



# TRANSMITTAL LETTER

## The University of North Carolina *General Administration*

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Transmittal Number 65  
October 22, 2009

### THIS LETTER TRANSMITS CHANGES TO THE *UNC POLICY MANUAL*\*

Subject:

Table of Contents – revised 10/21/09.

*The Code* Chapter VI – Section 604. Amendments to the footnotes were approved by the Board of Governors on October 9, 2009.

If you have questions pertaining to *The Code* Section change, please contact Mr. Charles Waldrup, Associate Vice President for Legal Affairs at (919) 962-4551.

*The Code* Chapter VI – Section 605. Amendments to the footnotes were approved by the Board of Governors on October 9, 2009.

If you have questions pertaining to *The Code* Section change, please contact Mr. Charles Waldrup, Associate Vice President for Legal Affairs at (919) 962-4551.

200.1 Dual Memberships and Conflicts of Interest

Modifications made to Policy 200.1 were approved by the Board of Governors on September 18, 2009. If you have questions pertaining to this Policy, please contact Mr. Charles Waldrup, Associate Vice President for Legal Affairs at (919) 962-4551.

400.5[R] Planning, Establishing, and Reviewing Centers and Institutes in the University of North Carolina  
This Regulation was Repealed and Replaced in its entirety on October 21, 2009. The new Regulation retained the same number 400.5[R] and was approved October 21, 2009.

If you have questions pertaining to this Policy, please contact Dr. Steven Leath, Vice President for Research and Sponsored Programs at (919) 962-4623.

600.6.1 The University of North Carolina Sustainability Policy

Policy 600.6.1 was approved by the Board of Governors on October 9, 2009. If you have questions pertaining to the Policy, please contact Ms. Shari Parrish, Associate Vice President for Finance at (919) 962-4601.

600.6.2[R] Regulations on Developing Minimum Environmental Criteria under the North Carolina Environmental Policy Act was moved from 1300.3[R].

600.6.3[G] Guidelines on Recycling was moved from 600.5.6[G].

The above documents are attached herein or can be found on our website at the link below: <http://www.northcarolina.edu/policy/index.php>

\*A Redline version of the amended documents is attached herein where applicable.

Attachments

*An Equal Opportunity/Affirmative Action Employer*

# THE UNIVERSITY OF NORTH CAROLINA

## POLICY MANUAL



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[THIS VERSION OF THIS SECTION IS EFFECTIVE FOR PERSONNEL ACTIONS TAKEN ON OR AFTER SEPTEMBER 1, 2009]

SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY.<sup>12.1</sup>

604 A. Notice of Reappointment or Nonreappointment.<sup>12.2</sup>

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given.<sup>12.3</sup> For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

- (a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires; and
- (b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and
- (c) after two or more years of continuous service at the institution, the faculty member shall be given not less than 12 months' notice before the employment contract expires.

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

604 B. Impermissible Reasons for Nonreappointment.

In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of

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<sup>12.1</sup>Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and mathematics, regular faculty holding fixed-term contracts at those institutions are entitled to the rights afforded in this Section.

<sup>12.2</sup>***Prior to January 1, 2004, Section 604A read as follows:***

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

- (a) during the first year of service at the institution, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires;
- (b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and
- (c) after two or more years of continuous service at the institution, the faculty member shall be given not less than twelve months' notice before the employment contract expires.

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

<sup>12.3</sup>Faculty at North Carolina School of Science and Mathematics shall be given notice no later than January 15 during the first year of continuous regular service and no later than December 15 during the second or any subsequent year of continuous regular service.

discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. For purposes of this section, the term “personal malice” means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See Policy 101.3.1 II.B. for details.

604 C. Repealed.

604 D. Review of Nonreappointment Decisions.

(1) Campus Based Review. Subject to limitations contained in this Code and the Policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty member may seek review of the decision of the constituent institution not to reappoint the faculty member. Such procedures shall at a minimum provide for the following:

(a) A reasonable time of no less than 14 calendar days within which after receiving the notice of nonreappointment, the faculty member may request review of the decision by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by campus tenure policies, the nonreappointment is final without recourse to any further review by faculty committees, the institution, or the Board of Governors.

(b) If the faculty member files a request for review in a timely fashion, the chancellor shall ensure a process is in place so that a hearing is timely accorded before an elected standing committee of the institution’s faculty.

(c) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The faculty member shall have the burden of proof. In evaluating the evidence the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence.)

(d) The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that *The Code* provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.

(2) Appeal to the Board of Governors. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal by filing a written notice of appeal with the Board of Governors, by submitting such notice to the President, by certified mail, return receipt requested, or by another means that provides proof of delivery, with 14 calendar days after the faculty member’s receipt of the chancellor’s decision. The notice must contain a brief statement of the basis for the appeal. The purpose of appeal to the Board of Governors is to assure (1) that the campus-based process for reviewing the decision was not materially flawed, so as to raise questions about whether the faculty member’s contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy.<sup>12.4</sup>

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<sup>12.4</sup> See Policy 101.3.1 for additional information

[THIS VERSION OF THIS SECTION IS EFFECTIVE FOR PERSONNEL ACTIONS TAKEN ON OR AFTER SEPTEMBER 1, 2009]

SECTION 604. APPOINTMENT, NONREAPPOINTMENT AND REQUIREMENTS OF NOTICE AND REVIEW FOR TENURE TRACK FACULTY. <sup>12.1</sup>

604 A. Notice of Reappointment or Nonreappointment. <sup>12-112.2</sup>

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. <sup>12.3</sup> For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

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

(b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and

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

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

<sup>12.1</sup>Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, regular faculty holding fixed-term contracts at those institutions are entitled to the rights afforded in this Section.

<sup>12-112.2</sup>***Prior to January 1, 2004, Section 604 A read as follows:***

(1) The decision not to reappoint a faculty member at the expiration of a fixed term of service shall be made by the appropriate institutional faculty and administrative officers early enough to permit timely notice to be given. For full-time faculty at the rank of instructor, assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

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

(b) during the second year of continuous service at the institution, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires; and

(c) after two or more years of continuous service at the institution, the faculty member shall be given not less than twelve months' notice before the employment contract expires.

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

<sup>12.3</sup>Faculty at the North Carolina School of Science and Mathematics shall be given notice no later than January 15 during the first year of continuous regular service and no later than December 15 during the second or any subsequent year of continuous regular service.

#### 604 B. Impermissible Reasons for Nonreappointment.

In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. For purposes of this section, the term "personal malice" means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See Policy 101.3.1 II.B. for details.

#### 604 C. Repealed.

#### 604 D. Review of Nonreappointment Decisions.

(1) Campus Based Review. Subject to limitations contained in this Code and the Policies of the Board of Governors, each constituent institution shall have a procedure whereby a tenure track faculty member may seek review of the decision of the constituent institution not to reappoint the faculty member. Such procedures shall at a minimum provide for the following:

(a) A reasonable time of no less than 14 calendar days within which after receiving the notice of nonreappointment, the faculty member may request review of the decision by appropriate faculty committee and administrative officers. If the faculty member does not request review of the notice of non-reappointment in a timely fashion as specified by campus tenure policies, the nonreappointment is final without recourse to any further review by faculty committees, the institution, or the Board of Governors.

(b) If the faculty member files a request for review in a timely fashion, the chancellor shall ensure a process is in place so that a hearing is timely accorded before an elected standing committee of the institution's faculty.

(c) In reaching decisions on which its written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The faculty member shall have the burden of proof. In evaluating the evidence the committee shall use the standard of preponderance of the evidence (which is the same as the greater weight of the evidence.)

(d) The purpose of the campus based review process is to determine (1) whether the decision was based on considerations that *The Code* provides are impermissible; and (2) whether the procedures followed to reach the decision materially deviated from prescribed procedures such that doubt is cast on the integrity of the decision not to reappoint.

(2) Appeal to the Board of Governors. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal by filing a written notice of appeal with the Board of Governors, by submitting such notice to the President, by certified mail, return receipt requested, or by another means that provides proof of delivery, with 14 calendar days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement of the basis for the appeal. The purpose of appeal to the Board of Governors is to assure (1) that the campus-based process for reviewing the decision was not materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered, (2) that the result reached by the chancellor was not clearly erroneous, and (3) that the decision was not contrary to controlling law or policy.<sup>1312.4</sup>

<sup>1312.4</sup>See Policy 101.3.1 for additional information



*CODE*

SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605C (1), subject to the concurrence by the President and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.<sup>13</sup>

605 B. Timely Notice of Termination.

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

(a) one who has permanent tenure shall be given not less than 12 months' notice; and

(b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

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

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

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<sup>13</sup>Because of the unique character and mission of the North Carolina School of Science and Mathematics, when the employment of a faculty member is to be terminated during or at the conclusion of a fixed-term contract because of major curtailment or elimination of a teaching, research, or public-service program that is not founded upon financial exigency, written notice shall be given no later than the November 1 prior to termination. When faculty employment is to be terminated during or at the conclusion of a fixed-term contract because of financial exigency, the School shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give notice no later than the November 1 prior to termination. Terminations at the end of a fixed term contract for the reasons stated above in this footnote are not subject to Section 604 of *The Code*, but instead are subject to Section 605.

605 C. Institutional Procedures.<sup>13.1</sup>

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

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

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<sup>13.1</sup>***Prior to January 1, 2004, Section 605 C read as follows:***

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) The faculty member may appeal the reconsideration decision in the manner provided by Section 501C (4).

SECTION 605. TERMINATION OF FACULTY EMPLOYMENT.

605 A. Definition.

The tenure policies and regulations of each institution shall provide that the employment of faculty members with permanent tenure or of faculty members appointed to a fixed term may be terminated by the institution because of (1) demonstrable, bona fide institutional financial exigency or (2) major curtailment or elimination of a teaching, research, or public-service program. "Financial exigency" is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public-service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by Section 605C (1), subject to the concurrence by the President and then approval by the Board of Governors. If the financial exigency or curtailment or elimination of program is such that the institution's contractual obligation to a faculty member may not be met, the employment of the faculty member may be terminated in accordance with institutional procedures that afford the faculty member a fair hearing on that decision.<sup>13</sup>

605 B. Timely Notice of Termination.

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

(a) one who has permanent tenure shall be given not less than 12 months' notice; and

(b) one who was appointed to a fixed term and does not have permanent tenure shall be given notice in accordance with the requirements specified in Section 604 A(1).

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

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

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<sup>13</sup>Because of the unique character and mission of the North Carolina School of Science and Mathematics, when the employment of a faculty member is to be terminated during or at the conclusion of a fixed-term contract because of major curtailment or elimination of a teaching, research, or public-service program that is not founded upon financial exigency, written notice shall be given no later than the November 1 prior to termination. When faculty employment is to be terminated during or at the conclusion of a fixed-term contract because of financial exigency, the School shall make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give notice no later than the November 1 prior to termination. Terminations at the end of a fixed term contract for the reasons stated above in this footnote are not subject to Section 604 of *The Code*, but instead are subject to Section 605.

605 C. Institutional Procedures.<sup>13.1</sup>

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

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) A faculty member whose employment is terminated pursuant to this Section 605 may appeal the reconsideration decision to the board of trustees of the constituent institution.

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**13.1 *Prior to January 1, 2004, Section 605 C read as follows:***

(1) If it appears that the institution will experience an institutional financial exigency or needs seriously to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall first seek the advice and recommendations of the academic administrative officers and faculties of the departments or other units that might be affected.

(2) In determining which faculty member's employment is to be terminated for reasons set forth in Section 605A, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

(3) An individual faculty member whose employment is to be terminated shall be notified of this fact in writing. This notice shall include a statement of the conditions requiring termination of employment, a general description of the procedures followed in making the decision, and a disclosure of pertinent financial or other data upon which the decision was based.

(4) A reconsideration procedure shall be provided that affords the faculty member whose employment is to be terminated a fair hearing on the termination if the faculty member alleges that the decision to terminate was arbitrary or capricious.

(5) The institution, when requested by the faculty member, shall give reasonable assistance in finding other employment for a faculty member whose employment has been terminated.

(6) The faculty member may appeal the reconsideration decision in the manner provided by Section 501C (4).

## **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.

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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.

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 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

<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.

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.

## **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.

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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.

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 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

<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 ~~the person's 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:

- a1. 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.
- b2. 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, public or private enterprise, 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 as of December 31 of the preceeding year. 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.

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.

## **Planning, Establishing, and Reviewing Centers and Institutes in The University of North Carolina**

### **A. Introduction and Scope**

The University of North Carolina (UNC) encourages partnerships - within, across, and beyond its constituent institutions - that maximize the capacities of UNC to address complex problems of importance to North Carolina, the nation, and the world. Such partnerships may take the form of centers and institutes. Centers and institutes are particularly effective structures when efforts require cross-disciplinary or cross-unit coordination. Centers and institutes, when formed, should result in strengthened and enriched programs around the core missions of research, service, and instruction; enhanced opportunities for faculty, staff and student; heightened economic impact in the state; and a reduction in duplication within UNC.

For purposes of classification, there is no technical distinction between the terms *center* and *institute*. In practice, an institute frequently refers to an entity having a broader scope of activity than a center. For example, an institute may create centers as separate units within its administrative structure. Centers and institutes may require new infrastructures to facilitate administration, fiscal management, and on-going activities. Many centers and institutes report to or involve only a single UNC campus. Some involve more than one UNC campus and require significant, sustained, and necessary multi-campus collaboration in one or more aspects including leadership, governance, mission, core activities, funding, and other resources. A center or institute within UNC may, under appropriate circumstances, include the participation of other institutions, agencies, or organizations, such as other colleges and universities, schools, hospitals, industry, foundations, or governmental bodies. Centers and institutes do not have jurisdiction over academic curricula, although they may offer courses in cooperation with academic units.

This regulation has three purposes:

1. provide a framework upon which campuses can build detailed policies and protocols that guide the establishment and management of institutional centers and institutes (Section B);
2. define University System Multi-Campus Centers or Institutes and the oversight role of UNC General Administration (UNC-GA) in these (Section C); and,
3. outline expectations for reporting on centers and institutes (Section D).

### **B. Regulations for Centers and Institutes**

The following regulations generally apply to centers and institutes that involve only a single UNC institution. Additional considerations are included for institutions that serve as administrative campuses for centers and institutes that require significant and sustained involvement of more than one UNC institution.

1. **Authority.** Campuses should adopt the following authoritative roles in their own policies and procedures.

\*This version of 400.5[R] was approved by the President on October 21, 2009.

a. **Administrative Campus.** Each center or institute must designate an administrative campus. For centers and institutes situated on a single campus, this designation is straightforward. Full authority for the oversight of institutional centers and institutes rests at the campus level, including establishment, management, and discontinuation. For centers and institutes involving more than one UNC campus, agreement on an administrative campus must be reached. Administrative campuses are responsible for the general and fiscal oversight and management of their institutional centers and institutes, in accordance with this regulation and campus level policies and procedures.

b. **Board of Trustees.** The Board of Trustees of each administrative campus has the authority to approve campus level policies on centers and institutes and to authorize establishment and discontinuation of institutional centers and institutes. The Board of Trustees may, upon official action, delegate authorization for establishment or discontinuation to the Chancellor.

c. **Directors.** Each center or institute must identify a director. Center and institute directors are responsible for the day-to-day programmatic, fiscal and personnel decisions associated with the center and institute mission and core personnel.

d. **Center or Institute Boards or Committees.** A center or institute may determine that an advisory or policy board is needed. Boards or committees are particularly useful when the center or institute must coordinate efforts across departments, units, or institutions. Such boards do not have the authority to make hiring offers to directors or other staff. While boards may make recommendations regarding the use of center and institute funds, such entities do not have the authority to access, use, or otherwise control funds associated with the centers and institutes.

e. **Authority through Bylaws, Memoranda of Understanding, or other Governing Documents.** Centers and institutes, particularly those requiring sustained involvement across multiple campuses or partner institutions, may address certain aspects of their management through bylaws, Memoranda of Understanding (MOUs), or other governing documents. Examples of decisions that can be localized at the center or institute level include processes for appointing and staggering terms of board members, requirements for adding new partners or partner campuses, or agreements on leadership and logistics for specified collaborative initiatives. Centers and institutes that involve multiple campuses, but without such documents, are considered under the full authority of the administrative campus as defined above, in sections 1a thru 1d.

2. **Planning.** A planning period can serve many purposes for a conceptualized center or institute, including time to demonstrate the validity of the concept, define partner relationships and roles, or identify fiscal and other resources required for sustainability. Administrative campuses must have policies that address the following aspects of the planning of institutional centers and institutes:

a. Clear process for requesting authorization to plan a center or institute. Minimum required documentation should include:

i. Relevance of the proposed center or institute to the mission of administrative campus and UNC;

- ii. Objectives of the proposed center or institute and why the objectives cannot be achieved within existing institutional or University structures;
  - iii. Discussion of differentiation from similar centers, institutes, or units within the campus, UNC and the State, and proposed relationships with them;
  - iv. Potential sources and estimated funding to initiate and sustain the proposed center or institute, presented as a five-year projection;
  - v. When relevant, statements on the inter-institutional nature of the proposed center or institute, whether it be mission, leadership, activities, funding, or other aspects;
- b. Milestones, timelines, and responsible parties associated with center and institute planning periods;
- c. Clear process for granting and notification of authorization to plan a center or institute.
3. Establishment. When a center or institute approved for planning is ready and able to demonstrate its viability, a formal request for authorization to establish is prepared. Administrative campuses must have policies that address the following aspects of the establishment of institutional centers and institutes:
- a. Clear process for requesting authorization to establish a center or institute. Minimum required documentation should include the items listed in the authorization to plan documentation (Section 2a) as well as:
    - i. Name of the proposed center or institute, which appropriately reflects the center or institute mission and scope;
    - ii. Identification of proposed center or institute as either a research, public service, or instructional unit, in accordance with its primary mission and core activities, with the understanding that the center or institute may also conduct complementary activities outside of its primary designated mission;
    - iii. Organizational structure of the proposed center or institute, including name of a proposed director, description of the membership and function of any proposed advisory or policy boards, and proposed responsibility structure;
    - iv. Statement on the anticipated effects of the proposed unit on the instructional, research and/or public service programs of the administrative campus; and, when inter-institutional arrangements are involved, a statement on the anticipated effects of the proposed collaboration on the instructional, research and/or public service programs of all participating campuses;
    - v. Statement on immediate operating needs, such as equipment, library resources, and space needs, and 5-year projections of future space needs;
    - vi. When relevant, evidence that inter-institutional arrangements regarding leadership, governance, activities, funding, or other aspects have been reached by the cooperating Chancellors or designees;
    - vii. An accountability plan that complies with policy of the administrative campus, noting specific dates for the initial director and center reviews.

- b. Milestones, timelines, and responsible parties associated with establishment;
  - c. Clear process for granting and notification of the establishment of a center or institute, which includes notification to the UNC Office of Research and Sponsored Programs.
4. Management. Active centers and institutes must undergo regular review to ensure ongoing alignment with departmental, college and/or institutional missions and resources, success in accomplishing stated objectives, and sound fiscal status and practices. Administrative campuses must have policies that address the following aspects of the management of centers and institutes:
- a. Process for director searches, including steps of the process, participants and responsible parties, and appropriate decision-making procedures;
  - b. Cycle(s) for annual and external reviews of center and institute activities, including designation of the responsible office or offices;
  - c. Criteria for center and institute reviews, to include at minimum:
    - i. Performance against objectives and goals;
    - ii. Quality and quantity of scholarly activity (as appropriate per mission);
    - iii. Sufficient budget to continue operation;
    - iv. Responsible fiscal oversight;
    - v. Assurance that the entity does not duplicate other institutional, UNC or State entities;
    - vi. Client feedback (client defined as appropriate per the unit's mission).
  - d. Listing of other considerations, outside of the above performance review criteria, to be discussed during review periods, including facilities, personnel, or other operational needs.
  - e. Cycle(s) for review of center and institute directors, including designation of the responsible office or offices;
  - f. Criteria for director review, to include at minimum:
    - i. Performance against individual objectives and goals;
    - ii. Feedback on leadership and communication from center/institute staff, partners and/or clients;
    - iii. Management of fiscal and human resources;
  - g. Standard practices and procedures for involving other UNC campuses in review processes, when relevant;
  - h. Articulation of the type of unsatisfactory performance that could merit conditions for discontinuation of a center, institute, director, or others;
  - i. Clear plans for occasions when centers, institutes or directors do not meet minimum review expectations, including process, milestones, and responsible parties.



5. Discontinuation. A center or entity may be discontinued for a variety of reasons, including lack of fiscal resources for sustainability, termination of a supporting grant or award, lack of fit with departmental, college or institutional missions or objectives, or cases of extraordinary circumstances. Campus level policies must provide a clear process for the discontinuation of centers and institutes, whether on probationary status, performing satisfactorily, or in other extraordinary circumstances. For those entities that involve only a single campus, the process should include approval by the Board of Trustees and notification to the UNC Office of Research and Sponsored Programs. For those centers and institutes that require significant and sustained cooperation among more than one UNC campus, agreement must be reached and documented by the partner Chancellors or designee before the recommendation to discontinue goes before the Board of Trustees at the administrative campus. If such an agreement cannot be reached by partner Chancellors or designees, then UNC General Administration, through the Office of Research and Sponsored Programs, will convene partners and determine an acceptable solution.

The “phase-out” period for centers and institutes that are to be discontinued shall be sufficient to permit an orderly termination or transfer of contractual obligations and to allow an effort to find alternative employment for full-time staff. Normally, the “phase-out” period shall be no more than one year after the end of the academic year in which final approval is given to discontinue the center or institute.

6. Other Entities. Other coordinating entities, such as partnerships, consortia, collaboratives, or centers that form within existing centers or single departments, may be considered exempt from these regulations. For example, faculty within a department may decide to form a collaborative in order to more intentionally connect their research projects and professional networks. While such a group may prove a valuable resource to external partners or other disciplinary contacts, it would likely require little to no structure, funds, or management to function. A final determination will be left to the discretion of each constituent institution as to whether such entities will be governed under institution level processes. Campuses should make appropriate provisions in their policies and procedures to ensure they remain knowledgeable of the existence and viability of such entities.

#### C. University System Multi-Campus Centers and Institutes

Some centers and institutes are established either to represent North Carolina in a federally funded and formula-based program, many of which require state matching funds, or through legislative action with requirements of multiple campus engagement. These entities, known as University System Multi-Campus Centers and Institutes, will maintain varying levels of involvement from UNC General Administration throughout their life cycle, as described below.

1. Participants in a Federal Program. Centers and institutes that are established via a federally funded and formula-based program must, with guidance from UNC General Administration, identify an administrative campus in UNC. The administrative campus will retain responsibility for general and fiscal oversight with exception of the budget expansion request process, in which UNC General Administration will assist. A reporting line to UNC General Administration through the UNC Office of Research and Sponsored Programs will be maintained throughout the existence of these centers and institutes to ensure appropriate system level involvement in the center mission and the federal review processes for these centers, institutes, and their directors. These entities shall reach agreements with their administrative campuses to have any regularly occurring and extensive federal review meet the requirement for

periodic external review. A center or institute participating in a federally-funded and formula-based matching program may be discontinued if the sponsoring unit of the federal government terminates funding for the program. Otherwise, when it becomes necessary for UNC to discontinue one of these centers and institutes, the chancellor of the administrative campus should, in consultation with the other participating constituent institutions, prepare and forward a written request to the UNC President, with copy to the Vice President for Research. The President will then make such recommendations as are necessary to the Board of Governors for approval of the discontinuation. The “phase out” period considerations noted in Section B.5 also apply to these centers and institutes.

2.     Legislatively Sanctioned Multi-Campus Centers and Institutes. Centers and institutes that are established via legislative action of the North Carolina General Assembly and that require multiple campus engagement must, with guidance from UNC General Administration, identify an administrative campus in UNC. At the time of the enactment of the legislation, UNC General Administration will assist these entities and the administrative campus in the creation of planning, establishment, and other governing documentation (e.g., bylaws, memoranda of understanding). After these governing documents are effective, the entity will come fully under the auspices of the administrative campus for general and fiscal oversight. Discontinuation provisions should be noted in the governing documents and should involve the counsel of UNC General Administration in the discontinuation process, through the Office of Research and Sponsored Programs.

3.     Other multi-campus centers and institutes. The provisions of this regulation are intended to enable campuses to effectively manage centers and institutes, whether institutional or involving multiple campuses. Inter-institutional centers and institutes are hence not singled out as exceptional circumstances requiring system-level oversight but rather to be considered as a customary practice that may require some additional considerations. UNC General Administration, through the Office of Research and Sponsored Programs, can offer assistance during the planning phase of complex multi-campus efforts. Upon the need to discontinue one of these entities, the provisions in Section B. 5 of this regulation will apply.

D.     Other

1.     Reporting. The Office of Research and Sponsored Programs at UNC General Administration will compile an updated listing of all UNC centers and institutes every two years, in accordance with the long-range planning process. This information will be posted on the UNC website and categorized by mission. Each center or institute must be designated as a *research, public service, or instructional* unit in accordance with its primary mission and core activities, with the understanding that many centers and institutes will also conduct complementary activities outside of their primary designated mission. Administrative campuses must also designate when a center or institute that they administer is a UNC System Multi-Campus Center or Institute.

2.     Exceptions. This Regulation does not apply to Affiliated or Associated Entities, as defined in University Policy. Any other exceptions or modifications to these regulations must be approved by the President.

## **The University of North Carolina Sustainability Policy**

The University of North Carolina (“The University”) is committed to leading the State of North Carolina as an environmental steward that endeavors to proactively and effectively manage its impact on energy, water and other natural resources. Further, The University is obligated to ensure full compliance with all applicable local, state, and federal environmental laws and regulations. Therefore, it is the policy of The University’s Board of Governors (“The Board”) that The University, including General Administration, the constituent institutions, and affiliated entities, shall establish sustainable development and resource management, or “sustainability” as a core value of institutional operations, planning, capital construction, and purchasing practices.

Budgetary constraints, capital improvement and modernization requirements, and training and management needs required to facilitate the implementation of these sustainable practices are limiting factors and, as such, the University’s General Administration, in collaboration with the constituent institutions and affiliated entities, shall pursue the appropriate enabling legislation and funding to implement this policy. The Board recognizes that the goals of this policy range from short-term to long-term and adds further emphasis on the importance of the aspirational nature of the highest ideals of sustainability. In addition, the Board values Return on Investment (ROI) as a factor in institutional resource planning and decision making and requires an ROI calculation for any new project.

The Board delegates authority to the President to implement the following sustainable practices to apply to each constituent institution and, when appropriate, General Administration and affiliated entities;

*Systematic Integration of Sustainability Principles:* Systematically incorporate sustainability throughout the institution by integrating the policy goals into the institution’s processes, administration, teaching, research, and engagement.

*Master Planning:* Sustainability principles related to infrastructure, natural resources, site development, and community impact shall be incorporated into comprehensive master plans.

*Design and Construction:* Capital project planning and construction processes shall meet statutory energy and water efficiency requirements and deliver energy, water, and materials efficient buildings and grounds that minimize the impact on and/or enhance the site and provide good indoor environmental quality for occupants.

*Operations and Maintenance:* The operation and maintenance of buildings and grounds shall meet or exceed statutory requirements to reduce energy and water use, provide excellent air quality and comfort, improve productivity of faculty, staff and students, and minimize materials use. Further, priority shall be given to the purchase and installation of high-efficiency equipment and facilities as part of an ongoing sustainability action plan following life cycle cost guidelines where applicable.

*Climate Change Mitigation and Renewable Energy:* The University shall develop a plan to become carbon neutral as soon as practicable and by 2050 at the latest, with an ultimate goal of climate neutrality.

*Transportation:* The University shall develop and implement a comprehensive, multimodal transportation plan designed to reduce carbon emissions and dependency on single occupant vehicles.

*Recycling and Waste Management:* The University shall develop policies and programs that work toward achieving zero waste.

*Environmentally Preferable Purchasing (EPP):* Any purchasing shall, to the extent practicable, improve the environmental performance of its supply chain with consideration given to toxicity, recycled content, energy and water efficiency, rapidly renewable resources, and local production and shall also improve the social performance of its supply chain with consideration given to working conditions and historically underutilized businesses.

The President shall develop and implement best practices, guidelines, and implementation plans necessary to achieve the goals of this policy to the constituent institutions and affiliated entities. This policy shall be reviewed every two (2) years by the President, and any necessary revisions and modifications shall be recommended to the Board of Governors for their consideration.

**Regulations on Developing Minimum Environmental Criteria under  
the North Carolina Environmental Policy Act**

**I. Purpose**

The purpose of this memorandum is to establish for the constituent institutions of the University of North Carolina minimum criteria for minor operations or small, routine facilities projects at or below which no filing of environmental documents will be required. The goal is to ensure adequate protection to the environment while facilitating the many routine operations and small maintenance, repair, or construction projects at the constituent institutions by allowing separation of activities with a high potential for environmental effects (major) from those with only a minimum potential (nonmajor).

**II. Background**

Section .300, Chapter 25 of the Administrative Procedures for the North Carolina Environmental Policy Act (NCEPA) allows State agencies to prepare minimum criteria for exemption of minor, routine projects from the requirements of NCEPA. Specifically, the procedure states that "a state agency may establish specific criteria designating minimum levels of environmental impact." No filing of environmental documentation under the NCEPA review procedures is required for actions which do not exceed such levels. The provisions which allow environmental documentation not to be filed do not in any way provide exception to the consideration process leading to a decision regarding an activity falling within or outside the minimum criteria thresholds and the potential impact on the environment of such activity; as such, the provisions of this document do not remove the requirement for a project or activity to meet all appropriate and relevant federal, State, and local environmental regulatory requirements.

**III. Delegation of Authority**

Chancellors of the constituent institutions are responsible for the implementation of these policies with respect to their individual campuses. For projects which apply to facilities directly under the control of General Administration, the Vice President for Finance shall be responsible to the President for the implementation of these policies.

Each chancellor, the Vice President for Finance, or their designees shall interpret the provisions of the NCEPA to require that policies and programs be considered in the light of the NCEPA's comprehensive environmental objectives, except where existing law applicable to the operations expressly prohibits compliance or makes compliance impossible.

**IV. General Criteria for Major or Nonroutine Activities**

The following criteria is intended to provide guidance concerning the definition and handling of actions which have potential for impact on the environment and, therefore, are to be considered for filing of an environmental assessment of appropriate level.

- A. Major activities will include those activities which exist or have the potential to exist at a level greater than those otherwise excluded by minimum (nonmajor) criteria.
- B. Major activities will include demolition of or additions, rehabilitation and/or renovations to a structure listed in the National Register of Historic Places or more than 50 years of age except where agreement exists with the Department of Cultural Resources that the structure lacks architectural or historical significance.
- C. Major activities will include ground disturbances involving National Register of Historic Places listed archaeological sites or areas around buildings 50 years old or older except where agreement exists with the Department of Cultural Resources.
- D. Major activities taken after preparation of and in conformance with a master plan, management plan, or capital project for which an environmental document was completed, may

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require an environmental impact statement, an environmental assessment, a finding of no significant impact, or a record of decision. Determination of which type of document is most appropriate will be made after considering:

1. The need for updating information in the earlier, broader document as it relates to current conditions and the proposed activity, and
2. The specificity and sufficiency of the earlier, broader document in addressing the effects of the proposed activity.

E. An item which does not fall within the broad definition of a major activity in all probability will fit the definition of a non-major activity as described below. Persons who have responsibility for the determination concerning an activity falling within the major or non-major category also have responsibility as to the impact on the environment of such activity. The definitions are not fixed criteria but rather are guidelines to be applied by the person with whom the ultimate decision rests concerning appropriate environmental study and documentation.

#### V. Nonmajor Activity

The following minimum criteria are established as an indicator of the types and classes of thresholds of activity at and below which environmental documentation under the NCEPA is not required. The Vice President for Finance or individual chancellors may require environmental documentation for activities that would otherwise qualify under these minimum criteria thresholds.

A. Standard maintenance or repair activities or facility operations needed to maintain the originally defined function of a project or facility including but not limited to the following:

1. Routine repairs and housekeeping projects which maintain a facility's original condition and physical features, including but not limited to re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process.
2. Any single action which involves relocation of students, faculty, or staff from or into a site using existing university buildings or leased buildings for which the building occupancy classification is not changed.
3. Routine disposal operations of hazardous chemicals, asbestos, or other environmentally sensitive operations for which a written procedure has been established, reviewed by appropriate authority, and determined to be in consonance with environmental law.
4. The use of chemicals for boiler feedwater treatment, cooling tower water treatment, pesticides, herbicides, cleaning solvents, and other chemical products which may be considered environmentally sensitive, provided the materials are stored and utilized in keeping with the applicable Material Safety Data Sheet (MSDS).
5. The handling of asbestos incident to a repair, maintenance, or minor construction project provided that the amount of asbestos material is removed, stored, disposed, and handled in accordance with published Department of Environmental Health and Natural Resources procedures for processing asbestos.
6. Routine grounds maintenance and landscaping and grounds construction such as sidewalks, trails, walls, foot bridges, gates, and related facilities including outdoor exhibits.
7. Maintenance activities to roads, bridges, parking lots, and their related facilities. Note, this applies to routine maintenance operations and not to extension or expansion of the facility.

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8. Maintenance and repair of utilities on their existing rights-of-way.
  9. Surface drainage systems, including modifications which reduce the discharge of freshwater or otherwise mitigate existing negative environmental effects.
  10. Boat ramps, docks, piers, bulkheads, and associated facilities - when constructed in accordance with 15ANCAC 12C.0300.
  11. Activities necessary to fulfill the existing requirements of in-effect permits for the protection of the environment and human health.
  12. Other maintenance and repair activities on projects which are consistent with previously approved environmental documents.
- B. Sampling survey, monitoring, and related research activities including but not limited to the following:
1. Aerial photography projects involving the photographing or mapping of the lands of the state.
  2. Biology sampling and monitoring of:
    - a. fisheries resources through the use of traditional commercial fishing gear, electricity, and rotenone;
    - b. Wildlife resources through the use of traditional techniques, including but not limited a to traps, drugs, and firearms; and
    - c. woodland using standard approved forestry monitoring and techniques.
  3. Soil survey projects involving the sampling or mapping of the soils of the state.
  4. Establishing stream gauging stations for the purpose of measuring water flow at a particular site.
  5. Placement of monitoring wells for the purpose of measuring groundwater levels, quantity, or quality.
  6. Gathering surface or subsurface information on the geology, minerals, or energy resources of the state.
  7. Placement and use of geodetic survey control points.
  8. Other routine survey and resource monitoring activities or other temporary activities required for research into the environment which have minimum long-term effects.
- C. Minor construction, demolition, or real estate acquisitions activities (except that sensitive areas may require exceptions to these thresholds) including but not limited to the following:
1. Any new construction activity meeting the following criteria as appropriate:
    - a. a building or structure less than 10,000 square feet in footprint and the use of the structure does not involve the handling or storage of hazardous materials; and/or
    - b. grading or disturbing less than five (5) acres of previously undisturbed ground (exclusion of this category does not in itself preclude development of a sedimentation plan as part of the design).
  2. Routine paving or repair of existing roads and parking lots (provided that no ground disturbance will be involved necessitating development of a sedimentation plan); and/or

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Construction of a two-lane road of less than 500 feet in length – provided that other laws concerning siltation/sedimentation plans are observed.

3. Demolition of/or additions, rehabilitation and/or renovations to a structure not listed in the National Register of Historic Places or less than 50 years of age.
4. Acquisition of real estate for which the use of the property does not vary from its intended purpose or function at the time of acquisition or is consistent with local land-use plans.
5. Potable water or other utility systems such as the following:
  - a. construction of new wells for water supply purposes; and/or
  - b. improvements to water treatment plants that involve less than 1,000,000 gallons per day added capacity, or improvements not intended to add capacity to the facility that have design withdrawal less than one-fifth of the 7Q10 flow of the contributing stream; and/or
  - c. installation of water lines or other utility lines in proposed or existing rights-of-way for streets or utilities, or new water lines less than five miles in length; and/or
  - d. construction of water tanks, booster pumping, or rechlorination pump stations; and/or
  - e. sewer line installations not exceeding minimum criteria of the permitting agency and not located in sensitive areas.
6. Groundwater withdrawals not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
7. Solid waste disposal activities such as the following:
  - a. construction of solid waste management facilities other than landfills exempt pursuant to N.C.G.S. § 130A-294(a)(4) which store, treat, process, incinerate, or dispose of less than 350 tons per day (averaged over one year) of solid waste; and/or
  - b. disposal of solid waste by land application on 100 total acres or less and where less than 10 percent (10%) of the total land application area is converted from a nonplantation forested area; and/or
  - c. land-disturbing activities which are not located within High Quality Waters (HQP) Zones or Trout Water Buffer Zones and land-disturbing activities that will disturb less than five (5) acres within a HQW Zone or a Trout Water Buffer Zone.
8. Development activities within Areas of Environmental Concern (AEC) of the 20-county coastal area which do not require a Coastal Area Management Act (CAMA) major or minor permit pursuant to T15A NCAC 7K. Also minor construction activities may be undertaken in AEC which do not require a Coastal Area Management Act permit except activities which might require a NCEPA Environmental Document under provisions of another state approval or authorization.
9. Development activities within AEC of the 20-county coastal area which require a CAMA major or minor permit and which meet all applicable criteria set forth in T15A NCAC 7H-State Guidelines for Areas of Environmental Concern, except the following:
  - a. new marinas;
  - b. new navigation channels;

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c. excavation of materials from aquatic environments for use for beach nourishment or other purposes not directly related to approved navigation projects; and

d. any activity which might require a NCEPA environmental document under provisions of another state approval or state or local governmental agency requirement.

10. Air emissions of pollutants from a minor source or modification as defined in 15A NCAC 2D.0503 that are less than 100 tons per year or 250 tons per year as defined therein.

11. Reclamation of underground storage tanks. Note: The reclamation is considered to be a minor activity. Consideration of product which may have leaked from the tank and restoration of groundwater quality is not authorized for non-consideration by classification as a minor activity.

12. Dams less than 25 feet in height and having less than 50 acre-feet of storage capacity.

13. Construction or remodeling of swimming pools.

D. Management activities including but not limited to the following:

1. Replenishment of shellfish beds through the placement of seed oysters and/or shellfish clutch on suitable marine habitats.

2. Creation and enhancement of marine fisheries habitat through the establishment of artificial reefs in accordance with the Division of Marine Fisheries' Artificial Reef Master Plan.

3. Placement of fish attractors and shelter public waters managed by the N.C. Wildlife Resources Commission.

4. Translocation and stocking of native or naturalized fish and wildlife in accordance with appropriate agency species management plans, watershed management plans, or other approved resource management plans.

5. Reintroduction of native endangered or threatened species in accordance with State and/or Federal guidelines or recovery plans.

6. Production of native and agricultural plant species to create or enhance fish or wildlife habitat and forest resources, including fertilization, planting, mowing, and burning in accordance with fisheries, wildlife, and/or forestry management plans.

7. Forest products harvested in accordance with the National Forest Service or the N.C. Division of Forest Resources forest products management plans.

8. Reforestation of woodlands in accordance with the National Forest Service or the N.C. Division of Forest Resources woodlands management plans.

9. Use of forestry Best Management Practices to meet the performance standards in Forest Practice Guidelines Related to Water Quality codified as 15A NCAC 1I.

10. Control of forest or agricultural insects and disease outbreaks by lawful application of labeled pesticides and herbicides by licensed applicators on areas of no more than 100 acres.

11. Control of species composition on managed forest lands as prescribed by approved forest management plans by the lawful application of herbicides by licensed applicators.

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12. Control of aquatic weeds in stream channels, canals, and other water bodies by the lawful application of labeled herbicides by licensed applicators on areas of no more than two acres or 25 percent of surface area, whichever is less.
13. Controlled or prescribed burning for wildlife, timber enhancement, and hazard reduction in accordance with applicable management plans.
14. Plowing fire lines with tractor plow units or other mechanized equipment for the purpose of suppressing wildland (brush, grass, or woodland) fires and prescribed burning.
15. Scooping or dipping water from streams, lakes, or sounds with aircraft or helicopters for the purpose of suppressing wildland (brush, grass, or woodland) fires.
16. Drainage projects where the mean seasonal water table elevation will be lowered less than one foot over an area of one square mile or less and riparian and wetland areas will not be permanently affected.
17. Manipulation of water levels in reservoirs or impoundments in accordance with approved management plans for the purpose of providing for water supply storage, flood control, recreation, hydroelectric power, fish and wildlife, and aquatic weed control.
18. Specific modifications in previously permitted discharges resulting in an increased flow of less than 500,000 gallons per day.
19. Installation of on-farm Best Management Practices for the N.C. Cost Share Program for Nonpoint Source Pollution Control codified as 15A NCAC 6E.
20. Continuation of previously permitted activities where no increase in quantity or decrease in quality is proposed.
21. Acquisition or acceptance of real property to be retained in a totally natural condition for its environmental benefits, or to be managed in accordance with plans for which environmental documents have been approved.
22. Care of all trees, plants, and groundcovers on public lands.
23. Activities authorized for control of mosquitoes such as the following:
  - a. mosquito control water management work in freshwater streams performed in accordance with "Best Management Practices for selective clearing and snagging" in Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, U.S. Army Corps of Engineers Technical Report EL-92-35 Smith et al. 1992, or other guidelines reviewed through intergovernmental review processes as set out in 1NCAC.25.0211;
  - b. mosquito control water management work in salt marsh environments performed under Open Marsh Water Management guidelines reviewed through the intergovernmental review process;
  - c. lawful application of chemicals approved for mosquito control by the United States Environmental Protection Agency and the State when performed under the supervision of licensed operators; and
  - d. lawful use of established species to control mosquitoes.

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## VI. Exceptions to Minimum (Nonmajor) Criteria

Any activity falling within the parameters of the minimum criteria set out in this memorandum will not routinely be required to have environmental documentation under the NCEPA; however, the President, chancellor, or their designees may determine that environmental documents under the NCEPA are required in any case where one of the following findings applies to a proposed activity.

A. The proposed activity could cause significant changes in industrial, commercial, residential, silviculture, or agricultural land-use concentrations or distributions which would be expected to create adverse water quality, air quality, or groundwater impacts, or affect long-term recreational benefits, shellfish, wildlife, or their natural habitats.

B. The proposed activity has indirect effect or is part of cumulative effects not generally covered in the approval process for state action and that may result in a potential risk to human health or the environment.

C. The proposed activity is of such an unusual nature or has such widespread implications that an uncommon concern for its environmental effects has been expressed to the University or the constituent institution.

D. The proposed activity may have a potential for significant, adverse, and direct effects on a "sensitive area" which include but are not limited to the following:

1. Wetlands delineated by the U.S. Army Corps of Engineers in accordance with 33 CFR 328.3 and 40 CFR 230.3;
2. Historical and Archeological sites protected by the National Historic Preservation Act and National Executive Order 11593 and State Executive Order 16 administered by the N.C. Department of Cultural Resources;
3. National Historic Landmarks as designated in accordance with the Historic Site Act at 16 USC 461;
4. State Parks Lands administered in accordance with N.C.G.S. § 113-44.9;
5. State-Owned Game Lands administered in accordance with N.C.G.S. § 113-264 and 306(d);
6. State-Owned Forest Land administered in accordance with N.C.G.S. § 113-22;
7. State Nature Preserves and Dedicated Natural Areas administered in accordance with N.C.G.S. § 113A-164.1;
8. Primary and Secondary Nurseries designated in accordance with 15A NCAC 3R.0003 and 10C NCAC .0503, and Critical Habitat Areas designated in accordance with 15A NCAC 31.0001; and 101 NCAC .0001 (5);
9. State High-Quality Waters designated in accordance with 15A NCAC 2B.0201 (d); this includes waters classified as WS-I, WS-II, SA and ORW (Outstanding Resource Waters);
10. State Natural and Scenic Rivers designated in accordance with N.C.G.S. § 113A-30;
11. North Carolina Coastal Reserves designated in accordance with N.C.G.S. § 113A-129.1;
12. State Lakes administered in accordance with N.C.G.S. § 146-3; and
13. Lands which contain animal or plant species protected by the Federal Endangered Species Act (administered by the U.S. Fish and Wildlife Service), State Endangered and Threatened Wildlife and Wildlife Species of Special Concern Act (N.C.G.S. § 113-311 administered by the North Carolina Wildlife Resources Commission), State Plant Protection and Conservation Act (N.C.G.S. § 106-202.12 administered by the North Carolina Department of Agriculture).

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### Guidelines on Recycling

The 1989 Session of the General Assembly produced legislation providing a statewide effort to reduce solid waste through economical reclaiming material which would otherwise be discarded as solid waste. The portion of the legislation known as the Solid Waste Management Act of 1989 (N.C.G.S. § 130A-309.1) provides for the reduction, recycling, and reuse or treatment of solid waste. The Act further establishes a goal of at least a 25% reduction in the total waste stream by January 1, 1993. To meet this goal, each state agency is required to develop a recycling plan which is consistent with the solid waste management policy of the state. The purpose of this policy is to provide an outline that will allow each constituent institution to develop solid waste recycling plans tailored to develop strategies and to utilize recycling resources both on campus and in the local area.

The following policy and procedural guidelines shall be incorporated into the institutional recycling plans:

1. Each constituent institution of the University shall develop a solid waste recycling plan and forward the plan to the North Carolina Department of Environment, Health and Natural Resources with a copy to UNC General Administration by May 1, 1992. To the extent that institutional plans have been previously developed, such plans should be reexamined in light of this policy statement.
2. Each campus will designate a person as the institutional recycling coordinator. Although certain institutions have previously established the recycling coordinator as a full-time position, most institutions will require designation of an individual on an *ad hoc* basis. It is not the intention of this policy to require establishment of a new position for this purpose.
3. Each institutional recycling plan will include a means of annual measurement of solid waste generated, recycled, and disposed, and the methods of solid waste recycling and disposal used. This portion of the plan will require study of the waste stream of the institution with identification of those components of the waste stream which can be feasibly recycled. It is anticipated that this data will be developed for reporting to the North Carolina Department of Environment, Health, and Natural Resources, with a copy to UNC General Administration.
4. Each institutional recycling plan should specifically prohibit non-conforming disposal of waste materials in violation of General Statutes.
5. Each campus should promote the purchase of commodities which are manufactured with recycled products where economically feasible to do so.
6. Each institutional plan should be developed with consideration of local or municipal efforts in recycling and joining with local programs where practical. Copies of a *Directory of North Carolina State and Local Contacts for Recycling Information and Assistance — 1991* and a *Directory of Industrial and Commercial Recyclers Serving North Carolina Businesses and Communities* have previously been provided. These documents are intended to enhance local contacts for joint recycling efforts and as a source of firms specializing in material recycling.
7. Each institutional recycling plan should include a time frame for reporting implementation of the plan. Also previously provided was a document entitled *Guidelines for Developing Recycling Implementation Plans for North Carolina State Agencies* which is intended to serve as a resource for determining program elements which should be considered for inclusion in the institutional recycling plan.

[This is a rewrite of Administrative Memorandum #320.]

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