

## **Guidelines for the Phased Retirement Program**

### **I. PURPOSE.**

The University of North Carolina Phased Retirement Program (the "Program") provides an opportunity for eligible full-time tenured faculty members to make an orderly transition to retirement through half-time service (or its equivalency) for a predetermined number of years. It is completely voluntary, and the terms of an Eligible Faculty Member's participation will be implemented by written agreement between the enrolling faculty member and The University of North Carolina ("the University"). The Program will be available for application on a continuing basis beyond the original period of five years (which, otherwise, was to end with the 2002-2003 academic year), and Eligible Faculty Members or faculty members who become eligible may elect annually to seek to enroll in the Program during the enrollment life of the Program, with active participation to commence with the fall semester next following acceptance by the institution for participation.

### **II. ELIGIBILITY.**

Except as set out in Part III, below, the Program is available to all full-time tenured faculty members who (1) have five years of full-time service at the constituent institution of the University at which he or she is currently employed ("the Institution"), (2) are age 50 or older, and (3) are eligible to receive retirement benefits through either the Teachers' and State Employees' Retirement System ("TSERS") or the Optional Retirement Program ("ORP"). Tenured faculty occupying full-time administrative or staff positions are not eligible to participate in the Program until they vacate such positions. Thus, services rendered while in phased retirement will be only those teaching, research, and administrative duties under faculty appointment.

The Phased Retirement Program contemplates actual retirement and reemployment of participating faculty on part-time status for a limited period. For those who have not yet reached "normal retirement age" retirement must be demonstrated by a clear break in service of at least 30 days between cessation of full-time employment and return to institutional employment under the Program. For purposes of the Program, "normal retirement age" is the age at which the participating faculty member would have first satisfied an age-and/or-service requirement for "service" (unreduced) retirement if enrolled in the Teachers' and State Employees' Retirement System (TSERS). Under TSERS "unreduced" retirement is available if one is age 60 with 25 years of credited service time, if one is age 65 with five years of credited service, or if one has 30 years of credited service, at whatever age. If a person has achieved any one of these three service levels, the person has reached "normal retirement age" and need not undertake a break in service prior to entering the Phased Retirement Program.

It is the individual faculty member's responsibility to insure that the Institution has all information necessary for it to determine the eligibility of the applicant as to age, service at the Institution, and retirement benefit eligibility within either TSERS or the ORP. For these purposes the Institution shall determine an applicant's age and service longevity with reference to the August 1 that follows submission of an application for participation.

### III. LIMITATIONS ON ELIGIBILITY.

The Program provides that the institutions may limit participation in the Program as follows:

- (1) An institution may establish departmental or school and/or institutional caps on faculty participation in the Program.
- (2) A department, school, or institution may deny an application to participate in the Program in response to a *bona fide* finding that financial exigencies of the employing institution prohibit further enrollment in the Program. This finding must be based on quantifiable budget constraints of the affected institution and consistent with Section 605A. of the Code.
- (3) A department, school, or institution may also deny an application to participate in the program upon a finding that granting the application would substantially weaken academic quality or disrupt program sequence. This finding should be supported by external measures of program quality such as accreditation standards. (See Section IV [2] below).

All enrollments in the Program shall commence with the fall semester of the academic year next following execution of an agreement between the Institution and the participant for PRP employment whether or not services are performed during the fall semester.

### IV. INSTITUTIONAL PROGRAM GUIDELINES.

Each institution must develop Institutional Guidelines for its implementation of the Program (“Institutional Guidelines”). Once developed, or when substantively amended, each institution’s Institutional Guidelines must be forwarded to the President for the President's approval.

Each set of Institutional Guidelines shall include, or be accompanied by, an official description of any of the following participation policies adopted by the institution:

- (1) a list of any caps on participation referencing the level (department, school, or institution) to which a cap pertains. A cap should be applied with reference to predetermined, non-subjective criteria such as length of service or percentage of faculty. The cap of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.) A cap may be an

absolute number or a formula that produces a number; the cap should be consistent over a substantial period of years, not less than five.

- (2) a detailed description of any limitations the department, school, or institution places on participation because of financial exigencies. This section should include specific references to the budget constraints which prohibit participation and to the means to determine that such exigencies exist. The limitation with respect to constraints of financial exigencies of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.)
- (3) a detailed description of any departmental, school, or institutional limitations on the number of eligible faculty who can participate in the Program based on preservation of academic quality. The description should include reference to objective factors which require limitations on participation; e.g., shortage of professors in a department or school, required number of faculty necessary for the department or institution to operate, student/faculty ratios, etc. These factors should not be based in any way on age or the expected retirement of specific faculty members. The limitation with respect to preservation of academic quality of an institution and/or a department or school must be applied consistently to all eligible faculty timely seeking to commence enrollment in the Program the same fall semester. (See Sections V. and VI.A., below.)
- (4) A list by faculty rank, age, and department (but without name) of those faculty eligible and those ineligible to participate in the Program. This list should include those faculty ineligible to participate because they currently occupy full-time administrative positions; their listing should include both faculty and administrative titles. Faculty are individually responsible for providing to the Institution age and service data needed to determine their Program eligibility.
- (5) the number of academic years that participants will be allowed to remain on phased retirement. One uniform time period must be adopted by the institution with the same number of years for all participants, between one and five, and may not vary by department or school within the Institution. Participation in the Program may not be extended or renewed beyond completion of those years.
- (6) a detailed description of the procedures that the Institution will use to ensure that Eligible Faculty Members are informed about the Program.
- (7) a detailed description of the procedures the Institution will use to receive, review, and approve applications for participation.

- (8) a schedule of potential services for the institution or for each department or school if they differ among departments or schools. The services that comprise a faculty member's individual work plan under the Program will be drawn from this schedule. A typical work plan will likely call for services to be rendered over the two regular-term semesters of the academic year. The work plan may call for services over all 12 months of the participation year, as often occurs under research professorships. However, no work plan may include duties incident to summer school curricula.

## **V. DISTRIBUTING INFORMATION ON THE PHASED RETIREMENT PLAN.**

The following materials should be prepared and distributed to every tenured Faculty Member who appears eligible or likely to become eligible for the Program.

- The UNC Phased Retirement Program Policy (UNC Policy Manual 300.7.2)
- A letter announcing the Program
- A copy of the Model University of North Carolina Phased Retirement Application and Reemployment Agreement
- A copy of the Model Phased Retirement Release
- A Chart reflecting information regarding persons who are eligible and those who are ineligible for the Program. (See example at Section VI.E.2., below.)

At the time of each distribution of the Program materials to Faculty the institution should place a notice of the Program in an institutional newsletter or other organ of general circulation among faculty that invites faculty who believe they may be eligible to inquire at an identified institutional office about their Program eligibility.

The Institution should distribute these materials by September 1 of the calendar year preceding the academic year in which it appears that the Faculty Member could first apply to participate in the Program.

A Faculty Member may apply for the Program not earlier than eleven (11) months prior to commencement of the first semester of Program participation and not later than six (6) months prior to that semester.

For purposes of this Program a semester will be deemed to commence on the date that faculty rendering services under an individual work plan are required to begin performing services with respect to the pertinent semester.

## **VI. APPLICATION PROCEDURES.**

### **A. Time Periods.**

Faculty group meetings should be held or at least made available at each institution for all persons eligible to elect into the Program. Persons who plan to apply to participate in the Program should meet with the officials appointed or designated by their institution to answer questions about the Program. Faculty may then approach their respective department chair or school dean to negotiate participation and their half-time work plan for the phased retirement period. When this negotiation has been completed, the electing Eligible Faculty Member will be provided a completed Phased Retirement Application and Reemployment Agreement (the "Agreement") and a Release (the "Release") to consider and sign. As required by the Age Discrimination in Employment Act ("ADEA"), the person shall have at least forty-five (45) calendar days to execute and return the Agreement and the Release to the Institution. The forty-five day period begins with the date of the Institution's "final offer." (The date of the final offer is the date on which the Institution physically delivers to the faculty member the completed, but as yet unsigned, Agreement and Release, or the date on which the documents are posted to the faculty member; the postmark date or date of receipt for postal handling of the documents shall be prima facie evidence of the date of final offer.)

Persons electing to participate in the Program also have the right under the ADEA to revoke the Agreement and the Release anytime within seven (7) calendar days of the date both documents are fully executed by the parties. An election to participate in the Program does not become final until after that date. Revocations shall be in a writing personally signed by the affected faculty member and shall be effected by personal delivery of the revocation, or by submission of it for postal delivery to the office or official to whom the prior application to participate in the Program had been submitted. (The date of revocation is the date on which the faculty member physically delivers the revocation to the appropriate institutional officer or office or the date on which the revocation is posted to that officer or office; the postmark date or date of receipt for postal handling of the revocation shall be prima facie evidence of the date of the revocation.)

If the Agreement and the Release are effectively revoked, the Agreement is void.

## **B. Questions and Answers.**

There are sure to be numerous questions about the Program. Each institution shall designate specific officials who will be the only persons authorized to respond to these questions. They will likely be Human Resource personnel, such as the campus Benefits Officer or other Personnel Department staff. The number of individuals appointed for this purpose should be kept to a minimum. The more individuals an institution authorizes to answer questions, the greater the risk that an institution's answers to questions will not be uniform. Each institution must ensure that the information provided faculty members is accurate and consistent. This may be aided by presentations at scheduled Program orientations, like the faculty group meetings suggested in section VI.A., above. These faculty and administrative personnel designated to provide Program information should be told not to respond to interpretive policy questions about the operation of the Program and, instead, advised to refer such questions to a single designated official of the Institution.

Institutions may seek assistance from representatives in the UNC Office of the President Divisions of Academic Affairs, Legal Affairs, or Human Resources. This assistance is intended to be a source of information for each institution's Program officials, not a hotline for faculty members.

A frequent question will likely be, "Should I apply to participate in the Program?" Faculty members should be advised that the decision to seek to enter the Program is a personal one and one they will have to make on their own. An institution **SHOULD NOT** advise a faculty member to seek or not seek to participate in the Program. For example, a Program officer should not say, "If I were in your shoes, I would seek to participate," or "I think this is a good opportunity for you since you are close to retirement age."

The following do's and don'ts also may be helpful:

### **DO**

- Spend as much time with the faculty member as necessary to fully explain the Program.
- Answer any question the faculty member has about the operation of the Program or the eligibility and disqualification provisions of the Program.

### **DON'T**

- Provide an opinion to a faculty member on whether he or she should seek to participate in the Program.

- Indicate to a faculty member that anything about his or her current position and work at the institution will change if he or she does not seek to participate in the Program.
- Give out names of faculty members who are participating or not participating in the Program.
- Discuss the effect that a faculty member's decision may have on another faculty member's opportunity to participate in the Program.
- Discuss or mention in any fashion or form age, race, gender, national origin, disability, creed, color, military service, sexual orientation, or religious affiliation. These circumstances should play no part in information the institution provides regarding the Program.

### **C. Participation Limits or Caps.**

Some departments, schools, or institutions may have approved limits or caps on the number of Program participants independent of limitations based on financial exigency or compromise of academic quality. If the department, school, or institution receives more qualified applications for the Program than it has available spaces, it should select participants based on non-subjective criteria, e.g., their employment start date at the Institution (that is, by institutional seniority, with the qualified person having the most institutional seniority being selected first).

### **D. Work Plans.**

The Program permits Eligible Faculty Members to work half-time (or its equivalent) for half-time compensation. Each institution is responsible for developing an individual half-time work plan with faculty who wish to participate in the Program. These agreements should be between an institutional officer designated for this purpose (such as a dean or department chair) and the Eligible Faculty Member.

Before beginning discussions with Eligible Faculty Members, each institution should devise a half-time schedule of potential services. The schedule may vary by department or school but should always cover the complete range of contracted faculty activities, for example, teaching, research and creative activities, service, advising, writing of grants, and publications. The schedule should be as detailed as possible and may be used as an attachment to the agreements with Eligible Faculty Members accepted to participate in the Program.

Once the duties and arrangements with an Eligible Faculty Member are fully determined, the agreement to participate in the Program must be stated in writing in a formal Agreement and co-signed by the faculty member, the chair of the employing department, dean of the school or division, and the Chief Academic Officer. In cases where the Institution and the Eligible Faculty Member cannot agree on a half-time plan, the Eligible Faculty Member will not be allowed to participate in the Program. Once an Agreement is finalized, the parties by mutual accord may still terminate the Agreement at any time.

Each institution should strive to make the Agreements as uniform as possible within each department or school. The Agreements must be based on the objective needs of the employing department, school, or institution. Under no circumstances should “deals” be made to encourage faculty members to accept the Program. Likewise, each institution must not take unacceptably harsh positions to dissuade a faculty member from participating.

**E. Agreement and Release.**

1. Procedure.

The last step in the application process is to obtain a Release from the electing Eligible Faculty Member. The requirements for a valid release are set out in detail under the ADEA and, thus, it is mandatory that each institution follow the steps outlined below:

- a. After an Agreement is completed and executed, the electing Eligible Faculty Member should also execute a Release. Both documents should be retained as part of the Agreement and Release Package.
- b. The Agreement and Release Package should contain:
  - (i) The letter announcing the Program;
  - (ii) The Program Summary;
  - (iii) The Agreement;
  - (iv) The Release; and
  - (v) The job title and age Chart for the institution and the department or school.

It is essential to the validity of the Agreement and the Release that all of this Package has been provided to the Eligible Faculty Member when he or she is offered the completed Release for execution.

- c. The Eligible Faculty Member has at least forty-five (45) calendar days from the time he or she receives the Agreement and Release Package to execute the Release. The Eligible Faculty Member should be encouraged to use the full 45 days and to consult an attorney. Under no circumstances should the Eligible Faculty Member be requested or pressured to return the package in a shorter period.
- d. The Eligible Faculty Member may sign the Release before the end of the 45-day period if he or she so desires. Again, the Eligible Faculty Member should be encouraged by the institution to utilize the full 45-day period.
- e. Once the Eligible Faculty Member signs the Agreement and the Release, he or she has seven (7) calendar days to revoke them. Consequently, an Eligible Faculty Member's Agreement may not be binding until almost two months after he or she receives the Agreement and the Release to execute.

2. The Job Title and Age List.

The ADEA requires that for the release of age discrimination claims to be valid, the Release must include the job titles and ages of all individuals eligible for the Program, and the ages of all individuals in the same job classification or organizational unit who are not eligible. The Chart each institution must attach to the Agreement and Release Package is meant to satisfy this requirement.

Each institution is responsible for preparing this Chart, showing eligibility/ineligibility for the institution as a whole by department or school. The Chart should be in the format of the Example set forth below. The Chart must reflect the faculty members by job title and age. The Chart should also include as persons ineligible to participate those tenured faculty members who meet the eligibility requirements but who are disqualified for one of the reasons identified under the Program, as well as tenured faculty members who do not meet the basic eligibility requirements. Data appearing initially on the Chart were required to reflect projected age and service as of August 1, 1998. The Chart should be updated each year as of August 1, reflecting projected age and service as of the next August 1, to the extent known or reasonably predictable.

<u>Example</u>			
Job title*	Age*	Number Eligible*	Number Ineligible*
History Professor	60	2	0
“ “	59	0	1
[This age 59 professor is under admin. appoint. so also give admin. title.]			
Assoc. History Professor	51	1	1
“ “ “	43	0	2
“ “ “	41	<u>0</u>	<u>1</u>
<u>Subtotal</u> (History Dept.)		3	5
Latin Professor	62	1	0
	*****		
TOTAL (Institution)	103	237	

\* This Chart is based upon current institutional information. However, if any error or omission is detected, it should be promptly reported to the appropriate academic department or school. Faculty are individually responsible for providing age and service data needed to determine their Program eligibility.

This Chart should be prepared by individuals not involved in any other aspect of the institution's implementation of the Program. The age data used to prepare the Chart should not be made available to any person who is involved in determining limits on participation in the Program or who is developing individual agreements under the Program. This information is very sensitive and should be treated accordingly.

## **VII. Implementation of the Program**

### **A. Applications.**

Applications to participate in the Program will be taken in two different formats, depending on the situation.

- (1) Where There Are Openings Available Under a Quota Or Openings Without Limitation.

In institutions, departments, or schools with openings available under a preset participation limit or cap larger than the number of applicants or which do not have a limitation on the number of participants, timely applications will be accepted on a first come, first eligible basis. When an Eligible Faculty Member submits an application for the Program, the application shall be processed in the manner described in Sections VI.D. and E., above.

- (2) Where Number of Applicants Exceeds Openings Available Under Quota Or Other Institutional Limitation After Announcement of Such Limitation.

Where the pertinent institution, department, or school has established, pursuant to Sections III. and IV., above, a limitation on PRP participation by means of a cap, a bona fide finding of restricting financial exigency, or the need to deny participation to preserve academic quality or program sequence integrity, the Institution shall limit its consideration of applications for positions in such restricted positions to those applications timely submitted as required under Section VI.A., above. If, under these conditions, more timely applications are received than spaces are available, the Institution shall cease accepting applications for the pertinent positions and shall announce to all Eligible Faculty members who had timely submitted a relevant application that each is to have a period of two weeks (14 calendar days) from the date of the institutional announcement to submit the Eligible Faculty Member's written response, conveying a determination to continue pursuing or to cease pursuing the

corresponding Phased Retirement position. (The date of institutional announcement and the date of faculty response shall each be determined with reference to their date of physical delivery to the addressed party, their postmark date, or date of receipt for postal handling, whichever is earliest.)

The Institution shall promptly and appropriately acknowledge its receipt of all faculty responses. The seniority procedures established in Section VI.C., above, shall then be used with respect to all applications that continue viable.

**B. Data.**

The data discussed in Section VI.E.2., above, must be updated for the Application and the Release to remain valid. The Chart's revision date should appear in the upper right hand corner. A Chart will be deemed current with respect to an application if the Chart has been updated as of the August 1 next preceding the date on which the application is timely received from a faculty member.