



# TRANSMITTAL LETTER

The University of North Carolina  
*Office of the President*

Number: 9.

Date: February 4, 2002

**Subject:**

Amendments to *The Code* –

§. 301D

§. 602(8) and

Appendix 1 section I Academic and Administrative Personnel

Senior Academic and Administrative Officers. Policy #300.1.1

International Programs. Policy #400.1.3

Granting of Management Flexibility To Appoint and Fix Compensation. Policy #600.3.4

This transmittal letter distributes three changes to *The Code* at §. 301D, §. 602(8) and also to Appendix 1 Section I Academic and Administrative Personnel. The changes were adopted by the Board of Governors on 01/11/02.

This transmittal letter also distributes the Policy on Senior Academic and Administrative Officers, Policy # 300.1.1, which was amended by the Board of Governors on 01/11/02. Please contact Ronald Penny, Vice President for Human Resources at 919-843-6018, if you have any questions with regards to the amendments.

This transmittal letter also distributes the Policy on International Programs, # 400.1.3, which was repealed by the Board of Governors on 01/11/02. Please contact Dr. Betsy Brown, Associate Vice President for Faculty Support and International Programs at 919-962-4612, if you have any questions with regard to this repealed policy.

This transmittal letter also distributes the Policy on Granting of Management Flexibility To Appoint and Fix Compensation # 600.3.4, which was adopted by the Board of Governors on 01/11/02. Please contact Dr. Gretchen Bataille, Vice President for Academic Affairs at 919-962-4614, if you have any questions with regard to this policy.

Please remove the old versions of these documents from your Policy Manual and replace them with the attached updated versions.

Amendments to *The Code*

§ 301 D. The Committee on Personnel and Tenure shall consist of six voting members. Upon recommendation of the President, it shall review and make recommendations to the board with respect to the appointment and compensation of all vice chancellors, senior academic and administrative officers, and persons with permanent tenure. Notwithstanding the provision above, the committee shall not review or recommend the appointment and compensation of vice chancellors, senior academic and administrative officers, and persons with permanent tenure for those campuses delegated the authority to appoint and set compensation for such employees so long as the Board of trustees acts consistent with the policy and compensation ranges established by the Board of Governors. Further, the committee shall advise and assist the President in the review and evaluation of tenure policies and regulations which the President shall periodically conduct, and it shall review all appeals from faculty members of the constituent institutions which involve questions of tenure, consistent with the provisions of Chapter VI of this *Code*.

§. 602(8) The tenure policies and regulations of each institution shall be subject to approval by the President. The President periodically shall review and re-evaluate these policies and regulations and report findings and recommendations, if any, to the Committee on Personnel and Tenure and through the committee to the Board of Governors.

**I. ACADEMIC AND ADMINISTRATIVE PERSONNEL****A. Appointment and Compensation**

1. Upon recommendation of the chancellor, the Board of trustees of a special responsibility constituent institution with management flexibility for personnel appointments shall, for all positions exempt from the State Personnel Act except the position of the chancellor, appoint, promote, and set the compensation for such employees consistent with the policies and salary ranges set by the Board of Governors and the regulations and guidelines established by the Office of the President.
2. Personnel actions at a constituent institution, other than a special responsibility constituent institution with management flexibility, shall be governed as follows:
  - a. With respect to all faculty positions with permanent tenure and all senior administrative positions, namely vice chancellors, provosts, deans and directors of major educational and public service activities, the chancellor, following consultation with the Board of Trustees, shall forward to the President recommendations with respect to such appointments, promotions, and compensation; if the President concurs in such recommendations, the President shall forward them to the Board of governors for approval.
  - b. With respect to all faculty and administrative positions other than those identified in subparagraph 2a above, and other than those subject to the State Personnel Act, the chancellor shall forward the chancellor's recommendations for appointment, promotion and compensation to the Board of trustees; subject to applicable provisions of the University Code and to such policies as may be established by the Board of Governors, the action of the Board of Trustees with respect to such personnel actions shall be final.

Adopted 11/14/86  
 Amended 10/12/90  
 Amended 02/18/94  
 Amended 04/21/95  
 Amended 11/08/96  
 Amended 07/11/97  
 Amended 11/13/98  
 Amended 09/10/99  
 Amended 08/11/00  
 Amended 04/12/01  
 Amended 06/08/01  
 Amended 01/11/02

## 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 these regulations 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 these regulations 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)].<sup>1</sup>

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<sup>1</sup> 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 independence of administrative authority and discretion in areas such as program planning and design and allocation of resources.

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 these regulations.

#### **B. Compensation**

The compensation of senior officers shall be set 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 University-related enterprise.

#### **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 these regulations on the basis of race, color, national origin, sex, religion, handicap, or age.<sup>2</sup> Employment in positions covered by these regulations 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 these regulations 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 these regulations shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policy concerning political activity, as adopted on January 16, 1976, and as it may be revised from time to time, shall apply to positions covered by these regulations.

#### **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.

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<sup>2</sup> 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 these regulations.

**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 as adopted by the Board of Governors on April 13, 1972, and 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 these regulations. 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; 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 these regulations 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.

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 these regulations and for the other position, since the operation of any such contingencies may be independent.

When an appointment to a position covered by these regulations 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**

Employment within a position covered by these regulations 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, as follows:

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

### **2. Expiration of term appointment**

Employment within a position covered by these regulations that is established by the letter of appointment to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be renewed or extended at the option of the employer, by written notice satisfying the requirements of Section III.A. If the employer intends not to renew or extend the term contract, (1) with respect to a term of one year or less, no notice of intent not to renew shall be required; (2) with respect to a term of more than one year but less than four years, notices of intent not to renew 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 renew 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) shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the scheduled expiration date of the term.

**C. Review of Employment Decisions and Grievances**

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 these regulations; 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 these regulations. Review of decisions reached pursuant to such grievance procedures may be had in accordance with the provisions of Section 501C(4) 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 these regulations on the basis of race, color, national origin, sex, religion, handicap, or age.<sup>5</sup> Employment in positions covered by these regulations 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 these regulations 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 these regulations shall be subject to any limitations on political activity established by Article 5 of N.C.G.S. Chapter 126. The Board of Governors' policy concerning political activity, as adopted on January 16, 1976, and as it may be revised from time to time, shall apply to positions covered by these regulations.

**F. Holiday and Leave Entitlement**

**1. Holidays**

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

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<sup>5</sup> 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 these regulations.

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 these regulations 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, Civil Leave, Military Leave, and Community Service Leave**

Employees in positions covered by these regulations shall be subject to the same policies concerning sick leave, family and medical leave, civil leave, military leave, and community service leave 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 these regulations 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 these regulations 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 these regulations 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.



Policy 400.1.3 (International Programs) was repealed by the Board of  
Governors on January 11, 2002.

Adopted 01/11/02

## GRANTING OF MANAGEMENT FLEXIBILITY TO APPOINT AND FIX COMPENSATION

### A. Purpose

Pursuant to the provisions of Chapter 116 of the General Statutes of North Carolina and in an effort to enhance the administrative efficiency of the University, the Board of Governors hereby delegates to the Boards of Trustees for institutions designated as Special Responsibility Constituent Institutions with management flexibility the authority to administer personnel actions as described in this policy. The authority granted by the Board of Governors is subject to the *Code* of the University of North Carolina, policies of the Board of Governors and all applicable federal and state laws, policies, regulations, and rules. This provision requires each Special Responsibility Constituent Institution to comply with, along with other rules, all rules and regulations concerning equal employment opportunity and to act in recognition of funding availability and constraints within each institution's budget.

### B. Institutional Plans For Management Flexibility For Personnel Appointments

The Board of Governors shall review and approve plans for management flexibility for personnel appointments. Upon approval the Board of Trustees of a Special Responsibility Constituent Institution<sup>1</sup> shall have the authority delegated by this policy. An institutional plan shall include the following:

Policies and procedures for the recruitment and selection of senior academic and administrative officers. A campus policy for promotion and tenure<sup>2</sup> that complies with the *Code* of the University of North Carolina and current federal law, provides for periodic pre-tenure, tenure and promotion review at multiple levels, and provides clear requirements for promotion and the conferral of permanent tenure.

A schedule and process for periodic review of promotion and tenure policies and a process for amending promotion and tenure policies that includes a review by the Office of the President.

Salary ranges, based on relevant data, for vice chancellors, provosts, deans, and other similarly situated administrators<sup>3</sup> that are not included in the annual Board of Governors' study establishing salary ranges.

Evidence of comprehensive salary studies that establish salary ranges for tenured faculty within different disciplines based on relevant data.<sup>4</sup>

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<sup>1</sup> In order for an institution to have management flexibility for personnel appointments, the institution must be designated and maintain the status of a Special Responsibility Constituent Institution.

<sup>2</sup> As applied to the North Carolina School of the Arts, the terms "tenure policy" or "policy for promotion and tenure," as used herein, refer to the institution's policy governing the appointment of faculty.

<sup>3</sup> This would include directors of major administrative, educational, research, and public service activities.

<sup>4</sup> When used in this policy, the phrase "relevant data" indicates that the institution is expected to draw comparisons to peer institutions as identified by the Board of Governors. Data from peer institutions will be used when available except in instances in which a campus can demonstrate legitimate labor market differences that justify the use of a supplemental or alternative set of peer institutions.

Appoint, establish salary ranges within different disciplines based on relevant data, and fix the compensation for faculty with permanent tenure;

Fix the salary and non-salary compensation for continuing faculty with permanent tenure.

Upon the recommendation of the chancellor, award compensation from non-state sources consistent with policies established by the Board of Governors.

The Board of Trustees of each Special Responsibility Constituent Institution:

Shall provide an annual summary to the Board of Governors on personnel actions covered by this delegation. That annual report shall include information regarding:

The EPA appointments of all:

- a. vice chancellors and provosts
- b. senior academic and administrative officers for which the Board of Governors establishes salary ranges
- c. deans, and other similarly-situated administrators

The conferral of tenure;

The salary and non-salary compensation for all positions listed in subpart 1 above;

The most recent analysis of equity issues relevant to the employment of faculty and administrators;

Audit findings related to weaknesses in the internal control structure, deficiencies in the accounting records, and noncompliance with rules and regulations or any other instances where significant findings are identified.

The report should specifically detail any findings regarding personnel practices, salary or payroll for the previous year and remedial action taken in response to audit findings.

Has the authority to delegate the personnel authority bestowed by this policy to the chancellor with appropriate accountability provisions.

Shall submit to the Board of Governors for review, at least 30 days prior to a regularly scheduled meeting, all new or modified compensation policies and salary ranges established for faculty with permanent tenure and senior academic and administrative officer positions.

#### **D. Responsibility of the Board of Governors and the President**

1. In consultation with the President, the Board of Governors shall:

- a. Issue a resolution each year interpreting legislative action regarding salaries. Annually set salary ranges for chancellors, vice chancellors, and members of the Office of the President senior staff. These ranges will be based upon relevant available data.
- b. Annually review the salaries set by the medical schools at the University of North Carolina at Chapel Hill and East Carolina University to ensure that the salaries are coordinated and are consistent with relevant data in a national medical labor market.
- c. Review and approve proposed salary increases in instances in which the salary of any employee exempt from the State Personnel Act or faculty member exceeds the established salary range or exceeds by fifteen percent or more the salary in effect at the end of the last fiscal year.
- d. Establish chancellors' salaries and salaries of the President's senior staff based on recommendations from the President.