

The University of North Carolina

OFFICE OF THE PRESIDENT

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MEMORANDUM

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An Equal Opportunity/
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DATE: June 16, 2005

TO: Chief Academic Officers
Senior Attorneys
Human Resources Directors

FROM: Leslie Winner and Gretchen Bataille 

RE: Post retirement re-employment

The purpose of this memo is to inform you of changes that the legislature is proposing concerning UNC's ability to re-hire State or UNC employees who have retired. Both the Senate and House versions of the appropriations bill have a section, §29.28(h), which redefines "retirement," as set out in G.S. §135-1(20), to mean "*the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service.*" It further provides that, "*[i]n order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute or contractor service, at any time during the six months immediately following the effective date of retirement.*"

Thus, the provision (1) prohibits pre-termination rehiring agreements for retiring employees, and (2) requires a 6 month gap in service, as even a part-time employee or contractor after retirement.

This provision is currently set to become effective July 1, 2005, but it is unclear that that date will be the date if the Appropriations bill does not pass by then. It only applies to employees who retire on or after that date, so if you have employees who have retired and are currently working part time, their continued employment is not affected.

One potential problem is employees who entered into severance agreements before July 1, 2005 in which they agree to retire, and we agree to rehire them after July 1, 2005. We will work to allow us to honor these agreements in the final version, but our success in this endeavor cannot be assured.

In addition, there is a separate effective date for UNC's Phased Retirement Program. The provision does not apply to the PRP until July 1, 2007. Although it is not absolutely clear, we interpret this to mean that it does not apply to anyone who enters into a phased retirement agreement before July 1, 2007. We will try to get this clarified in the final version.

The two year delay in applicability to the Phased Retirement Program does not mean that the Phased Retirement Program will have to end in 2007. Rather, the application of the provision to the PRP was delayed because further guidance and clarification from the IRS about post retirement return to work is expected in the interim. We are hopeful that with relatively minor changes we will be able to retain the Phased Retirement Program in its current form.

If you have any questions about this, feel free to call either of us, or Kitty McCollum.

Copy: Molly C. Broad, President
Wayne McDevitt, Senior Vice President for University Affairs
Jeff Davies, Vice President/Finance
Mark Fleming, Vice President for Government Relations
Kitty McCollum, Associate Vice President for Human Resources