

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

Adopted by the Board of Trustees, April 1981
Amended by the Board of Trustees, 1988; February 10, 1994; March 31, 1994; April 23, 1998
September 6, 2001; November 6, 2003
Approved by the Board of Trustees, September 18, 2008
Approved by General Administration, April 4, 2011
Header and footer changed, April 25, 2013

These policies are adopted by the Board of Trustees of the University of North Carolina at Greensboro pursuant to the Personnel Policies for Designated Employment Exempt from the State Personnel Act adopted by the Board of Governors of the University of North Carolina on February 13, 1981, and amended (under the Policy on Employees Exempt from the State Personnel Act) on April 12, 2001.

I. Scope and Applicability of Employment Covered by These Policies

A. Scope of Category

Employment positions within The University of North Carolina at Greensboro that are covered by these policies (hereinafter "covered positions") are those positions that are not subject to the State Personnel Act (General Statutes Chapter 126) and are not otherwise categorized. The following positions are otherwise categorized and are not covered by this policy:

1. Faculty positions subject to institutional tenure regulations
2. Positions within Senior Academic and Administrative Officers categories of employment subject to G.S. 116-11(4), G.S. 116-11(5), or G.S. 116-14
3. Positions within the "physicians or dentists" category under N.C.G.S. § 126-5 with faculty appointments
4. University students who are employed incident to their status as students, as in graduate teaching assistantships or work-study positions.

B. Applicability of Policies

These policies apply to all permanent covered positions.

C. Administration

The Chancellor shall be responsible for the implementation of these policies and may delegate his or her authority to other identified officers of The University of North Carolina at Greensboro as he or she deems appropriate.

II. Appointments to Covered Positions

- A. Every appointment to a covered position within The University of North Carolina at Greensboro shall be made by or on behalf of the Chancellor by means of a letter of appointment that fulfills the requirements of this section.

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

- B. Every letter of appointment to a covered position shall include the following:
1. The title of the position
 2. The initial salary
 3. Provision for periodic review of compensation¹
 4. Provisions consistent with Sections II.C and II.D below, if contingencies based on availability of funding are applicable
 5. The annual leave entitlement of the employee
 6. 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 of the Chancellor
 7. Notice that the employment is subject to these policies, as originally adopted and as they may be periodically revised
 8. A copy of the policies shall be attached to the letter of appointment
- C. When a covered position 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 IV.A, IV.B, and IV.C; provided, that the affected employee shall be informed at the earliest possible practicable date of the occurrence of such a funding contingency.
- D. 1. When an employee is to serve simultaneously in both a covered position and a position of University employment not covered by these policies, 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 in writing as the base position to determine the conditions of employment and the rights and responsibilities of the employee. If appointment to a covered position occurs subsequent to appointment to a position not covered by these policies, the letter of appointment to the covered position shall embody the required designation of base employment; conversely, if appointment to a covered position 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.
2. Any funding contingency of the type referred to in Section II.C shall be set forth separately for the covered position and for the other position, since the operation of any such contingencies may be independent.

¹ Subject to any compensation policies adopted by the Board of Governors or the Board of Trustees.

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

3. When an appointment to a covered position is to be accomplished 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.

III. Evaluation of Performance

Any employee in a position covered by these regulations shall be reviewed annually by the employee's supervisor. Each supervisor shall devise his or her own method of performance evaluation, including an evaluation form.

IV. Discontinuations of Employment in Covered Positions

A. Discontinuation of appointment, with notice or severance pay

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

1. During the first year of service either:
 - not less than 30 days prior to discontinuation of employment
 - or the payment of severance pay for 30 days
2. During the second and third years of service either:
 - not less than 60 days notice prior to discontinuation of employment
 - or the payment of severance pay for 60 days
3. During the fourth and all subsequent years of continuous service either:
 - not less than 90 days notice prior to discontinuation of employment
 - or the payment of severance pay for 90 days

The Chancellor may provide the employee with a combination of notice and severance pay that totals the respective required number of days.

The determination of whether the employee shall receive notice of discontinuation of the appointment or severance pay shall be in the sole discretion of the Chancellor.

B. Expiration of term appointment

Employment within a covered position 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 II. If the employer intends not to renew or extend the term contract, the following pertains:

1. To an employee with a term of one year or less, no notice of intent not to renew shall be required

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

2. To an employee with a term of more than one year but less than four years, notice of intent not to renew shall be transmitted in writing at least 60 days prior to the expiration date of the term
3. To an employee with 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 notice as required in subsections 2 and 3 shall result in the automatic extension of employment for a period, respectively, of either 60 days or 90 days, beyond the scheduled expiration date of the term.

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

Employment within a covered position 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 in the following cases:

1. Demonstrable, bona fide, institutional financial exigency; or
2. Major curtailment or elimination of program.

"Financial exigency" is defined to mean a significant decline in financial resources of the University that compels a reduction in the institution's budget. The determination of whether a condition of financial exigency exists or whether there will be a major curtailment or an elimination of a program shall be made by the Chancellor, with advance notice to and approval by the President and 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 covered position cannot be met, the employment of the individual may be terminated, subject to the following notice requirements:

1. During the first year of service, not less than 30 days notice prior to termination
2. During the second and third years of employment, not less than 60 days notice prior to termination
3. During the fourth and all subsequent years of service, not less than 90 days notice prior to termination

D. Discharge for Cause

Any employee occupying a covered position may be discharged for stated cause. Discharge for cause is to be distinguished from discontinuation with notice (Section IV.A), automatic expiration of term (Section IV.B), and termination (Section IV.C). 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 V of these policies. When an employee occupying a covered position has been notified of the intention to discharge him or her for cause, the Chancellor may suspend his

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

or her 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.

V. Review of Employment Decisions and Grievances

A. Employees in covered positions may secure review of decisions concerning discharge for cause or other disciplinary action, or of grievances concerning the interpretation and application of any provision of these policies; provided, however, that grievances concerning discontinuations, expiration of term appointments, or terminations of employment with notice, pursuant to Sections IV.A, IV.B, or IV.C, may be brought only upon allegations of violations of applicable notice requirements or violations of any provision of Section VI or VII of these policies.

B. The employee will have ten (10) days from the receipt of notice ("day" referred to shall mean any day except Saturday, Sunday, or an institutional holiday; the day in which notice is received is not counted; the last day of the period is to be counted) in which to make a brief written statement explaining the grievance and requesting a review. The request will be submitted to the Chair of the Grievance Committee, with a copy to the Chancellor. Requests for all other grievance appeals should be made within a timely fashion. If the notice is not received within the specified time, then the action is final with no further recourse.

C. Covered persons may seek review of review of personnel actions based on allegations that:

1. Notice

For discontinuations, expiration of term appointment, or termination of employment with notice, such review may be sought only upon allegations of violations of applicable notice requirements set out in policies 300.2.1 III A., B., and C. of the University Policy Manual; or

2. Equal Employment Opportunity and Protected Activity

For violations of any provision of sections V. or VI. of Policy 300.2.1 of the University Policy Manual; or

3. Discharge for Cause, Other Discipline, Policy Interpretation/ Application

For discharge for cause or other disciplinary action, or for interpretation and application of a policy provision, all pursuant to and limited by Policy 300.2.1 IV. of the University Policy Manual,

except that such review may be sought only if the employee alleges the discharge, discipline, or policy interpretation or application was illegal or violated a policy of the Board of Governors.

D. If the employee or former employee timely files a written request for review, the chancellor shall ensure a process is in place so that a hearing is timely accorded before a hearing committee.

E. 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 employee or former employee has 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.")

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

- F. If the chancellor concurs in a recommendation of the committee that is favorable to the employee, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the employee or concurs in a committee recommendation that is unfavorable to the employee, the employee may appeal within 14 calendar days after receiving the chancellor's written decision by filing with the chancellor for transmission to the Board of Trustees a written notice of appeal, including a brief statement of the basis for the appeal, by certified mail, return receipt request, or by another means that provides proof of delivery, and alleges as set out in section V. c. above. The decision of the Board of Trustees is final with no further appeal.
- G. A five-member appeals committee, the majority of whom will be employees in covered positions, will be appointed by the Chancellor. The Chancellor will name the chair. The committee is advisory to the Chancellor. If any employee in a covered position feels that he or she has a grievance, they may petition the appeals committee for redress. The petition shall be written and shall set forth the nature of the grievance and against whom the grievance is directed. The committee shall decide whether the facts merit a detailed investigation. The submission of a petition shall not automatically result in a formal hearing.
- H. If the membership of the committee is for any reason inappropriate in a particular case in the judgment of the chair, the chair may recommend some change of membership to ensure objective and timely review in that case. The Chancellor may add or subtract members in response to this recommendation, on a temporary basis.
- I. Review will be initiated by a written request explaining the grievance. The petition will be submitted to the chair, with a copy to the Chancellor. The review will be conducted as directed by the chair of the committee, guided by the sole purpose of providing a fair, balanced, and dispassionate hearing, if the committee determines there is sufficient evidence to warrant a formal hearing. If the findings of the committee result in a formal hearing, the proceedings will be held in accordance with the "Appeals Guidelines for Designated Exempt Employees (EPA Non-Faculty)."
- J. The committee's findings, opinions, and recommendations will be written and delivered to the Chancellor with a copy to the grievant within 30 days after receipt of the petition. Additional time may be requested by the chair from the Chancellor as needed.
- K. The committee may at any time submit policy suggestions to the Chancellor as experience dictates, toward the end of improving the fairness and effectiveness of these hearings. Any claim by the committee upon the time of University Counsel should first be approved by the Chancellor.
- L. The Chancellor's decision upon receipt of committee recommendations is final. Review thereafter may be had in accordance with the provisions of Section 611 C of *The Code of the Board of Governors of The University of North Carolina*.

VI. Equal Employment Opportunity

It is the policy and intention of The University of North Carolina at Greensboro that there be equal employment opportunity and freedom from unlawful discrimination in all employment within The University of North Carolina at Greensboro.² Employment in covered positions shall be conducted

² See The University's Policy on Discriminatory Conduct for the complete equal opportunity statement.

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

in accordance with all provisions of state or federal law or regulations prohibiting any such discrimination, and in accordance with applicable affirmative action plans.

VII. Protected Activity

Employment in covered positions shall not be adversely affected by the exercise of rights guaranteed by the First Amendment to the United States Constitution or by Article I of the North Carolina Constitution; provided, that employees in covered positions shall be subject to any limitations on political activity established by Article 5 of G.S. Chapter 126. The Board of Governors' policies concerning political activity, Policy §300.5.1., et seq., as may be revised from time to time, shall apply to covered positions.

VIII. Holiday and Leave Entitlement

A. Holidays

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

B. Annual Leave³

1. Basic Leave Policy

The amount of annual leave to which a permanent full-time employee (1.00 FTE) in a position covered by these regulations 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. 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 their current rate.

The maximum number of unused days of annual leave that may be accrued and carried forward from one year⁴ 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.⁵

2. Transfer of Accrued Annual Leave

Upon discontinuation of employment from the employing institution, the employee may either elect a payout of accrued annual leave [see 4. Below] or transfer the remaining balance

³ Effective July 1, 2001.

⁴ "Year" is defined as a calendar year (January 1 – December 31).

⁵ In the case of an employee who has been prevented from using annual leave by his or her supervisor (due to scheduling conflicts or other job-related reasons) and, as a result, the employee has over 30 days of leave accrued, the supervisor shall decide whether to 1) allow the employee to carry over any such days, 2) allow the days to convert to sick leave (if allowable under the employees retirement program), or 3) pay out the employee for all or some portion of the unused leave.

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

of any unused annual leave to another State or local governmental agency, subject to the receiving agency's approval.

Upon appointment to UNCG, an employee may request to transfer the remaining balance of any unused annual leave, subject to a maximum of 30 days, from another UNC constituent institution or State or local governmental agency. The approval of the request to transfer leave is subject to the employing department's acceptance of the fiscal responsibility.

3. Advancement of Annual Leave

Subject to the approval by the employee's supervisor, an employee may be advanced the amount of leave that can be accrued during the remainder of the calendar year. If an employee separates from the employing institution and has taken more annual leave than has been accrued, the employee must repay to the institution the amount of the difference in leave accrued and leave taken. Repayment will be made through deductions from the employee's final salary check.

4. Payout of Accrued Annual Leave

An employee in a position covered by these regulations who has accrued unused annual leave upon discontinuation of employment from the employing institution and who either does not elect or is not eligible to transfer such accrued leave to another State or local governmental agency, shall be paid for such unused annual leave.⁶ 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. EPA employees who change in employment status to a non-leave earning position not covered by this policy shall receive a payout of accrued annual leave.

C. 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 these regulations shall be subject to the same provisions concerning sick leave, family and medical leave, family illness leave, civil leave, military leave, community service leave, and special annual leave bonus as may be prescribed for employees subject to the State Personnel Act. With respect to sick leave, subject to 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 calendar year.

D. Leave of absence without pay

Employees in covered positions may request leave of absence, without pay, subject to approval of such a leave by the Chancellor.

E. Educational entitlement

⁶ When such an employee with accrued annual leave is separating from the University, he or she may be required to use all or some portion of his or her accrued leave rather than receive a full leave payout at the discretion of his or her supervisor.

Employees Exempt from the State Personnel Act (EPA Non-Faculty) Personnel Policies

Employees in covered positions are entitled to the same opportunities as other University employees to invoke the privilege of tuition waiver conferred by UNC Policy 1000.2.2.

F. Voluntary Shared Leave

Permanent employees with appointments of three-quarter or more 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.

IX. Statutory and Other Rules of Employment

A. Privacy of personnel records

Employees in covered positions enjoy the protections of and are subject to the provisions of Article 7 of G.S. 126, entitled "The Privacy of State Employee Personnel Records."

B. Employment preference for veterans

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

C. Employment of related persons

Employees in covered positions are subject to the policy concerning employment of related persons as adopted by the Board of Governors on April 13, 1973, and as it may be revised from time to time.

D. Retirement

Employees in covered positions may retire in accordance with the provisions of Chapter 135 of the North Carolina General Statutes.

X. Effective Date

The effective date of these policies shall be September 1, 1981. The policies may be revised from time to time, with subsequent changes to selected portions of the policies effective on the dates indicated herein.