



NORTH CAROLINA A&T STATE UNIVERSITY

CHAPTER 100 - PERSONNEL POLICIES

UNIVERSITY POLICY 161, EHRA NON-FACULTY EMPLOYEES

SECTION 161.1 POLICY STATEMENT

It is the policy of North Carolina Agricultural and Technical State University (N.C. A&T or University) to provide non-faculty Employees Exempt from the State Human Resources Act (EHRA) with specific information relating to appointment, terms and conditions of employment, and separation from employment.

SECTION 161.2 PURPOSE

The purpose of this policy is to set forth specified employment terms applicable to EHRA non-faculty employees. Leave entitlement for EHRA employees is set forth in the University's leave policies.

SECTION 161.3 SCOPE

This policy applies to all permanent non-faculty Senior Academic and Administrative Officers (SAAO-Tier I and SAAO-Tier II) and EHRA non-faculty employees.

SECTION 161.4 DEFINITIONS

- (a) "Financial exigency" means a significant decline in financial resources of the University that compels a reduction in the University's budget.
- (b) "Mediation" is the process in which the Complainant and Respondent use an approved mediator to attempt to resolve a grievance in a mutually acceptable manner. Responsibility for resolving the grievance rests with the parties. A designated University representative with the authority to negotiate an agreement on behalf of the University to resolve a grievance will be present at the mediation.
- (c) "Senior Academic and Administrative Officer –Tier I" positions include the UNC System President, vice presidents and members of the President's professional staff, chancellors, provosts, deans, and directors of major administrative, educational, research and public services activities designated by the Board of Governors.
- (d) "Senior Academic and Administrative Officer -Tier II" positions include associate and assistant vice chancellors, associate and assistant deans, and other administrative positions that have been designated and approved by the President.

SECTION 161.5 APPOINTMENT TO EHRA NON-FACULTY POSITIONS

Section 161.5.1 Method of Appointment

The Chancellor or Chancellor's designee shall make appointments to EHRA non-faculty positions.

Section 161.5.2 Letter of Appointment

Every letter of appointment to a position subject to this policy shall include a copy of this policy and:

- (1) the title of the position;
- (2) the initial salary;
- (3) provision for periodic review of compensation;
- (4) provision for funding contingencies, if applicable;
- (5) the annual leave entitlement of the employee;
- (6) notice that the employment is either for a stated definite term or "employment at-will," as applicable, subject to continuation or discontinuation at the discretion of the Chancellor (except for contracts or letters of appointment of directors of athletics); and
- (7) notice that the employment is subject to Board of Governors policies set forth in the UNC Code and Policy Manual as adopted and as they may be periodically revised.

Section 161.5.3 Contingent Appointments

When an EHRA non-faculty 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:

- (1) 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;
- (2) specify the source of such funds; and
- (3) shall state that the effect of such contingency may apply without the additional notice required for discontinuation of appointment with notice or severance pay, expiration of term appointment, or discontinuations of employment in covered positions if the affected employee will be informed at the earliest practicable date of the funding contingency occurrence.

Section 161.5.4 Individuals Covered by More than One Employment Policy

(a) When an employee is to serve simultaneously in a position subject to this policy and a position of University employment that is not subject to this policy, one position shall be designated as the base position to determine the conditions of employment and the rights and responsibilities of the employee.

(b) If an employee is appointed to a position that is not subject to this policy, and is

subsequently appointed to a position that is subject to this policy, the letter of appointment to the EHRA non-faculty position shall designate the base employment.

- (c) If an employee was appointed to an EHRA non-faculty position prior to appointment to the other category of University employment, the letter of appointment or contract establishing the second employment shall designate the base employment.
- (d) The designation of base employment shall describe the different rights, duties, and compensation for each position and the relationship, if any, between the two positions.
- (e) Since the operation of contingencies may be independent, any funding contingencies shall be set forth separately for positions subject to this policy, and for other positions.
- (f) When appointment to an EHRA non-faculty position 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," shall be used to identify the faculty appointment.

Section 161.5.5 Terms of Appointment and Reappointment

Section 161.5.5.1 Senior Administrative Officers-Tier I

- (a) The Board of Governors or its designee must approve appointments of Senior Academic and Administrative Officers-Tier I (SAAO-Tier I).
- (b) SAAO-Tier I do not have tenure in their administrative positions. Except for the Chancellor, they serve at the discretion of their employer and are not appointed to serve for specified periods.
- (c) SAAO-Tier I continuance in office is subject to determination by the appropriate authority as follows:
 - The Board of Governors determines the Chancellor's continuance in office.
 - The Chancellor shall determine the continuance in office of vice chancellors, provosts, deans, and directors of major educational, research and public services activities.
 - The Board of Governors may initiate action to terminate the appointment of SAAO-Tier I when it determines that such action is necessary and in the University's best interests.

Section 161.5.5.2 Senior Academic and Administrative Officers - Tier II

- (a) Senior Academic and Administrative Officers-Tier II (SAAO-Tier II) are at-will and subject to continuation or discontinuation at the discretion of the Chancellor (except for contracts or letters of appointment for directors of athletics, which may be for a term of years as set forth in UNC Policy 1100.3).

- (b) SAAO-Tier II may be appointed to a period of employment not to exceed a specified number of years as long as the appointment letter states that the employee may be removed at any time during that period, at the Chancellor's discretion.

Section 161.5.5.3 EHRA Non-Faculty Professionals

Any initial appointment or reappointment for a permanent EHRA professional position may be either "fixed-term" or "at will."

- An appointment for an indefinite term may be designated as "employment at will" subject to continuation or discontinuation at the discretion of the Chancellor or Chancellor's designee.
- A fixed-term appointment may be converted to an "at will" appointment at the end of a fixed-term. An "at will" appointment may be converted to a fixed-term appointment at any time.

SECTION 161.6 DISCONTINUATION OF EMPLOYMENT

Section 161.6.1 Discontinuation of Appointment with Notice or Severance Pay

- (a) Employment to an EHRA non-faculty position that is established by the letter of appointment to be employment "at will" is subject to discontinuation at any time at the discretion of the Chancellor or designee. The discontinuation shall be subject to advance timely notice as follows:
- (1) During the first year of service, not less than 30 calendar days prior to discontinuation of employment;
 - (2) During the second and third years of service, not less than 60 calendar days prior to discontinuation of employment; and
 - (3) During the fourth and subsequent years of continuous service, not less than 90 calendar days prior to discontinuation of employment.
- (b) The Chancellor may provide the employee with a combination of notice and severance pay. The Chancellor shall determine whether the employee shall receive notice of discontinuance of the appointment, severance pay, or a combination of the two.
- (c) After consultation with the provost, vice chancellor, and/or dean as appropriate, the Chancellor may determine that it is in the University's best interest to provide the employee with severance pay in lieu of notice. The severance pay amount must directly relate to the required notice period.

Section 161.6.2 Expiration of Term Appointment

- (a) Employment within a SAAO- Tier II position established by a letter of appointment dated before December 1, 2004 for a stated definite term expires automatically at the conclusion of the stated term; however, the appointment may be extended on an employment at-will basis by written notice in accordance with Section 161.5.2

- (b) If the University intends not to extend the employment:
 - (1) For a term of one year or less, no notice of intent not to extend shall be required;
 - (2) For a term of more than one year but less than four years, notices of intent not to extend shall be transmitted in writing at least 60 calendar days prior to the expiration date of the term;
 - (3) For a term of four years or more, notice of intent not to extend shall be transmitted in writing at least 90 calendar days prior to the expiration date of the term.
- (c) Failure to provide written notice as required in subsections (b) and (c) above shall automatically extend the employment respectively for either 60 or 90 calendar days beyond the date that the employee is given notice.

Section 161.6.3 Termination of Employment Due to Financial Exigency, Program Curtailment, or Elimination

- (a) Employment in a SAAO-Tier II position that is established for a stated definite term by the letter of appointment may be terminated before the expiration of the stated term because of a demonstrable, bona fide institutional financial exigency or major curtailment or elimination of a program.
- (b) 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 Chancellor, with advance notice to and approval by the Board of Governors.
- (c) If the financial exigency, 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 as follows:
 - (1) During the first year of service, not less than 30 calendar days' notice prior to termination;
 - (2) During the second and third years of employment, not less than 60 calendar days' notice prior to termination; and
 - (3) During the fourth and all subsequent years of service, not less than 90 calendar days' notice prior to termination.

Section 161.6.4 Discharge for Cause

Section 161.6.4.1 Discharge

Any EHRA non-faculty employee may be discharged for stated cause. Stated causes for discharge shall include, but not necessarily be limited to incompetence, unsatisfactory performance, neglect of duty, or misconduct that interferes with the employee's ability to effectively perform the requirements of employment.

Section 161.6.4.1.1 Notification of Intent to Discharge

- (a) The Chancellor's designee for providing written notice of the intent to discharge

shall be the executive officer of the employee's division.

- (1) The executive officer shall send a written statement of intention to discharge the individual by certified mail, return receipt requested.
 - (2) The statement of intention to discharge shall include notice of the employee's rights, including both the right to request a written specification of the reasons for the intended discharge and a hearing.
 - (3) The notice shall inform the individual that any request for specification or hearing must be sent by certified mail, return receipt requested.
- (b) If, within five business days after receiving the notice of intent to discharge, the individual makes no written request for either a specification of reasons or a hearing, the individual may be discharged without recourse to any University grievance or appellate procedure.

Section 161.6.4.1.2 Request for Specification of Reasons for Discharge

- (a) If the individual makes a written request by certified mail, return receipt requested, for a specification of reasons within five business days after receiving the notice of intent to discharge, the executive officer shall respond to the request in writing by certified mail, return receipt requested, within five business days after receiving the request.
- (b) If the individual makes no written request for a hearing within five business days after receiving the specification, the individual may be discharged without recourse to any University appellate procedure.

Section 161.6.4.1.3 Suspension Pending Final Decision

- (a) When an EHRA non-faculty employee is notified of the University's intention to discharge for cause, the Chancellor may suspend the employment at any time and continue the suspension until a decision concerning discharge is reached.
- Suspension shall be with full pay.
 - If discharge is the University's final decision, the employee may be discharged without further pay regardless of whether there is an appeal to the Board of Trustees.
 - Nothing in this policy shall be interpreted to extend an employee's right to pay beyond the expiration of the employee's term of appointment while an appeal is pending under this policy.
- (b) For purposes of this policy, an individual serving a stated term should be regarded as having the protection of these procedures until the end of the term.
- (c) These discharge procedures shall not apply to cases of non-reappointment, discontinuation, or expiration of a term appointment.

SECTION 161.7 ADMINISTRATIVE SEPARATION

Section 161.7.1 Administrative Separation for Service Beginning On or After May 2, 2010

Section 161.7.1.1 Administrative Separation and Return to a Tenured Faculty Position

Section 161.7.1.1.1 Return to Tenured Faculty Position

- (a) An administrator with a concurrent tenured faculty appointment may return to that appointment with all the rights and responsibilities of faculty in the home department, unless a proceeding is initiated to discharge or demote the tenured faculty member.
- (b) Administrative stipends paid during the administrative appointment shall be discontinued and the salary shall be adjusted from a 12-month administrative salary to a 9-month or 12-month faculty salary that is consistent with those of comparable faculty members.

Section 161.7.1.1.2 Research Leave

The Chancellor may allow research leave for up to one semester for a tenured faculty member who served in one or more consecutive SAAO positions for at least five years in order to provide an opportunity for the faculty member to prepare for teaching and research responsibilities.

- The administrator shall submit a work plan for the leave period to include expected outcomes prior to the beginning of the research leave.
- The Chancellor must review and approve the plan.
- The leave will be paid at a salary consistent with the salaries of comparable faculty members.

Section 161.7.1.1.3 Exceptions

Exceptions may be made to recognize extraordinary circumstances. The Board of Trustees and President must approve exceptions.

Section 161.7.1.1.4 Failure to Return to Faculty Role

If the faculty member fails to assume faculty responsibilities for at least one semester after the research leave concludes, the Chancellor may require repayment of compensation paid during the leave period from the non-returning faculty member.

Section 161.7.1.2 Reappointment of an Administrator without Faculty Return Rights

- (a) An administrator leaving an “at-will” position has no claim to a position at the University.
- (b) In cases where an assignment to another administrative or teaching position would benefit both the institution and the employee, the new salary shall be appropriate to the assignment. The Board of Trustees and the President shall approve any exception.

Section 161.7.1.3 Separation from the University

In some cases, the University may choose to negotiate a severance agreement with an administrator.

- These employees are entitled to notice of the discontinuation of their employment with full pay for up to 90 calendar days or severance pay, depending on their length of service.
- The Chancellor may determine that the circumstances justify the continuation of full pay for employees for up to 90 calendar days.
- The Board of Trustees must approve any agreement that results in a longer period of compensation.

Section 161.7.2 Administrative Separation for Service Beginning Before May 2, 2010

Section 161.7.2.1 Retreat to a Faculty Position

- (a) An EHRA non-faculty employee who is employed at will with a concurrent tenured faculty appointment may return to that appointment with all the rights and responsibilities of faculty in the home department, unless a proceeding is initiated to discharge or demote the administrator from the faculty position.
- (b) Administrative stipends paid during the appointment shall be discontinued, and the salary shall be adjusted from a 12-month administrative salary to a 9-month or 12-month faculty salary that is consistent with the salaries of comparable faculty members.
- (c) The Chancellor may provide for a reasonable period of time with full administrative salary to provide an opportunity for the employee to prepare for teaching and research responsibilities.
 - The reasonable period must be related to the time spent in administrative duties.
 - The Board of Trustees must approve any proposal to pay the administrator for administrative duties for longer than a year after the administrative duties end.

Section 161.7.2.2 Reappointment of Administrator without Faculty Retreat Rights

- (a) An administrator leaving an “at will” position has no claim to a position at the University.
- (b) In cases where an assignment to another administrative or teaching position would benefit both the institution and the employee, the new salary shall be appropriate to the assignment. The Board of Trustees and the President shall approve any exception.
- (c) The Board of Trustees must approve any proposal to pay the administrator for administrative duties after moving the administrator to a position that would normally be lower paying, or if paid leave is to be granted.

Section 161.7.2.3 Separation from the University

In some cases, the University may choose to negotiate a severance agreement with an administrator.

- These employees are entitled to notice of the discontinuation of their employment with full pay for up to 90 calendar days or severance pay, depending on their length of service.
- The Chancellor may determine that the circumstances justify the continuation of full pay for employees for up to 90 calendar days.
- The Board of Trustees must approve any agreement that results in a longer period of compensation.

SECTION 161.8 MEDIATION

The parties may attempt mediation in accordance with University Policy 164, Mediation.

SECTION 161.9 REQUEST FOR HEARING

Requests for EHRA non-faculty grievance or review hearings shall be made in accordance with University Policy 160, EHRA Non-Faculty Grievance.

SECTION 161.10 GRIEVANCE HEARING

Hearings shall be conducted in accordance with University Policy 160, EHRA Non-faculty Grievance and Appendix A to University Policy 160, Pre-Hearing and Hearing Procedures for EHRA Non-Faculty Employees.

POLICY HISTORY:

Eff. January 18, 2022

AUTHORITY: Board of Trustees

POLICY OWNER: Vice Chancellor for Human Resources

RESPONSIBLE OFFICE: Employee Relations

RESOURCES:

University Policy 160, EHRA Non-Faculty Grievance

Appendix A to University Policy 160, Pre-Hearing and Hearing Procedures for EHRA Non-Faculty Employees

Appendix B to University Policy 160, EHRA Non-Faculty Grievance Committee

University Policy 164, Mediation

University Policy 204, [Equal Opportunity and Non-Discrimination](#)

[University Policy 207, Sexual Harassment, Discrimination, and Misconduct](#)

University Policy 209, Unlawful Harassment and Discrimination

[UNC Policy Manual Chapter 300](#)

[N.C. Gen. Stat. § 126-5](#)