



TRANSMITTAL LETTER

The University of North Carolina
Office of the President

Transmittal # 19

Date: November 13, 2002

Subject:

Policy on Prospective Teacher Scholar Program. Policy 800.4.1

Policy on Campus State Relations Officers. Policy 300.1.4

Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings. Policy 700.4.1

Policy on Senior Academic Administrative Officers. Policy 300.1.1

The *Code* of the University of North Carolina.

This transmittal letter distributes the Policy on the Prospective Teacher Scholar Program, Policy 800.4.1, which was adopted by the Board of Governors on 11/08/02. Please contact Dr. Robert Kanoy, Associate Vice President for Academic Affairs, at 919-962-4907 if you have any questions.

This transmittal letter also distributes the Policy on Campus State Relations Officers, Policy 300.1.4, which was amended by the Board of Governors on 11/08/02. Please contact J.B. Milliken, Vice President for Public Affairs and University Advancement, at 919-962-9771 if you have any questions.

This transmittal letter also distributes the Policy on Minimum Substantive and Procedural Standards for Student Disciplinary Proceedings, Policy 700.4.1, adopted by the Board of Governors on 11/08/02. Please contact Betsy Bunting, Associate Vice President for Legal Affairs at 919-962-4588, if you have any questions.

This transmittal letter also distributes the Policy on Senior Academic Administrative Officers, Policy 300.1.1, which was amended by the Board of Governors on 11/08/02. Please contact Leslie Winner, Vice President and General Counsel, at (919) 962 4588, if you have any questions.

This transmittal letter also distributes the *Code* of the University of North Carolina. This revised edition was approved by the Board of Governors on 11/08/02. Please contact Leslie Winner, Vice President and General Counsel on 919-962-4588, if you have any questions.

Adopted 11/08/02

PROSPECTIVE TEACHER SCHOLAR PROGRAM

The University of North Carolina has been directed to establish a pilot program at three of the Focused Growth campuses to recruit new nonresident students to pursue a full-time course of study that will lead to teacher certification in North Carolina and to employment teaching in a North Carolina public school (or school operated by the United States government in North Carolina). Pursuant to Senate Bill 1115, Section 9.9 (2001), the UNC Board of Governors is required to report guidelines and regulations for these pilot programs to the Joint Legislative Education Oversight Committee by November 15, 2002, and then report annually to the Committee on the progress of the pilot programs and their costs.

The following policies are to be used for implementation of the Prospective Teacher Scholar programs at Elizabeth City State University, the University of North Carolina at Pembroke, and Western Carolina University.

- 1) The Prospective Teacher Scholar funds are to be used for non-resident students who make a commitment to pursue a degree in teacher education at one of the three constituent institutions, ECSU, UNCP, or WCU.
- 2) The Prospective Teacher Scholar program is a scholarship-loan program. Scholarship funds will be used to pay the difference between the cost of resident tuition and fees and non-resident tuition and fees. For each year the student receives the scholarship-loan, the student must teach full-time for an academic year in a North Carolina (K-12) public school or a school operated by the United States Government in North Carolina. The student will have a maximum of seven (7) years or two years time for each year of the scholarship (whichever is less) from the date of graduation to fulfill the payback agreement by teaching in a North Carolina public school.
- 3) (a) Eligibility to participate in the Prospective Teacher Scholar program is limited to non-resident students who enter as a new freshman or as an undergraduate transfer student, and will be enrolled full-time each fall and spring semester, and make satisfactory progress toward a teaching degree.
(b) The student must maintain a satisfactory GPA and be in good standing with the university each year of study.
(c) The student must meet the criteria and be admitted to the Teacher Education program by the beginning of the Junior year.
(d) The student must graduate and be eligible for a license to teach in a North Carolina public school within six months after graduation.
- 4) Students participating in the Prospective Teacher Scholar program will not be included in the campus' cap of 18% freshmen non-resident students.
- 5) Any Prospective Teacher Scholar student who chooses to attend summer school classes will be eligible for the in-state resident rate for tuition and fees.

- 6) Each recipient of a Prospective Teacher Scholar scholarship-loan is required to sign a promissory note, along with a surety, agreeing that if the student does not fulfill the payback requirement to teach in a North Carolina public school (as described in #2), the student will be required to repay the campus the differential between the resident and non-resident tuition and fees for each year they do not fulfill the payback requirement. The student will also be required to pay the campus the cost as identified above plus 10% interest on the identified amount which begins to accrue from the date of graduation or the date the student transfers to another institution or the date the student is no longer enrolled full-time and full-term, whichever is earliest.
- 7) Any Prospective Teacher Scholar recipient who does not complete the teacher education program or who terminates the degree program will be subject to the repayment of the scholarship as described in item #6.
- 8) Awards may begin as early as the spring 2003 semester for new freshmen or new transfer students. Currently enrolled students are not eligible to participate in the Prospective Teacher Scholar program.
- 9) Students selected as Prospective Teacher Scholar recipients will be eligible for consideration for additional merit awards and non-state funded need-based financial aid.
- 10) The Prospective Teacher Scholar scholarship-loan must be considered as part of the student's financial aid package. When the total financial aid award exceeds financial need, the scholarship may not be reduced to prevent an over-award.
- 11) The campus shall forgive the repayment if it finds that it is impossible for a person to comply with the requirements of item #2 or item #6 because of the person's death or permanent disability. The campus may forgive the repayment if the President finds that a person could not comply with the requirements of item #2 or item #6 for extraordinary circumstances not within the person's control.

Adopted 02/11/00
Amended 11/08/02

CAMPUS STATE RELATIONS OFFICERS

As set forth in the *Code*, the President is the University's representative to all governmental bodies. The President is presumed by the Governor and members of the General Assembly to direct all activities on behalf of all parts of the University and to be answerable for them. These are the most important principles in ensuring effective communication and advocacy of the interests of the University and its constituent campuses.

Under the direction of the President, the Vice President for Public Affairs and his or her staff have primary responsibility for representation of the University before governmental bodies. They may be assisted in this effort by campus officers who shall act at the request and under the direction of the Vice President and his or her staff.

The Chancellors may designate, in consultation with the President and the Vice President for Public Affairs, a campus officer to carry out the functions of state relations officer. The campus state relations function shall constitute no more than 25 percent of each designee's time, and no campus title shall refer to government or state relations. The duties and responsibilities of the campus designee with regard to state relations shall be to assist the President and his or her designees with building support for the University's budget request and legislative priorities. It is the expectation of the Board that the state relations function shall be a minor part of each such designee's responsibilities.

In each instance, the individual so designated shall, in addition to reporting to his or her campus supervisor report to the Vice President for Public Affairs solely with regard to any state relations responsibilities. The Vice President shall provide to the campus supervisor an annual performance evaluation of the campus officer with state relations responsibilities.

The President shall take necessary and appropriate actions to implement this policy and shall report on such implementation to the Committee on Personnel and Tenure. The President shall also report to the Committee periodically on the efficacy of the structure established pursuant to this policy, and shall make recommendations regarding the continuance and/or modification of the policy.

Adopted 11/08/02

**POLICY ON MINIMUM SUBSTANTIVE AND PROCEDURAL STANDARDS FOR STUDENT
DISCIPLINARY PROCEEDINGS**

The purpose of this policy is to establish legally supportable, fair, effective and efficient procedures for student disciplinary proceedings. The minimum standards for these proceedings are set out below. These minimum standards exceed the requirements of due process and therefore complying with requirements will also result in providing due process.

- I. Elements of Policy:
The two kinds of standards that must be followed are procedural standards and substantive standards.
- II. Procedural: The procedural standards require notice and an opportunity for a hearing. The formality of these provisions will vary depending on the seriousness of the offense. (See Sections V and VI. below.)
- III. Substantive: Substantive standards require that the decision reached be neither arbitrary nor capricious. Generally this means that there is some evidence to support the decision reached.
- IV. Notice Requirements: Each constituent institution must define what conduct is prohibited and specify the types of sanctions that may be imposed for each category of prohibited conduct. Ranges of violations and ranges of sanctions are permissible. Progressive sanctions for multiple violations are also legitimate. A periodic review should be undertaken to insure that rules, codes and regulations are up to date and that the students have notice of any changes.
- V. Requirements for Minor Violations:
A minor violation is one for which the possible sanctions are less than suspension and expulsion.
 - A. Procedural Requirements:
 1. Charges may be brought by students, university officials, faculty members or staff members. The charge must be in writing and must include factual information supporting the allegation. Anonymous charges will not be permitted.
 2. A designated university official will determine whether charge is to be pursued. This determination should be made within a specified amount of time (e.g. thirty (30) calendar days) after the

initiation of the charge. Reasonable extensions of this time are permissible.

3. If a charge is to be pursued, it is then referred to a hearing official or body. The student must be notified in writing of charge, the referral and the hearing date. The hearing should not be scheduled for at least five (5) calendar days after the student receives the notice, unless the student agrees to an earlier hearing date. A committee member or the hearing official who has a conflict with, bias about or interest in the case should recuse himself. If the committee member or the hearing official refuses to recuse himself, a designated university official shall make the recusal decision.
4. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with paragraph IV above. The waiver and acceptance must be in writing and signed by the student.
5. If a hearing is held, it may occur as a meeting between the hearing committee/official and the student. It will be a closed meeting. No attorneys are allowed in this proceeding except as provided in paragraph VII.A. below. The institution shall assure that students have the capability to present their evidence and defenses at the meeting or hearing. Witness testimony and documents may be received from both the designated university official and the student, who will both be present during all of the evidentiary presentation. At the end of the hearing, the committee/official will determine whether the designated university official has shown by a preponderance of the evidence that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing or meeting. The committee/official will also determine the appropriate sanction within the ranges specified in the definitions in IV above.
6. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed 45 calendar days after the date of the hearing. The final administrative decision must be transmitted to the student in writing within ten (10) calendar days of the date the decision is made, and it must contain a brief summary of the evidence upon which the decision is based.

7. Appeal rights must be specified in the decision letter. At least one level of administrative appeal must be permitted and the time in which to appeal and the permitted grounds for the appeal must be articulated. Further appellate opportunities shall be governed by the *Code* of the University of North Carolina.

B. Substantive Requirements: In each case there must be sufficient evidence supporting the decision and the sanction.

VI. Serious Violations:

A serious violation is one for which the possible sanctions include suspension or expulsion.

A. Procedural Requirements:

1. Charges may be brought by students, university officials, faculty members or staff members. The charge must be in writing and must include factual information supporting the allegation. Anonymous charges will not be permitted.
2. A designated university official determines whether charge is to be pursued. This determination should be made within a specified amount of time (e.g. thirty (30) calendar days) after the initiation of the charge. Reasonable extensions of this time are permissible. Written notice to the student must be provided if a decision is made to pursue the charge. The notice should specify the offense charged, the possible sanctions and a brief recitation of the factual allegations supporting the charge. For all charged offenses which could result in expulsion, the notice must include this possibility and must specify that expulsion precludes matriculation at any UNC constituent institution.
3. An active charge is then referred to a hearing official or body. The student must be notified in writing of the referral. This notice may include a hearing date. The hearing date may not be scheduled for at least ten (10) calendar days after the student receives notice of the referral, unless the student agrees to an earlier hearing date. Reasonable extensions of time for either party to prepare for the hearing should be allowed.
4. If a hearing date is not set in the notice of the charge, written notice of the hearing date must be sent to be received by the student not less than five (5) calendar days before the proceeding is scheduled for hearing.

5. The student may waive the hearing and accept a sanction proposed by a designated university official. The sanction must be within the ranges specified in accordance with paragraph IV above. The designated university official must determine that the waiver and acceptance is voluntary and that the charge and sanction have factual support. The waiver and acceptance must be in writing and signed by the student and the designated university official.
6. Prior to the hearing, the student must be given the opportunity to review any written evidence that will be used at the hearing and to obtain a list of witnesses.
7. A committee member or hearing official who has a conflict with, bias about or an interest in a case must recuse himself. If the committee member refuses to recuse himself, a designated university official will make the recusal decision. The student must also be given the opportunity to challenge a committee member or hearing official on these grounds. The decision on the challenge must be made by the committee or official within five calendar days. If necessary, a substituted committee member or hearing official will be appointed.
8. The institution shall assure that students have the capability to present their evidence and defenses at the hearings. The method for assuring this capability may vary depending on the nature of the case and on the nature of the representation of the institution or the charging party. Each institution must have a policy delineating the participation or prohibition of attorneys. Representation or assistance by attorneys at the hearing is neither required nor encouraged.
9. The hearing will be closed to the public, unless a constituent institution's policy provides otherwise.
10. A transcript or other verbatim record of the hearing (but not of the deliberations) will be prepared. The institution will be responsible for the costs of this record.
11. At the hearing, a designated university official must present sufficient witness and/or documentary evidence to establish the violation. The student must be given an opportunity to question this evidence, either by direct questions or inquiries transmitted through the committee or hearing official.

12. The student must be given the opportunity to present any witness or documentary evidence that he offers, provided that the evidence is relevant to the charge or other evidence presented and does not otherwise infringe the rights of other students.
13. At the conclusion of the evidence, the committee/official will determine whether the charging official has shown by a preponderance of the evidence, or by such higher standard as the institution may adopt, that the student committed the offense charged. This determination must be based solely on the evidence presented at the hearing. The committee or official will also determine the appropriate sanction within the ranges specified in accordance with paragraph IV above.
14. The decision may be final or it may be a recommendation for a final decision by a designated university official. The final administrative decision must be reached within a specified amount of time, not to exceed forty five (45) calendar days after the hearing is completed. The final administrative decision must be transmitted in writing to the student within ten (10) calendar days of the date the decision is made and must contain a brief summary of the evidence upon which the decision is based.
15. A vice chancellor or his delegate must make the final administrative determination in all suspension cases. The delegation may be to a student committee or a student/employee committee.
16. The Chancellor or a vice chancellor must make the final administrative decision in all expulsion cases.
17. Appeal rights must be specified in the final decision letter. At least one level of institutional appeal must be permitted, and the time limits in which to appeal and the permitted grounds for appeal must be articulated.
18. Further appeals shall be governed by the *Code* of the University of North Carolina.

B. Substantive Requirements: In each case there must be sufficient evidence supporting the decision and the sanction.

VII. Special Cases:

- A. If the offense charged is also the subject of pending criminal charges, the institution must allow an attorney advisor to accompany the student to the hearing. Unless institutional policy generally allows attorneys to

participate, the attorney may not participate. The attorney may confer with the student during the hearing so long as the attorney does not address the hearing official or committee, other parties or witnesses and does not delay or disrupt the proceeding.

- B. Charges against multiple students involved in the same incident may be heard in a single case only if each student defendant consents to such a proceeding.
- C. Pursuant to the Campus Security Act, in cases of alleged sexual assault, the accuser and the accused are entitled to have the same opportunities to have others present during a disciplinary proceeding.
- D. Pursuant to FERPA, victims of crimes of violence must be notified of the results of the disciplinary proceeding of the alleged assailant. "Results" means the name of the student assailant, the violation charged or committed, the essential findings supporting the conclusion that the violation was committed, the sanction if any is imposed, the duration of the sanction and the date the sanction was imposed.
- E. When a student with a disability is charged with an offense, the institution will assure that all requirements of Section 504 of the Rehabilitation Act and the Americans With Disabilities Act are met.

Effective Date: This policy applies to all offenses committed on or after July 1, 2003.

Adopted 11/14/86
 Amended 10/12/90
 Amended 02/18/94
 Amended 04/21/95
 Amended 11/08/96
 Amended 07/11/97
 Amended 11/13/98
 Amended 09/10/99
 Amended 08/11/00
 Amended 04/12/01
 Amended 06/08/01
 Amended 01/11/02
 Amended 11/08/02
 Amended 03/21/03

SENIOR ACADEMIC AND ADMINISTRATIVE OFFICERS

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

I. Definition of "Senior Academic and Administrative Officers"

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

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

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

A. Appointments and Discontinuation of Appointments

1. All senior officers as defined in Section I.A. above, are employed in their administrative positions pursuant to this policy. Except with regard to the appointment of the President and the Chancellors, no contract or other writing (except for *The Code*) may vary these terms, nor may any oral agreement modify these provisions. The appointments of these senior officers are subject to the approval of the Board of Governors or a Board of Trustees delegated such authority by the Board of Governors. Such officers do not have tenure in their administrative positions. Except for the President and the Chancellors, they serve at the discretion of their employer and are not appointed to serve for specified periods of time. "Employer" in this context means, respectively, the official or entity designated in paragraphs (a) through (d) below. The continuance of these administrators in office therefore is at all times subject to determination by the appropriate authority, as follows:
 - (a) The President's continuance in office is determined by the Board of Governors.
 - (b) The continuance in office of members of the President's professional staff is determined by the President.
 - (c) The continuance in office of the chancellor of a constituent institution is determined by the Board of Governors, which may act to terminate such an appointment upon its own initiative or upon recommendation of the President. The Board of Governors in all instances shall consult the appropriate Board of Trustees prior to terminating the appointment of a chancellor.
 - (d) The continuance in office of vice chancellors, provosts, deans, and directors of major educational, research and public services activities of the constituent institutions shall be determined by the chancellor of the institution.
 - (e) Notwithstanding the provisions of (b) and (d) above, the Board of Governors, in accordance with the provisions of Section 501B(6) of *The Code*, reserves the right to initiate action to terminate appointment of those officers when it deems such action to be necessary in the best interests of the University.
2. Senior officers of a constituent institution are subject to the direction and control of the chancellor and serve at the chancellor's discretion. They are employees at will; thus, the chancellor may not purport to confer on any such officer a period of employment of fixed duration or otherwise confer any property interest in such employment. However, such an officer may be appointed to a period of employment not to exceed a specified number of years, so long as the instrument accomplishing such an appointment states clearly that the incumbent officer is

subject to removal at any time, during that period, at the option of the chancellor.

3. Tenure status as a member of the faculty of a constituent institution, held concurrently by any senior officer of the University is separate and distinct from the administrative office, and such tenure status is governed by the provisions of Chapter Six of *The Code* and by the tenure policies of the relevant constituent institution. Those tenure policies have no bearing upon and do not govern the administrative appointments covered by this policy.
4. Appointment of Chancellors
 - a. The appointment of chancellors shall be made by the Board of Governors upon the recommendation of the President, in accordance with N.C.G.S §116-11(4).
 - b. The Board of Governors may approve a contract with a chancellor as recommended by the President. The contract may specify the chancellor's term of employment, salary, benefits, and performance based deferred or supplemental compensation; provisions for the termination of the chancellor's employment; and any other terms recommended by the President.
 - c. In all other regards, the employment of chancellors is subject to *The Code*, the Policies of the Board of Governors, and the North Carolina General Statutes.
 - d. Except as specifically otherwise provided in the contract, and except as provided in ¶ II.A.1(c) of this policy, after the Board of Governors has approved a contract with a chancellor, it will be the sole responsibility of the President to implement the terms of the contract.

B. Compensation

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

No chancellor and no senior academic and administrative officer may be paid, in addition to his or her salary as established pursuant to the foregoing requirements, for any services rendered to any institution-related foundation, endowment, or other University-related enterprise.

C. Equal Employment Opportunity

It is the policy and intention of the University of North Carolina that there be equal employment opportunity and freedom from unlawful discrimination in all employment within the University. There shall be no discrimination in positions covered by this policy on the basis of race, color, creed, national origin, sex, religion, disability, age, or honorable service in the armed services of the United States.² Employment in positions covered by this policy shall be conducted in accordance with all provisions of State or federal law or regulation prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

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

D. Political Activity

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

E. Holiday and Leave Entitlement

1. Holidays

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

2. Annual Leave

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

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

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

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

4. Miscellaneous Leaves of Absence

A senior officer who desires a leave of absence for an interval of 90 days or less

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

must obtain the approval of the President, who shall report all such arrangements to the Board of Governors. A leave of absence for a period exceeding 90 days shall require the approval of the Board of Governors.

5. Voluntary Shared Leave

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

F. Educational Entitlement

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

G. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

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

2. Employment Preference for Veterans

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

3. Employment of Related Persons

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

H. Retirement

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

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

A. Appointments

1. All senior academic and administrative officers as defined in Section I.B. above, are employed in their administrative positions pursuant to this policy. The authority to make appointments and determine salaries for positions within Section I.B. (1) is exercised by the Board of Governors, on recommendation of the President, or a Board of Trustees delegated such authority by the Board of

Governors; for positions within Section I.B. (2), such authority is delegated by the Board of Governors to the chancellors and the respective Boards of Trustees of the constituent institutions.

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

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

precedes appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall embody the required designation of base employment. In either case, the designation of base employment shall specifically describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.

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

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

B. Discontinuation of Employment

1. Discontinuation of appointment, with notice or severance pay

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

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

The determination of whether the employee shall receive notice of discontinuance of the appointment or severance pay shall be in the sole discretion of the respective chancellor or the president.

2. Expiration of term appointment

Employment within a position covered by this policy that is established by the letter of appointment to be for a stated definite term expires automatically at the conclusion of the stated term; such an appointment may be renewed or extended at the option of the employer, by written notice satisfying the requirements of Section III.A. If the employer intends not to renew or extend the term contract,

(1) with respect to a term of one year or less, no notice of intent not to renew shall be required; (2) with respect to a term of more than one year but less than four years, notices of intent not to renew shall be transmitted in writing at least 60 days prior to this expiration date of the term; (3) with respect to a term of four years or more, notice of intent not to renew shall be transmitted in writing at least 90 days prior to the expiration date of the term. Failure to provide written notices as required in subsections (2) and (3) shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the scheduled expiration date of the term.

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

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

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

4. Discharge for Cause

Any employee occupying a position covered by this policy may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section III.B.1.), automatic expiration of term (Section III.B.2.), and termination (Section III.B.3.). Stated causes for discharge shall include, but not necessarily be limited to, incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the capacity of the employee to perform effectively the requirements of his or her employment. Discharge for cause is to be preceded by written notice of intent to discharge and is subject to invocation by the affected employee of the grievance procedures of Section III.C. of this policy. When an employee occupying a position covered by this policy has been notified of the intention to discharge for cause, the President or chancellor, as applicable, may suspend the employment at any time and continue the suspension

until a final decision concerning discharge has been reached by the procedures prescribed herein; the power to suspend shall be invoked only in exceptional circumstances and such suspension shall be with full pay.

C. Review of Employment Decisions and Grievances

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

D. Equal Employment Opportunity

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

E. Political Activity

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

F. Holiday and Leave Entitlement

1. Holidays

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

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

2. Annual Leave⁶

(a) Basic Leave Policy

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

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

(b) Transfer of Accrued Annual Leave

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

(c) Advancement of Annual Leave

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

⁶ Effective July 1, 2001.

institution and make deductions from the employee's final salary check accordingly.

(d) Payout of Accrued Annual Leave

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

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

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

4. Leave of Absence Without Pay

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

5. Voluntary Shared Leave

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

G. Educational Entitlement

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

H. Statutory and Other Rules of Employment

1. Privacy of Personnel Records

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

2. Employment Preference for Veterans

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

3. Employment of Related Persons

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

I. Retirement

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