pledged as collateral for loans.
- b. ORP account assets of accounts vested in former ORP participants who have become reemployed may be borrowed or pledged as collateral for loans as the former participant's subsequent employer and the account carrier(s) may permit.
- c. If the former ORP participant is "retired," as defined in Section 5c(5), above, assets of ORP accounts may not be borrowed or pledged as collateral for loans.
- d. If a former ORP participant has terminated employment with the University but neither "retired" nor become reemployed, he or she may not borrow or pledge ORP account assets.

11. Distribution of this memorandum; followup assistance. In addition to the standard distribution, this Administrative Memorandum is being provided directly to the institutional Faculty Benefits Officers. Questions concerning policy of this Administrative Memorandum may be directed to Mr. David Edwards, Special Assistant to the President. Questions concerning related payroll matters or financial administration should be directed to Mr. Jeffrey Davies, Associate Vice President for Finance.



C. D. Spangler, Jr.

| | | |
|--------------|-------------|---|
| Attachments: | Appendix A- | List of Approved Funds of ORP Carriers |
| | Appendix B- | Chart of Transfers and Reallocations |
| | Appendix C- | Chart of Rollovers and Withdrawals |
| | Appendix D- | Acknowledgment for Disposition of Account Contributions (Form ORP-3) |

Appendix A

List of Approved Funds of ORP Carriers

Lincoln National Life Insurance Company

Guaranteed Fixed Interest Option
Growth Fund
Bond Fund
Managed Fund
Money Market Fund
Social Awareness Fund
International Fund

Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF)

TIAA (fixed) Account
CREF Stock Fund
CREF Bond Market Account
CREF Money Market Account
CREF Social Choice Account
CREF Global Equities Account

The Variable Annuity Life Insurance Company (VALIC)

Fixed Account Plus
Stock Index Fund
Government Securities Fund
Timed Opportunity Fund
Money Market Fund
Social Awareness Fund
International Equities Fund

CHART OF TRANSFERS AND REALLOCATIONS

| Class of individuals | | Transfer of vested funds* | Transfer of non-vested funds* | Reallocation of future contributions* |
|------------------------|--|--|-------------------------------|--|
| ORP participant | | Yes, to any approved carrier. | Yes, to any approved carrier. | Yes, to any approved carrier. |
| Former ORP participant | Inactive (currently unemployed less than 12 months immediately following University employment). | Yes, to any approved carrier. | Yes, to any approved carrier. | N/A |
| | Employed by non-UNC employer; enrolled in like retirement plan. | As permitted by new employer and the carrier(s). | N/A | As permitted by new employer under successor core retirement plan. |
| | Employed by non-UNC employer; not enrolled in like retirement plan ("retiree"). | As permitted by the carrier(s). | N/A | N/A |
| | Retiree | As permitted by the carrier(s). | N/A | N/A |

*Transfers and reallocations permitted under this chart are also subject to the limitations set forth in Section 4 of this Administrative Memorandum and to limitations of the relevant annuity contracts(s).

CHART OF ROLLOVERS AND WITHDRAWALS

| Class of individuals | | Rollover of vested funds* | Rollover of non-vested funds | Withdrawal of vested funds* | Withdrawal of non-vested funds |
|------------------------|--|--|------------------------------|---|--------------------------------|
| ORP participant | | No. | No. | No. | No. |
| Former ORP participant | Inactive (currently unemployed less than 12 months immediately following University employment). | No. | No. | No. | No. |
| | Employed by non-UNC employer; enrolled in like retirement plan. | As permitted by new employer and the carrier(s). | N/A | As permitted by new employer and the carrier(s). | N/A |
| | Employed by non-UNC employer; not enrolled in like retirement plan ("retiree"). | As permitted by the carrier(s). | N/A | Only from variable annuity accounts to extent attributable to employee contributions under ORP.** | N/A |
| | Retiree | As permitted by the carrier(s). | N/A | Only from variable annuity accounts to extent attributable to employee contributions under ORP.** | N/A |

*Subject to applicable provisions of the Internal Revenue Code, involving possible withholding.

**The retired participant may withdraw from each account under a variable annuity ORP contract an amount not greater than the value of that account attributable to contributions by the participant to that account.

