



# TRANSMITTAL LETTER

The University of North Carolina  
*General Administration*

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Transmittal Number 116  
December 21, 2017

THIS LETTER TRANSMITS CHANGES TO THE  
*UNC POLICY MANUAL*

- [200.1](#) *Dual Membership and Conflicts of Interest\**
- [200.5](#) *Initiating and Settling Potential and Pending Litigation\**
- [1300.8](#) *Free Speech and Free Expression Within the University of North Carolina*
- 800.3.1 *Legislative College Opportunity Program – REPEALED*

The above policies were amended, adopted, or repealed by the Board of Governors at its December 15, 2017 meeting.

\*A redline version reflecting the changes that were made to the policy is attached herein.

A copy of each above policy is attached below or accessible on the website at:  
<http://www.northcarolina.edu/apps/policy/index.php>

200.1

Adopted 05/11/84  
 Amended 06/09/89  
 Amended 09/08/89  
 Amended 05/11/91  
 Amended 06/08/01  
 Amended 11/09/07  
 Amended 09/18/09  
 Amended 12/15/17

### **Dual Memberships and Conflicts of Interest**

The Board of Governors seeks at all times to be fair and impartial in carrying out its responsibilities and tries to avoid even the appearance of partiality or undue influence. To promote this objective the following guidelines are adopted as board policy and recommended to the members for their guidance:

1. **Service on Foundation Boards or Boards of Visitors of Constituent Institutions**

Members of the Board of Governors may, from time to time, be asked to serve simultaneously on a foundation board or a board of visitors or some similar board for one of the sixteen constituent institutions. No matter how conscientious or successful a member may be in maintaining impartiality among constituent institutions, service on such a board will undoubtedly be construed by some as showing favoritism. It is also felt that some institutions will feel pressure to name members of the Board of Governors to such boards if service on them becomes commonplace. For these reasons members of the Board of Governors are encouraged to decline any such service.

2. **Service on Boards of Private Colleges and Universities**

Members of the Board of Governors may be asked to serve simultaneously on the board of a private college or university in North Carolina. While such an invitation is always an honor, there are potential areas of conflict in such dual memberships. A member should satisfy himself or herself that dual service will not interfere with his or her obligations either to the University of North Carolina or to the private institution.

3. **Inquiries Concerning Admissions and Job Openings**

From time to time a member of the Board of Governors may wish to inquire, either directly or through an officer of the University, about a job opening in the University or about the admission of an individual to an institution or to a program. Sometimes a board member is asked to write a letter of recommendation on behalf of a candidate for a job or for admission. It is highly inappropriate to use one's position on the Board of Governors in an attempt to influence employment or admissions. It is not inappropriate, however, for a member to make inquiries or to write letters of recommendation on the member's personal or business stationery. It should always be clear that the board member is not seeking a favor and understands that the decision in all cases will be made strictly on the merits.

4. **Appointments by the Board of Governors**

In order to avoid any appearance of undue influence, the Board of Governors will not consider for membership on any board to which it makes appointments any person who is a spouse of a Board of Governors member, a brother or a sister or a lineal ancestor or descendant of a member, or the spouse of any such person. This policy shall not apply, however, to any person who may have been elected or appointed to any such board prior to the time the related person became a member of the Board of Governors. Nor shall the policy apply to any person who may already be serving on any such board at the time of the adoption of the policy. The Board of Governors will not consider for membership on any board to which it makes appointments any person who was a member of the Board of Governors at any time during the two-year period immediately preceding the effective date of the appointment. The boards to which this policy shall apply include the Boards of Trustees of the constituent institutions and all boards to which the Board of Governors make appointments.

5. **Inappropriate Advantage Derived from Board Membership**

- a. **Purpose:** It is of critical importance that decisions made on behalf of the University by its governors, trustees, chief executive officers, and chief finance officers be in the best interest of the University and not be influenced by any potential financial gain to the decision-makers. Furthermore, to assure public confidence in the integrity of the University, it is important that the

University not appear to be influenced by the personal financial interests of those in decision-making positions. The purpose of this policy is assure public confidence in the integrity of the University by preventing members of the governing boards and chief executive and finance officers of the University from using their positions, or appearing to use their positions, to influence the decisions of the University for their personal financial gain while at the same time allowing the University to take advantage of contracts that are advantageous to the citizens of North Carolina and to the University and also avoiding having service to the University be so restrictive that persons with substantial financial interests will be reluctant to serve.

b. Definitions

As used in this policy, the following terms have the following meanings:

- i. "Business entity" means a "business" as defined in GS §128A-3(2)<sup>1</sup> or a not for profit corporation.
- ii. "Person" means a member of the Board of Governors or of a Board of Trustees of a Constituent Institution, the President, the Vice President for Finance, a chancellor, or the chief finance officer of a constituent institution.
- iii. "Substantial interest" means any of the following:
  1. A "business with which associated" as that term is defined in GS § 138A-3(3)<sup>2</sup>, except that ownership of more than \$10,000 in a publicly traded corporation by itself is not a substantial interest; or
  2. A "nonprofit corporation or organization with which associated" as that term is defined in G.S 138A-3(24)<sup>3</sup>, except that uncompensated service as a

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<sup>1</sup>G.S. 138A-3(2) defines a "business" as, "Any of the following organized for profit:

- a. Association.
- b. Business trust.
- c. Corporation.
- d. Enterprise.
- e. Joint venture.
- f. Organization.
- g. Partnership.
- h. Proprietorship.
- i. Vested trust.
- j. Every other business interest, including ownership or use of land for income.

<sup>2</sup>G.S. §138A-3(3) Business with which associated. – A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:

- a. Is an employee.
- b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
- c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
- d. Is a lobbyist registered under Chapter 120C of the General Statutes.

For purposes of this subdivision, the term 'business' shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

1. The covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
2. The fund is publicly traded, or the fund's assets are widely diversified.

<sup>3</sup> G.S. §138A-3(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Chapter 120C of the General Statutes or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State.

director, officer, or trustee of a not for profit corporation is not a substantial interest.

iv. "The University" as applied to members of the Board of Governors, the President, and the Vice President for Finance means the General Administration or any of the constituent institutions. "The University" as applied to members of the Boards of Trustees, a chancellor, or a chief finance officer of a constituent institution means the constituent institution on whose Board of Trustees the member serves or at which the chancellor or chief finance officer is employed.

c. Requirements

i. Each person must contemporaneously submit to the Vice President of Finance, each Statement of Economic Interests that the person files with the State Ethics Commission pursuant to G.S. S 138A-22. These disclosure statements are public records.

ii. Whenever a person has actual knowledge that a business entity in which the person has a substantial interest is attempting or planning to enter, is entering, or has entered into a contract with the University, the person must report the nature of the person's substantial interest and the nature of the contract to the chief finance office of the institution that is or would be a party to the contract. If the person is a chief finance officer, then the chief finance officer must make this report to the chancellor or to the President of the institution that is or would be a party to the contract. Reports required by this paragraph shall be in writing and will be public records retained by the respective chief finance officers.

iii. The University will not enter into a contract with a value of \$10,000 or more, or with expected payments of \$10,000 or more per year, with a business entity in which a person has a substantial interest, unless one of the exceptions in paragraph C (iv) applies. A person will not in any way

1. Participate in making a contract;
2. Attempt to cause or influence the University to make a contract, or
3. Attempt to influence the contract specifications or contracting process concerning a contract between a business entity in which the person has a substantial interest and the University.

The Vice President for Finance and the respective chief finance officers of the constituent institutions are responsible for determining whether the University is entering into a contract with a value of \$10,000 or more with a business entity in which a person has a substantial interest.

iv. The restrictions on entering into a contract in paragraph c(iii) do not apply if the person with the substantial interest does not participate in making or administering the contract and:

1. The contract results from a competitive sealed bid or a competitive request for proposals with specifications and criteria;
2. The contract is for goods or services sold or provided to the general public at a uniform price or is for goods on state contract sold to state agencies at a uniform price, unless the contract is prohibited by state law;
3. The contract is an employment contract with the dependent child or spouse of the President, the Vice President for Finance, a chancellor or chief finance officer or the dependent child of a member of the Board of Governors or a Board of Trustees and the employment is allowed under Section 300.4.2 of these policies;
4. The contract is with a bank or a public utility; or
5. The committee of the Board of Governors or of the relevant Board of Trustees designated pursuant to paragraph d(i) below finds that the contract is in the best interest of the University. Examples of when a contract might be in the best interest of the University include, but are not limited to, when it has financially advantageous terms, when the goods or services to be provided are

demonstrated to be unique, or when the contract is a continuation of a contract that was in effect before the person with the substantial interest became affiliated with the University.

v. If a person is an employee or agent of a business entity, the person shall not attempt to influence the University to enter into a contract with the business entity that employs or retains the person.

vi. A person shall not attempt to influence the administration of or payments under a contract between the University and a business entity in which the person has a substantial interest or between the University and the person's employer.

vii. No person shall disclose or use confidential information or information concerning economic development or technology research or development which the person received in his capacity as a board member or employee of the University for the person's financial gain.

viii. No person shall accept a gift or favor from a business entity, or the principal in a business entity, which has entered into a contract with the University within the past year, who currently has a contract with the University, or who intends to attempt to enter into a contract with the University if the person:

1. has or will prepare plans, specifications, criteria or estimates for the contract;
2. awards, approves, negotiates, or administers the contract; or
3. inspects or supervises the contract.

This paragraph does not prohibit the receipt of advertising items of nominal value, awards such as plaques or trophies, food served at professional meetings or banquets, or gifts from family members or personal friends when it is clear that the friendship extends beyond the business relationship.

ix. A person shall not represent, as attorney, agent, or trustee, a third party who has an adverse relationship with the University. A person shall attempt to dissuade a firm or business entity in which the person has a substantial interest from engaging in representation adverse to the University.

d. Procedures

i. The Chairman of the Board of Governors and each Chairman of a Board of Trustees shall designate a standing committee to determine whether a potential conflict is a permissible or impermissible activity and to make recommended findings as to whether this policy has been violated.

ii. Potential conflicts:

1. Any person who receives a report of a potential conflict shall forward that report to the chief finance officer of the institution that is or would be a party to the contract.

2. If the person with the substantial interest claims or the chief finance officer believes that the contract is permissible pursuant to paragraph c(iv)(1), (2), (3), or (4) above, the determination of whether the contract is permissible or impermissible may be made by the respective President or chancellor, or the President or chancellor may request that the designated committee make the determination. Any determination by the President or a chancellor shall be in writing and shall be a public record.

3. If the person claims that the contract is permissible pursuant to paragraph c(iv)(5) above, because the contract is in the best interest of the University, or if a chancellor or the President refers a conflict question to the committee, then the designated committee shall determine whether the proposed contract is a permissible or impermissible activity under this policy and shall enter its determination in the minutes of its proceedings.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee,

other than to present the relevant facts to the committee, and shall abstain from voting.

iii. Allegations of conflict

1. If any person or any Senior Academic or Administrative Officer becomes aware or alleges that a person covered by this policy has violated this policy, the person shall report the alleged violation to the chancellor or President of the institution that is or would be a party to the contract.

2. The person who receives the allegation shall forward the allegation:

a. to the designated committee of the Board of Trustees or of the Board of Governors if the person alleged to have violated this policy is a member of that Board;

b. to the designated committee of the Board of Governors if the President is alleged to have violated this policy;

c. to the President if the person alleged to have violated this policy is a chancellor or the Vice President for Finance; or

d. to the respective chancellor if the person is a chief finance officer of that constituent institution.

3. If the person alleged to have violated the policy is the President or a member of a Board of Governors or of the Board of Trustees, then the designated committee will determine whether or not the policy has been violated. The chairperson of the designated committee will designate an individual to investigate the allegations and to make a report to the committee. After considering the report of the investigation and any response by the person alleged to have violated the policy, the committee shall make a determination as to whether the policy has been violated and, if so, a recommendation as to the appropriate sanction to the respective Board of Trustees or Board of Governors. The Board of Trustees or Board of Governors shall vote to affirm, reject, or modify the recommendation.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts and arguments to the committee on his own behalf, and shall abstain from voting.

5. A Board of Governors member, Board of Trustees member, or President who is alleged to have violated this policy is entitled to receive notice of the allegation, to be present to hear the report presented to the designated committee, and to inform the committee of any facts or arguments that demonstrate that he or she did not violate the policy.

6. If the Vice President for Finance, a chief finance officer or a chancellor is alleged to have violated this policy, that allegation will be investigated and acted upon in accordance with the procedures for disciplining, demoting, dismissing, or terminating the contract of employees of that position.

iv. The President will present this policy annually to the Board of Governors and will present it to new members at the beginning of their service. The chancellors will present this policy annually to their respective Boards of Trustees and will present it to new members at the beginning of their service.

e. Sanctions

i. If the Board of Governors or a Board of Trustees finds that one of its members has violated this policy, the Board may take one or more of the following actions:

1. Reprimand or censure the member;

2. Remove the person from any Board office the person holds or from any committee chairmanship or assignment; and

3. Report the violation to the entity that appointed the member.

- ii. If the Board of Governors finds that the President has violated this policy, the Board of Governors may discipline, demote or dismiss the President, as it deems appropriate.
- iii. If the President finds that the Vice President for Finance has violated this policy, the President may discipline, demote, or dismiss the Vice President, and shall report the violation and the action taken by the President to the Board of Governors.
- iv. If the President finds that a chancellor has violated this policy, the President may discipline the chancellor and report the action taken to the Board of Governors and the relevant Board of Trustees, or the President may recommend to the Board of Governors that the employment of the chancellor be terminated and that the chancellor be demoted or dismissed.
- v. If a chancellor finds that a chief finance officer has violated this policy, the chancellor may discipline, demote or dismiss the chief finance officer and shall report the violation and the action taken to the President and the Board of Trustees.
- vi. Pursuant to North Carolina law, any contract between the University and an entity in which a person has a substantial interest which was entered into in violation of state laws governing conflicts of interest is void.

The provisions of Section 5 are effective July 1, 2001. Initial disclosure forms will be filed on or before October 1, 2001. The provisions of paragraph c(iii) will apply to all contracts entered into after January 1, 2002. The Statement of Economic Interest replaces all disclosure forms due to be filed on or after July 1, 2007; the initial Statement of Economic Interest for people employed or in office on January 1, 2008, must be submitted to the Vice President for Finance by April 15, 2008.

200.1

Adopted 05/11/84

Amended 06/09/89

Amended 09/08/89

Amended 05/11/91

Amended 06/08/01

Amended 11/09/07

Amended 09/18/09

Amended 12/15/17

## Dual Memberships and Conflicts of Interest

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- a. **Purpose:** It is of critical importance that decisions made on behalf of the University by its governors, trustees, chief executive officers, and chief finance officers be in the best interest of the University and not be influenced by any potential financial gain to the decision-makers. Furthermore, to assure public confidence in the integrity of the University, it is important that the



University not appear to be influenced by the personal financial interests of those in decision-making positions. The purpose of this policy is assure public confidence in the integrity of the University by preventing members of the governing boards and chief executive and finance officers of the University from using their positions, or appearing to use their positions, to influence the decisions of the University for their personal financial gain while at the same time allowing the University to take advantage of contracts that are advantageous to the citizens of North Carolina and to the University and also avoiding having service to the University be so restrictive that persons with substantial financial interests will be reluctant to serve.

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  2. A "nonprofit corporation or organization with which associated" as that term is defined in G.S 138A-3(24)<sup>3</sup>, except that uncompensated service as a

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<sup>2</sup>G.S. §138A-3(3) Business with which associated. – A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:

- a. Is an employee.
- b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
- c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
- d. Is a lobbyist registered under Chapter 120C of the General Statutes.

For purposes of this subdivision, the term 'business' shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

1. The covered person, filing person, -or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
2. The fund is publicly traded, or the fund's assets are widely diversified.

<sup>3</sup> G.S. §138A-3(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Chapter 120C of the General Statutes or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State.

director, officer, or trustee of a not for profit corporation is not a substantial interest.

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c. Requirements

i. Each person must contemporaneously submit to the Vice President of Finance, each Statement of Economic Interests that the person files with the State Ethics Commission pursuant to G.S. S 138A-22. These disclosure statements are public records.

ii. Whenever a person has actual knowledge that a business entity in which the person has a substantial interest is attempting or planning to enter, is entering, or has entered into a contract with the University, the person must report the nature of the person's substantial interest and the nature of the contract to the chief finance office of the institution that is or would be a party to the contract. If the person is a chief finance officer, then the chief finance officer must make this report to the chancellor or to the President of the institution that is or would be a party to the contract. Reports required by this paragraph shall be in writing and will be public records retained by the respective chief finance officers.

iii. The University will not enter into a contract with a value of \$10,000 or more, or with expected payments of \$10,000 or more per year, with a business entity in which a person has a substantial interest, unless one of the exceptions in paragraph C (iv) applies. A person will not in any way

1. Participate in making a contract;
2. Attempt to cause or influence the University to make a contract, or
3. Attempt to influence the contract specifications or contracting process concerning a contract between a business entity in which the person has a substantial interest and the University.

The Vice President for Finance and the respective chief finance officers of the constituent institutions are responsible for determining whether the University is entering into a contract with a value of \$10,000 or more with a business entity in which a person has a substantial interest.

iv. The restrictions on entering into a contract in paragraph c(iii) do not apply if the person with the substantial interest does not participate in making or administering the contract and:

1. The contract results from a competitive sealed bid or a competitive request for proposals with specifications and criteria;
2. The contract is for goods or services sold or provided to the general public at a uniform price or is for goods on state contract sold to state agencies at a uniform price, unless the contract is prohibited by state law;
3. The contract is an employment contract with the dependent child or spouse of the President, the Vice President for Finance, a chancellor or chief finance officer or the dependent child of a member of the Board of Governors or a Board of Trustees and the employment is allowed under Section 300.4.2 of these policies;
4. The contract is with a bank or a public utility; or

5. The committee of the Board of Governors or of the relevant Board of Trustees designated pursuant to paragraph d(i) below finds that the contract is in the best interest of the University. Examples of when a contract might be in the best interest of the University include, but are not limited to, when it has financially advantageous terms, when the goods or services to be provided are

demonstrated to be unique, or when the contract is a continuation of a contract that was in effect before the person with the substantial interest became affiliated with the University.

v. If a person is an employee or agent of a business entity, the person shall not attempt to influence the University to enter into a contract with the business entity that employs or retains the person.

vi. A person shall not attempt to influence the administration of or payments under a contract between the University and a business entity in which the person has a substantial interest or between the University and the person's employer.

vii. No person shall disclose or use confidential information or information concerning economic development or technology research or development which the person received in his capacity as a board member or employee of the University for the person's financial gain.

viii. No person shall accept a gift or favor from a business entity, or the principal in a business entity, which has entered into a contract with the University within the past year, who currently has a contract with the University, or who intends to attempt to enter into a contract with the University if the person:

1. has or will prepare plans, specifications, criteria or estimates for the contract;
2. awards, approves, negotiates, or administers the contract; or
3. inspects or supervises the contract.

This paragraph does not prohibit the receipt of advertising items of nominal value, awards such as plaques or trophies, food served at professional meetings or banquets, or gifts from family members or personal friends when it is clear that the friendship extends beyond the business relationship.

ix. A person shall not represent, as attorney, agent, or trustee, a third party who has an adverse relationship with the University. A person shall attempt to dissuade a firm or business entity in which the person has a substantial interest from engaging in representation adverse to the University.

d. Procedures

i. The Chairman of the Board of Governors and each Chairman of a Board of Trustees shall designate a standing committee to determine whether a potential conflict is a permissible or impermissible activity and to make recommended findings as to whether this policy has been violated.

ii. Potential conflicts:

1. Any person who receives a report of a potential conflict shall forward that report to the chief finance officer of the institution that is or would be a party to the contract.

2. If the person with the substantial interest claims or the chief finance officer believes that the contract is permissible pursuant to paragraph c(iv)(1), (2), (3), or (4) above, the determination of whether the contract is permissible or impermissible may be made by the respective President or chancellor, or the President or chancellor may request that the designated committee make the determination. Any determination by the President or a chancellor shall be in writing and shall be a public record. ~~The President and the chancellors shall report to the designated committee on an annual basis the contracts each has approved pursuant to this sub paragraph. In addition, each chancellor shall report to the President on a quarterly basis the contracts the chancellor has approved pursuant to this subparagraph.~~

3. If the person claims that the contract is permissible pursuant to paragraph c(iv)(5) above, because the contract is in the best interest of the University, or if a chancellor or the President refers a conflict question to the committee, then the designated committee shall determine whether the proposed

contract is a permissible or impermissible activity under this policy and shall enter its determination in the minutes of its proceedings.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts to the committee, and shall abstain from voting.

iii. Allegations of conflict

1. If any person or any Senior Academic or Administrative Officer becomes aware or alleges that a person covered by this policy has violated this policy, the person shall report the alleged violation to the chancellor or President of the institution that is or would be a party to the contract.

2. The person who receives the allegation shall forward the allegation:

a. to the designated committee of the Board of Trustees or of the Board of Governors if the person alleged to have violated this policy is a member of that Board;

b. to the designated committee of the Board of Governors if the President is alleged to have violated this policy;

c. to the President if the person alleged to have violated this policy is a chancellor or the Vice President for Finance; or

d. to the respective chancellor if the person is a chief finance officer of that constituent institution.

3. If the person alleged to have violated the policy is the President or a member of a Board of Governors or of the Board of Trustees, then the designated committee will determine whether or not the policy has been violated. The chairperson of the designated committee will designate an individual to investigate the allegations and to make a report to the committee. After considering the report of the investigation and any response by the person alleged to have violated the policy, the committee shall make a determination as to whether the policy has been violated and, if so, a recommendation as to the appropriate sanction to the respective Board of Trustees or Board of Governors. The Board of Trustees or Board of Governors shall vote to affirm, reject, or modify the recommendation.

4. If the person who has the potential conflict is a member of the designated committee, the person shall not participate in the deliberations of the committee, other than to present the relevant facts and arguments to the committee on his own behalf, and shall abstain from voting.

5. A Board of Governors member, Board of Trustees member, or President who is alleged to have violated this policy is entitled to receive notice of the allegation, to be present to hear the report presented to the designated committee, and to inform the committee of any facts or arguments that demonstrate that he or she did not violate the policy.

6. If the Vice President for Finance, a chief finance officer or a chancellor is alleged to have violated this policy, that allegation will be investigated and acted upon in accordance with the procedures for disciplining, demoting, dismissing, or terminating the contract of employees of that position.

iv. The President will present this policy annually to the Board of Governors and will present it to new members at the beginning of their service. The chancellors will present this policy annually to their respective Boards of Trustees and will present it to new members at the beginning of their service.

e. Sanctions

i. If the Board of Governors or a Board of Trustees finds that one of its members has violated this policy, the Board may take one or more of the following actions:

1. Reprimand or censure the member;
  2. Remove the person from any Board office the person holds or from any committee chairmanship or assignment; and
  3. Report the violation to the entity that appointed the member.
- ii. If the Board of Governors finds that the President has violated this policy, the Board of Governors may discipline, demote or dismiss the President, as it deems appropriate.
- iii. If the President finds that the Vice President for Finance has violated this policy, the President may discipline, demote, or dismiss the Vice President, and shall report the violation and the action taken by the President to the Board of Governors.
- iv. If the President finds that a chancellor has violated this policy, the President may discipline the chancellor and report the action taken to the Board of Governors and the relevant Board of Trustees, or the President may recommend to the Board of Governors that the employment of the chancellor be terminated and that the chancellor be demoted or dismissed.
- v. If a chancellor finds that a chief finance officer has violated this policy, the chancellor may discipline, demote or dismiss the chief finance officer and shall report the violation and the action taken to the President and the Board of Trustees.
- vi. Pursuant to North Carolina law, any contract between the University and an entity in which a person has a substantial interest which was entered into in violation of state laws governing conflicts of interest is void.

The provisions of Section 5 are effective July 1, 2001. Initial disclosure forms will be filed on or before October 1, 2001. The provisions of paragraph c(iii) will apply to all contracts entered into after January 1, 2002. The Statement of Economic Interest replaces all disclosure forms due to be filed on or after July 1, 2007; the initial Statement of Economic Interest for people employed or in office on January 1, 2008, must be submitted to the Vice President for Finance by April 15, 2008.

### **Initiating and Settling Potential and Pending Litigation**

By virtue of N.C.G.S. § 116-3, the capacity and authority to initiate litigation, as well as to settle potential and pending litigation, in the name of the University of North Carolina, and on behalf of the constituent institutions, lies exclusively with the Board of Governors. A constituent institution has no independent capacity or authority to initiate litigation or to settle potential or pending litigation in its own name or in the name of the University of North Carolina.

Potential or pending litigation may involve issues and claims that do not require the attention of the Board of Governors to approve their initiation or settlement. The Board of Governors therefore delegates the authority to initiate and settle potential and pending litigation only in the circumstances below:

I. A constituent institution may initiate litigation in the name of the University of North Carolina or the constituent institution if the amount in controversy is less than the jurisdictional amount for civil actions in superior court as set out in N.C.G.S § 7A-243 upon the approval of the chancellor. The University of North Carolina may initiate litigation concerning issues that do not arise at a constituent institution, or that arise at more than one constituent institution, if the amount in controversy is less than the jurisdictional amount for civil actions in superior court as set out in N.C.G.S § 7A-243 upon the approval of the president.

II. The Committee on University Governance may authorize the initiation of litigation in the name of the University of North Carolina if the amount in controversy is greater than the jurisdictional amount for civil actions in superior court, or if injunctive relief is sought.<sup>1</sup> A request to initiate litigation shall be made by the chancellor of a constituent institution, or by the request of the president for issues that do not arise at a constituent institution or that arise at more than one constituent institution. In an emergency, if a constituent institution or the University needs to seek an order from a court sooner than it is practical to call a meeting of the Governance Committee, the constituent institution or the University may initiate litigation on the authorization of the president or the senior vice president and general counsel of the University. The president or general counsel shall consult with the chair of the Governance Committee before authorizing the litigation if it is practical to do so. If emergency litigation is initiated without the authorization of the Governance Committee, the president, or the president's designee, shall inform the Governance Committee about the litigation at the Committee's next regular or special meeting.

III. If a settlement of potential or pending litigation involving a constituent institution or the University of North Carolina:

A. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay pursuant to an agreement to settle the potential or pending litigation is less than \$75,000, or if the University is to receive a payment, and the amount claimed was less than \$75,000, then the chancellor of a constituent institution is authorized to approve the settlement. If a matter did not arise at a constituent institution or involves more than one constituent institution, the president is authorized to approve the settlement.

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<sup>1</sup>Pursuant to N.C.G.S. § 116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors has delegated certain authorities to the president of the University. See UNC Policy 200.6, *Delegation Authority to the President of the University*, adopted 11/13/06.

B. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay is \$75,000 or greater, or if the University will receive a payment, and the amount claimed was \$75,000 or greater, then the Committee on University Governance is authorized to approve the settlement.<sup>2</sup>

C. Includes an agreement by the University, or one or more constituent institutions, to take, or refrain from taking, a specific action, and the agreement affects only the named parties in the litigation or parties reasonably anticipated to be named in potential litigation, such as actions that affect only named employees or students, then the president or the chancellor of the constituent institution may authorize the settlement agreement.

D. Includes an agreement by the University, or one or more constituent institutions, to take or refrain from taking a specific action which affects a group or class of people or which results in changing a University or constituent institution policy, procedure or regulation, then the Committee on University Governance is authorized to approve the settlement.

IV. The Committee on University Governance may refer a request to initiate or settle potential or pending litigation to the Board of Governors, in the committee's discretion. The president may refer a request to settle potential or pending litigation to the Committee on University Governance in the president's discretion. If the president makes such a referral, the Committee on University Governance is authorized to decide the matter, or it may make a recommendation to the Board of Governors.

V. Any settlement approved pursuant to Section III.B., or III.D., of this policy shall be reported to the Committee on University Governance and to the Board of Governors either in writing before the next regular meeting of the Board of Governors or at the next regular meeting of the Board of Governors after the settlement is finalized.<sup>3</sup>

VI. The University of North Carolina may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the Committee on University Governance. The Committee, in its discretion, may refer the question to the Board of Governors.

VII. A constituent institution, or a school or college of a constituent institution, may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the chancellor of the institution and after providing advance written notice to the president. Nothing in this section is intended to limit the ability of an individual University employee or group of employees to appear as *amicus curiae* in the individual's or employee group's name.

This policy applies to the University of North Carolina Health Care System, to the UNC Physicians and Associates, and to the ECU Medical Faculty Practice plan except as otherwise provided in Policy §§ 1200.4 and 1200.5 and except as otherwise provided by State law, including G.S. § 116-219 *et seq.*

The requirements of this policy shall be effective on the date of adoption by the Board of Governors. The foregoing policy is meant to supplement, and does not supplant or modify, those statutory enactments which may govern the initiation and resolution of legal claims. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

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<sup>2</sup>See Footnote 1.

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

200.5  
Adopted 08/14/98  
Replaced 05/14/04  
Amended 09/08/05  
Amended 09/09/16  
Amended 12/15/17

### **Initiating and Settling Potential and Pending Litigation**

By virtue of N.C.G.S. § 116-3, the capacity and authority to initiate litigation, as well as to settle potential and pending litigation, in the name of the University of North Carolina, and on behalf of the constituent institutions, lies exclusively with the Board of Governors. A constituent institution has no independent capacity or authority to initiate litigation or to settle potential or pending litigation in its own name or in the name of the University of North Carolina.

Potential or pending litigation may involve issues and claims that do not require the attention of the Board of Governors to approve their initiation or settlement. The Board of Governors therefore delegates the authority to initiate and settle potential and pending litigation only in the circumstances below:

I. A constituent institution may initiate litigation in the name of the University of North Carolina or the constituent institution if the amount in controversy is less than the jurisdictional amount for civil actions in superior court as set out in N.C.G.S § 7A-243 upon the approval of the chancellor. The University of North Carolina may initiate litigation concerning issues that do not arise at a constituent institution, or that arise at more than one constituent institution, if the amount in controversy is less than the jurisdictional amount for civil actions in superior court as set out in N.C.G.S § 7A-243 upon the approval of the president.

II. The Committee on University Governance may authorize the initiation of litigation in the name of the University of North Carolina if the amount in controversy is greater than the jurisdictional amount for civil actions in superior court, or if injunctive relief is sought.<sup>1</sup> A request to initiate litigation shall be made by the chancellor of a constituent institution, or by the request of the president for issues that do not arise at a constituent institution or that arise at more than one constituent institution. In an emergency, if a constituent institution or the University needs to seek an order from a court sooner than it is practical to call a meeting of the Governance Committee, the constituent institution or the University may initiate litigation on the authorization of the president or the senior vice president and general counsel of the University. The president or general counsel shall consult with the chair of the Governance Committee before authorizing the litigation if it is practical to do so. If emergency litigation is initiated without the authorization of the Governance Committee, the president, or the president's designee, shall inform the Governance Committee about the litigation at the Committee's next regular or special meeting.

III. If a settlement of potential or pending litigation involving a constituent institution or the University of North Carolina:

A. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay pursuant to an agreement to settle the potential or pending litigation is less than \$75,000, or if the University is to receive a payment, and the amount claimed was less than \$75,000, then the chancellor of a constituent institution is authorized to approve the settlement. If a matter did not arise at a constituent institution or involves more than one constituent institution, the president is authorized to approve the settlement.

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<sup>1</sup>Pursuant to N.C.G.S. § 116-11(13), and notwithstanding *The Code* or any other Board of Governors policy, the Board of Governors has delegated certain authorities to the president of the University. See UNC Policy 200.6, *Delegation Authority to the President of the University*, adopted 11/13/06.



B. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay is \$75,000 or greater, or if the University will receive a payment, and the amount claimed was \$75,000 or greater, then the Committee on University Governance is authorized to approve the settlement.<sup>2</sup>

C. Includes an agreement by the University, or one or more constituent institutions, to take, or refrain from taking, a specific action, and the agreement affects only the named parties in the litigation or parties reasonably anticipated to be named in potential litigation, such as actions that affect only named employees or students, then the president or the chancellor of the constituent institution may authorize the settlement agreement.

D. Includes an agreement by the University, or one or more constituent institutions, to take or refrain from taking a specific action which affects a group or class of people or which results in changing a University or constituent institution policy, procedure or regulation, then the Committee on University Governance is authorized to approve the settlement.

IV. The Committee on University Governance may refer a request to initiate or settle potential or pending litigation to the Board of Governors, in the committee's discretion. The president may refer a request to settle potential or pending litigation to the Committee on University Governance in the president's discretion. If the president makes such a referral, the Committee on University Governance is authorized to decide the matter, or it may make a recommendation to the Board of Governors.

V. Any settlement approved pursuant to [Section III.B., or III.D.,](#) of this policy shall be reported to the Committee on University Governance and to the Board of Governors either in writing before the next regular meeting of the Board of Governors or at the next regular meeting of the Board of Governors after the settlement is finalized.<sup>3</sup>

VI. The University of North Carolina may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the Committee on University Governance. The Committee, in its discretion, may refer the question to the Board of Governors.

VII. A constituent institution, or a school or college of a constituent institution, may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the chancellor of the institution and after providing advance written notice to the president. Nothing in this section is intended to limit the ability of an individual University employee or group of employees to appear as *amicus curiae* in the individual's or employee group's name.

This policy applies to the University of North Carolina Health Care System, to the UNC Physicians and Associates, and to the ECU Medical Faculty Practice plan except as otherwise provided in Policy §§ 1200.4 and 1200.5 and except as otherwise provided by State law, including G.S. § 116-219 *et seq.*

The requirements of this policy shall be effective on the date of adoption by the Board of Governors. The foregoing policy is meant to supplement, and does not supplant or modify, those statutory enactments which may govern the initiation and resolution of legal claims. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.

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<sup>2</sup>See Footnote 1.

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

## Free Speech and Free Expression Within the University of North Carolina

### I. Purpose

Consistent with Article 36 of Chapter 116 of the North Carolina General Statutes, the Board of Governors adopts this policy to support and assist the constituent institutions of the University of North Carolina<sup>1</sup> in their continuing efforts to embrace the free speech and free expression rights of the members of their campus communities, and balance those rights with protections against unlawful activity. This policy supplements other University policies, regulations, and guidelines related to free speech and free expression.<sup>2</sup>

### II. Statement of Commitment

As the nation's first public university, the University of North Carolina affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, to study and to evaluate, to gain new maturity and understanding.<sup>3</sup> The University supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.<sup>4</sup> The University has explicitly stated that faculty and students of the University share the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.<sup>5</sup> Academic freedom has indeed been acknowledged by the Supreme Court as "of transcendent value to all of us" and "a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."<sup>6</sup> Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.<sup>7</sup>

The General Assembly has recognized the University's commitment to upholding free speech and free expression, and has reinforced the importance of these rights as well.<sup>8</sup> Through N.C.G.S. § 116-300, the General Assembly has affirmed that the primary function of the University of North Carolina and each of its constituent institutions is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.

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<sup>1</sup> Because of the additional protections afforded to K-12 institutions under the First Amendment, the policy does not apply to the North Carolina School for Science and Math or to the University of North Carolina School of the Arts for its high school students or to any lab schools operated by a constituent institution. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

<sup>2</sup> See, e.g., Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

<sup>3</sup> See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

<sup>4</sup> Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

<sup>5</sup> Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

<sup>6</sup> *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

<sup>7</sup> See Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual. See also Sections 601, 604, and 608 of *The Code*.

<sup>8</sup> Article 36 of Chapter 116 of the North Carolina General Statutes.

### III. University's Role in Public Policy Controversies

The University's role in supporting and encouraging freedom of inquiry requires assuring opportunities for the expression of differing views regarding many issues in multiple areas of study, research, and debate, including current political and social issues. The constituent institutions serve an essential role in encouraging and broadly protecting freedom of thought and expression. In support of the essential role universities hold, the constituent institutions may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

### IV. Free Expression at UNC Constituent Institutions, Including Access to Campus

Students, staff, and faculty have the freedom to discuss any problem that presents itself, as the First Amendment permits and within the limits of viewpoint- and content-neutral restrictions on time, place, and manner of expression that are necessary to achieve a significant institutional interest. The constituent institutions must assure that any such restrictions are clear, published, and provide ample alternative means of expression.

Students, staff, and faculty shall be permitted to assemble and engage in spontaneous expressive activity as long as such activity is lawful and does not materially and substantially disrupt the functioning of the constituent institution, subject to the requirements of this policy. A "material and substantial disruption" includes, but is not limited to, any or all of the following:

- A. Any action that qualifies as disorderly conduct under N.C.G.S. § 14-288.4;
- B. Any action that qualifies as a disruption under N.C.G.S. § 143-318.17;
- C. Any action in violation of a chancellor's designation of a curfew period pursuant to N.C.G.S. § 116-212;
- D. Any action that results in the individual receiving a trespass notice from law enforcement.

Access to campus for purposes of free speech and expression shall be consistent with First Amendment jurisprudence regarding traditional public forums, designated public forums, and nonpublic forums. Consistent with First Amendment jurisprudence, including any reasonable time, place, and manner restrictions adopted by a constituent institution, campuses of the constituent institutions are open to any speaker whom students, student groups, or members of the faculty have invited.

Even so, all real property on the campus of any constituent institution or UNC General Administration, including without limitation all campus grounds, buildings, facilities, stadiums, or other improvements, that is owned, leased, used, or otherwise controlled by the University or one of its constituent institutions ("University Property"), is dedicated for the specific purpose of furthering the educational, research, and/or service missions of the institution. Consistent with the First Amendment, many areas of University Property are not open for general public use. University Property is routinely utilized for institutional activities and events which can present safety and security issues for the institution. Therefore, all persons on University Property must abide by all applicable laws and regulations as well as policies of the constituent institution and the Board in order to further the missions of the institution and for the protection of the students, faculty members, staff employees and guests of the institution. Thus, a constituent institution may deny or condition entrance onto or into University Property or remove from the same, any person whose presence substantially interferes with or materially and substantially disrupts the institution's missions, including interfering with or disrupting the classroom environment, laboratory or research environments, or patient care environments, or any person who violates or refuses to comply with any Board or institutional policy or applicable law or regulation. Under no circumstances shall University Property be utilized to carry out unlawful activity.

### V. Speech and Expression Not Protected by Policy

Except as further limited by this policy, constituent institutions shall be allowed to restrict speech and expression for activity not protected by the First Amendment under State or federal law, including but not limited to, all of the following:

- A. Expression that a court has deemed unprotected defamation.

- B. Unlawful harassment.
- C. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals.
- D. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- E. An action that materially and substantially disrupts the functioning of UNC General Administration, a constituent institution, or any other unit or entity of the University, or that substantially interferes with the protected free expression rights of others.
- F. Reasonable time, place, and manner restrictions on expressive activities, consistent with N.C.G.S. § 116-300(4).
- G. Speech that interferes with the treatment of patients.

VI. Dissemination of Information About Institutional Policies

A. Information for Students. All constituent institutions of the University of North Carolina shall include in any new student orientation programs a section describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided also should include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.<sup>9</sup>

The constituent institutions are required to periodically provide this same information to all students, including returning undergraduate students, transfer students, and graduate and professional students.

B. Information for Faculty and Staff. All constituent institutions of the University of North Carolina are required to periodically provide to faculty and staff information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

C. Information for Outside Parties. All constituent institutions of the University of North Carolina are encouraged to make available to outside parties information describing their institutional policies regarding free speech and free expression consistent with this policy and with Article 36 of Chapter 116 of the North Carolina General Statutes. Any information provided should also include the name and contact information of the institutional officer, office, or department with responsibility for ensuring compliance with this policy and for answering any related questions or concerns.

VII. Consequences for Violation of Policy

The right to dissent is the complement of the right to participate in expressive activity, but these rights need not occupy the same forum at the same time. The constituent institutions are encouraged to work with students, faculty members, and staff employees to develop alternative approaches so as to minimize the possibility of disruptions and support the right to dissent.

A. Disciplinary Sanctions. UNC General Administration and each constituent institution shall implement and enforce a range of disciplinary sanctions, up to and including dismissal or expulsion, for anyone under the jurisdiction of UNC General Administration or the constituent institution who materially and substantially disrupts the functioning of UNC General

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<sup>9</sup> The additional duties of the identified responsible officer, office, or department are set forth in section VIII of this policy.

Administration, a constituent institution, or any other entity or unit of the University, or substantially interferes with the protected free expression rights of others.<sup>10</sup>

A “material and substantial disruption” or “substantial interference” is any action that qualifies under section IV of this policy. Such actions include protests and demonstrations that materially infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity (1) has been scheduled pursuant to this policy or other relevant institutional policy, and (2) is located in a nonpublic forum. In determining whether an action is a “material and substantial disruption” or “substantial interference,” UNC General Administration or the constituent institution should consider the degree to which the disruptive activity impedes access to or from any scheduled institution events or the degree to which the activity impedes an audience’s ability to see and hear the expressive activity.

For example, when an expressive activity event is closed to the public, dissent by non-attendees should be limited to activity outside the event that does not impede access or departure from the meeting or substantially interfere with communication inside. When the event is open to the public, whether the dissenters’ actions constitute a substantial disruption or interference will depend upon whether the dissenter is inside or outside the event, and on whether the dissenter is acting before or after the event or during the event. However, it is a substantial disruption or interference for such dissent to interfere substantially with the free flow of traffic into or out of the event or to interfere substantially with the expressive activity.

Anyone who substantially interferes with acceptable forms of dissent is also considered in violation of this policy in the same way as a dissenter who violates the rights of the speaker or the audience.

1. Any University student, faculty member, or staff employee who is found to have materially and substantially disrupted the functioning of UNC General Administration, a constituent institution, or any other unit or entity of the University, or substantially interfered with the protected free expression rights of others shall be subject to a full range of disciplinary sanctions according to the appropriate disciplinary procedures for misconduct, including suspension, or, as appropriate, expulsion or dismissal. Any second finding of a material and substantial disruption or substantial interference shall presumptively result in at least a suspension as provided by the appropriate disciplinary procedures; however, the institution may impose a different sanction if warranted. Any third finding of a material and substantial disruption or substantial interference shall presumptively result in an expulsion of the student or dismissal from employment of the faculty member or staff employee; however, the institution may impose a different sanction if warranted.
2. Any guest or other individual on the campus who is alleged to have substantially disrupted the functioning of UNC General Administration or the constituent institution or substantially interfered with the protected free expression rights of others may be temporarily or permanently barred from all or part of the campus along with facing any other criminal charges, as determined by appropriate law enforcement authorities.
3. Any individual who disrupts a meeting of a public body, including University boards, may be temporarily or permanently barred from all or part of the campus or from future meetings of that public body, and/or may face criminal charges. If such individual is a student or faculty member or staff employee of the University, he or she shall also be subject to discipline according to the appropriate disciplinary procedures for misconduct by his or her constituent institution even if the disruption occurs at a meeting of a public

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<sup>10</sup> Any complaint about an outside disruption or interference should be communicated to the relevant UNC General Administration or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding or sponsoring officer of the meeting or event, as appropriate. This expectation does not limit or supersede UNC General Administration’s or the constituent institution’s ability to independently initiate any disciplinary review for a person under their jurisdiction.

body of a constituent institutions other than the institution which the individual is affiliated.<sup>11</sup>

B. Procedural Safeguards for Students Involved in Expressive Speech or Conduct Disciplinary Cases.<sup>12</sup> In all student disciplinary cases where disciplinary action is proposed for materially and substantially disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, students are entitled to a disciplinary hearing under published procedures and UNC Policy Manual, Section 700.4.1, including, at a minimum:

1. The right to receive advance written notice of the charges;
2. The right to review the evidence in support of the charges;
3. The right to confront witnesses against them;
4. The right to present a defense;
5. The right to call witnesses;
6. A decision by an impartial arbiter or panel;
7. The right of appeal; and
8. The right to active assistance of counsel, consistent with N.C. G.S. § 116-40.11.

C. Procedural Safeguards for Faculty Members Involved in Expressive Speech or Conduct Disciplinary Cases. In all faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for materially and substantially disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, faculty members are entitled to the procedural protections provided by Sections 603, 604, and 609 of *The Code*.

D. Procedural Safeguards for EHRA Non-Faculty Employees Involved in Expressive Speech or Conduct Disciplinary Cases.<sup>13</sup> In all EHRA non-faculty disciplinary cases where a demotion, suspension, or dismissal is proposed for disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, EHRA non-faculty employees are entitled to the procedural protections provided by Sections 300.1.1, 300.2.1 of the UNC Policy Manual and any additional protections established by UNC General Administration or the constituent institution's relevant disciplinary and grievance policies.

E. Procedural Safeguards for SHRA Employees Involved in Expressive Speech or Conduct Disciplinary Cases. In all SHRA employee disciplinary cases where a demotion, suspension or dismissal is proposed for materially and substantially disrupting the functioning of UNC General Administration, a constituent institution, or any other entity or unit of the University, or substantially interfering with the protected free expression rights of others, SHRA employees are entitled to the procedural protections provided by the University SHRA Employee Grievance Policy and any State or institutional disciplinary policies.

#### VIII. Designation and Duties of Responsible Officer and/or Office or Department

A. Designation. Each constituent institution must identify the officer(s), office, or department with responsibilities for ensuring compliance with this policy and Article 36 of Chapter 116 of the North Carolina General Statutes ("Responsible Officer" or "Responsible

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<sup>11</sup> Any complaint about an outside disruption or interference should be communicated to the relevant UNC General Administration or campus administrator or disciplinary panel for review by the chair of the Board of Governors, the chair of the board of trustees, or the presiding officer of the meeting, as appropriate. This expectation does not limit or supersede UNC General Administration's or the constituent institution's ability to independently initiate any disciplinary review.

<sup>12</sup> See also Sections 700.4.1 and 700.4.1.1[R] of the UNC Policy Manual.

<sup>13</sup> Discontinuation of an at-will position is not considered disciplinary action under this policy, but may separately be covered by a constituent institution's grievance policy.

Officers”), and for answering any related questions or concerns from students, faculty members, staff employees, or others. The president or a chancellor of a constituent institution may choose to designate more than one Responsible Officer or to designate a Responsible Officer with Deputy Responsible Officers in other offices or departments as may best assist the constituent institution.

B. Training. Any officer(s) with these responsibilities will receive training on ensuring compliance. Such training will be developed and provided by the UNC School of Government.

C. Duties. Any officer(s) with these responsibilities shall be the primary point of contact for any student, faculty member, staff employee, or other individual’s questions or concerns about compliance with the law or policy or to assist with interpretation of the law or policy. The Responsible Officer(s) shall also coordinate any additional campus-based training or educational opportunities for students, faculty members, staff employees, or others on issues related to free speech and free expression.

In addition, the Responsible Officer(s) and/or appropriate office or department also may be designated by the chancellor to be the primary point of contact for any institutional information requested by the UNC Board of Governors Committee on Free Expression to meet its annual reporting requirements, including information related to:

1. Any barriers to or disruptions of free expression within the constituent institution;
2. The administrative handling and discipline relating to these disruptions or barriers, consistent with the federal and state confidentiality protections for personnel information and student education records<sup>14</sup>;
3. Any substantial difficulties, controversies, or successes in meeting the requirements of this policy, as described in section III, above; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

Each chancellor or chancellor’s designee shall notify the senior vice president and general counsel of the Responsible Officer(s) and/or appropriate office or department and provide prompt notification of any changes in this designation.

#### IX. Other Matters

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

B. Relation to State Laws. The foregoing policies as adopted by the Board of Governors are meant to supplement, and do not purport to supplant or modify, those statutory enactments which may govern the activities of public officials.

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

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<sup>14</sup> See 20 U.S.C. § 1232g, 34 C.F.R. pt. 99, and Article 7 of Chapter 126 of the North Carolina General Statutes.

800.3.1  
Adopted 11/11/94  
Repealed 12/15/17

### **Legislative College Opportunity Program**

The 1994 General Assembly appropriated to the Board of Governors of the University of North Carolina eight hundred thousand dollars (\$800,000) to be allocated equally among the 16 constituent institutions for the purpose of establishing a pilot program to recruit new students to enroll in college in future years who might not be able to attend college without incentives. The fund shall not revert and shall be placed in trust fund accounts, with the investment earnings to be used for the program as well.

#### College Opportunity Program Mission

The College Opportunity Program will recruit future students who might not otherwise finish high school or continue on to college. The program will provide financial and academic incentives that will encourage socially and economically disadvantaged students to do well in middle grades and high school and enroll in college following graduation. Improvement in academic performance, high school graduation rates, college going rates, and college graduation rates of under-performing students will be principal goals of the program.

#### Roles and Responsibilities

##### Board of Governors:

The Board of Governors shall monitor the success of the program in attracting students who otherwise might not have enrolled in a higher education institution and shall monitor the progress of these students with annual reports to the Joint Legislative Education Oversight Committee beginning May 15, 1996, and each succeeding year through 2001.

##### Constituent Institutions:

Each constituent institution shall recruit students in middle grades who meet the eligibility guidelines of the program. The institutions should concentrate their recruitment in the regions designated by counties, but they are not necessarily limited to that region. They will provide enrichment activities that will assist the participants to perform well in high school, to graduate and to enroll in the institution. These activities should include the monitoring of the student's academic progress both in public school and college; mentoring relationships; assistance in goal setting and career planning; academic tutoring; and opportunities for social and leadership development through interaction with parents, public school personnel, University personnel, and community leaders.

##### Parents or Guardians:

The program requires the involvement of parents or guardians to help create a supportive environment for the student. The program will work with the parents or guardians in helping the student gain the educational preparation necessary to perform well in college. The parents or guardians are required to monitor the academic progress of the student, to meet with program officials at least three times each year, to ensure that the student meets all eligibility requirements in order to remain in the program and graduate, to assist the student in completing all application forms for federal financial assistance during the student's senior year in high school, and to ensure the student meets school attendance requirements of the program.

#### College Opportunity Program Eligibility Requirements

Students considered for selection to the program must complete an application and meet the following requirements:

1. Be a North Carolina resident;
2. Be a middle grade student;



3. Have parental/guardian consent to participate in the program;
4. Be a first-generation college student and/or come from a family with an annual income that qualifies the family as disadvantaged based on federal guidelines;
5. Agree to enroll in high school courses that meet the minimum admission requirements of the Board of Governors of the University of North Carolina;
6. Commit to the guidelines and activities of the program by signing an agreement to do the following:
  - a. Maintain a "B" or better cumulative average in all schoolwork through high school graduation;
  - b. Maintain a public school attendance rate of 95% or better;
  - c. Take the Preliminary Scholastic Assessment Test (PSAT) in the 10th grade;
  - d. Take the Scholastic Assessment Test (SAT) or the ACT assessment test in the 11th and 12th grades;
  - e. Participate actively in school co-curricular activities;
  - f. Demonstrate high personal and scholastic standards;
  - g. Participate in activities that assist in achieving high academic and leadership standards;
  - h. Give at least 15 hours of approved community service during each year of program participation;
  - i. Remain drug free and alcohol free and obey the laws and regulations of the State of North Carolina;
  - j. Apply for eligible financial assistance no later than the last term of the high school senior year.

The constituent institutions may designate additional eligibility requirements in order to comply with existing regulations.

#### Program Awards

Each student selected to participate in the College Opportunity Program will be provided first year scholarship assistance that will cover the cost of tuition, fees, and books.

**The University of North Carolina  
College Opportunity Program  
Basic Recruitment Regions**

<u>INSTITUTION</u>	<u>COUNTIES IN THE REGION</u>
Appalachian State University	Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Mitchell, Watauga, Wilkes (9)
East Carolina University	Beaufort, Craven, Dare, Edgecombe, Greene, Hyde, Lenior, Martin, Pitt, Washington, Wilson, Pamlico (12)
Elizabeth City State University	Camden, Bertie, Chowan, Currituck, Gates, Hertford, Northampton, Pasquotank, Perquimans, Tyrrell, Washington (11)
Fayetteville State University	Cumberland, Harnett, Hoke, Moore, Sampson (5)
North Carolina A&T State University	Alamance, Montgomery, Caswell, Guilford, Randolph, Rockingham (6)
North Carolina Central University	Durham, Granville, Vance, Warren (4)
North Carolina School of the Arts	All Counties (100)
North Carolina State University	Franklin, Halifax, Johnston, Nash, Wake, Wayne (6)
UNC Asheville	Buncombe, Burke, Rutherford, Henderson, McDowell, Madison, Polk, Yancey (8)
UNC Chapel Hill	Chatham, Orange, Person, Lee (4)
UNC Charlotte	Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, Union (10)
UNC Greensboro	Randolph, Rockingham, Guilford, Alamance, Caswell, Montgomery (6)
UNC Pembroke	Bladen, Columbus, Richmond, Robeson, Scotland (5)
UNC Wilmington	Brunswick, Carteret, Duplin, Jones, New Hanover, Onslow, Pender (7)
Western Carolina University	Clay, Cherokee, Graham, Jackson, Macon, Swain, Transylvania, Haywood (8)
Winston-Salem State University	Davidson, Davie, Stokes, Yadkin, Forsyth, Surry (6)