



NORTH CAROLINA SCHOOL
OF SCIENCE AND MATHEMATICS

Title	IMPLEMENTATION GUIDELINES OF THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS PERTAINING TO THE UNIVERSITY OF NORTH CAROLINA PHASED RETIREMENT PROGRAM
Authority	Chancellor
History	Adopted December 1, 2010 Approved by the President August 3, 2011
Legal Reference	<u>300.7.2</u> University of North Carolina Phased Retirement Program; <u>300.7.2.1[G]</u> Guidelines on Implementing Phased Retirement
Additional References	<u>200.6</u> Delegation of Authority to the President; <u>Code 605A</u> Termination of Faculty Employment
Responsible Offices	Chancellor, Human Resources, Academic Programs
Classification	3340

I. PURPOSE

The University of North Carolina Phased Retirement Program (the “Program”) provides an opportunity for eligible regular full-time faculty members to make an orderly transition to retirement through half-time (or equivalent) service for a predetermined period in return for half-time compensation. The Program is completely voluntary and is available when agreed to and entered into by a mutual written agreement between an Eligible Faculty Member and the North Carolina School of Science and Mathematics (“NCSSM” or the “Institution”).

Eligible Faculty Members may apply to participate in the Program during the annual enrollment period, with active participation to commence with the start of the next academic year following acceptance by NCSSM. Enrolling Eligible Faculty Members may elect to begin receiving the benefits they have accrued under either the N.C. Teachers’ and State Employees’ Retirement System (“TSERS”) or the UNC Optional Retirement Program (the “ORP”), but they are not required to do so. However, so long as an Eligible Faculty Member does not receive a monthly retirement benefit, he or she will not be eligible for retiree health insurance through the State Health Plan.¹

II. ELIGIBILITY

- A. The Program is available only to full-time, tenure-equivalent faculty members. Full-time for purposes of this Program is defined as 1.0 FTE on a 10-month, or more, basis at the time of application. Tenure-equivalent for purposes of this Program is defined as holding at the time of application a position pursuant to a regular ten-year fixed-term contract pursuant to the Regulations on Faculty Employment. Alternatively, tenure-equivalence for the purposes of this Program includes an individual holding a

¹ If a faculty member does not elect to receive a monthly retirement benefit from TSERS or ORP, upon entering phased retirement he/she may continue participation in the State Health Plan as a permanent half-time employee on a fully contributory basis. In that case, the faculty member would not be eligible to receive the University contribution.

administrative appointment who held a regular fixed-term contract pursuant to the Regulations on Faculty Employment immediately preceding the administrative appointment, who is eligible to return to the faculty pursuant to the Employment Policy for Senior Academic and Administrative Officers Exempt from the State Personnel Act, and who has served at least ten years at NCSSM. Special faculty are not eligible for the Program.

- B. Except as set forth in Sections II.D. and III. below, the Program is available to all full-time tenure-equivalent faculty members who:
 - 1. Have at least five years of full-time service at NCSSM;
 - 2. Are age 62 or older for members of TSERS or 59½ or older for participants in the ORP; and
 - 3. Are eligible to receive retirement benefits through either TSERS or the ORP, as applicable.
- C. The Program contemplates actual retirement and reemployment of participating faculty on a part-time basis for a limited period. For purposes of the Program, “normal retirement age” is 62 years of age for TSERS members and 59½ for participants in the ORP. When a faculty member has achieved the above-listed age for his or her applicable participating retirement program, he or she will have reached “normal retirement age” and, therefore, need not undertake a break in service prior to entering the Program.
- D. Faculty occupying concurrent or full-time administrative positions are not eligible to participate in the Program until they vacate such positions. Thus, only individuals holding solely an appointment pursuant to the Regulations on Faculty Appointment involving teaching, research and service are eligible to participate in the Program.
- E. Individual faculty members are responsible for providing to the Institution all information necessary for it to determine their eligibility 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

- A. Eligible Faculty Members do not have an absolute right to participate in the Program. NCSSM may limit participation in the Program based on four conditions. These limitations, if reached, shall be applied consistently to all Eligible Faculty Members timely seeking to commence enrollment in the Program the same Fall Trimester/Semester. Participation in the Program is subject to the following limitations:
 - 1. NCSSM may establish departmental, divisional, and/or Institutional caps or limits on the number of Eligible Faculty Members who may participate in the Program and may periodically change these caps or limits. Any cap must be consistent over a substantial period of years, not less than five. Changes to any cap are subject to approval of the President. Beginning August 1, 2011, participation in the Program at NCSSM is limited at any given time to no more than two faculty members from each

of the Math, Science, and Humanities departments and no more than two faculty members from among all other faculty. In no event shall participation in the program be more than 10% of NCSSM's regular faculty, including professional librarians and guidance counselors, nor more than 10% of the regular faculty of any individual division.

2. NCSSM may deny an application to participate in the Program in response to a bona fide finding that financial exigencies of the Institution prohibit further enrollment in the Program. This finding must be based on quantifiable budget constraints of the Institution, consistent with Section 605A. of *The Code* of The University of North Carolina.
3. NCSSM 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 in the department, division, or Institution. Objective criteria which bear on this finding include, but are not limited to: shortage of teachers in a department, division, or the Institution; the required number of faculty necessary for the department, division, or Institution to operate; student/faculty ratios; and the department, division or Institution's ability to offer core courses related to accreditation standards or graduation requirements set under N.C. Gen. Stat. § 116-235. Factors should not be based in any way on age or the expected retirement date of specific faculty members. The limitation with respect to preservation of academic quality or program sequencing of the Institution and/or a department or division must be applied consistently to all Eligible Faculty Members timely seeking to commence enrollment in the Program for a given academic year.
4. A faculty member whose fixed-term contract expires at the end of an academic year immediately preceding the academic year in which the faculty member proposes to begin participation in the Phased Retirement Program is subject to evaluation consistent with the Regulations on Faculty Appointment. A decision of non-reappointment shall be deemed a finding that the faculty member is ineligible to enroll in the Phased Retirement Program.

IV. TERMS AND CONDITIONS

A. General

1. Upon entering the Program, Eligible Faculty Members give up regular fixed-term contracts and the regular contract sequence contemplated by the Regulations on Faculty Employment. They terminate full-time employment and contract for a two-year period of half-time (or equivalent) service to NCSSM. Participation in the Program may not be extended or renewed beyond completion of the two-year contract period.
2. Half-time responsibilities may vary among departments and divisions. In addition, half-time service may consist of full-time work for one-half of a year or half-time work for a year. Thus, for semester-based programs at NCSSM, half-time service typically consists of 3 courses (or equivalent) taught over 1 or 2 semesters of an academic year. For trimester-based programs at NCSSM, half-time service typically

consists of 5 courses (or equivalent) for an academic year, taught over 2 or 3 trimesters of an academic year.

3. Regardless of teaching pattern, the enrollment period for the Program begins September 1, with actual participation to commence at the start of the next academic year (provided an Eligible Faculty Member's application is approved). Teaching, research and service assignments during the period of phased retirement are individually negotiated by the Eligible Faculty Member and the appropriate supervisors, subject to the approval of the Chancellor. The details of such half-time service (a "work plan") must then be set forth in a University of North Carolina Phased Retirement Program Application and Reemployment Agreement, as described in Sections IV.B. and IV.C. below.
4. Participating Faculty Members shall receive a salary equal to fifty percent (50%) of the full-time salary they received immediately prior to phased retirement (i.e. based on the prior 10-, 11-, or 12-month as applicable contractual terms pursuant to the Regulations on Faculty Employment and Faculty Salary Schedule, including amounts for six-year degree, doctoral degree, and certification by the National Board for Professional Teaching standards, but not including any administrative supplement for coordinator or convener responsibilities, any curriculum development or other additional employment, nor any leave payout). For deans or directors who hold a concurrent appointment, the phased retirement salary would be fifty percent (50%) of the salary after any administrative supplement is deducted (i.e. deduct 5% supplement and any additional months of employment awarded pursuant to the Employment Policy for Senior Academic and Administrative Officers). In addition, compensation paid during phased retirement is paid over twelve months irrespective of the pattern of duties under the Faculty Member's work plan. After the first year of phased retirement and subject to any limitations imposed under the State Retirement System, Participating Faculty Members shall be eligible for salary increments and merit pay based on annual evaluation and the Faculty Salary Schedule. Monitoring the Faculty Member's earnings limit remains the individual responsibility of the Faculty Member.
5. Participating Faculty Members at NCSSM may participate in employee benefit plans and programs identified in the chart which can be found online at <http://www.ncssm.edu/hr>. This chart is an official part of the Institutional Guidelines of the North Carolina School of Science and Mathematics pertaining to the UNC Phased Retirement Program.
6. If an Eligible Faculty Member and the Institution tentatively agree to an Eligible Faculty Member's participation and "work plan" as described below, the final decision to enter or not enter the Program rests with the Eligible Faculty Member. Once made, a decision to enter the Program (signified by the Eligible Faculty Member's signing and non-revocation of the Phased Retirement Application and Reemployment Agreement and Release described in Section VI.C.) is binding.

7. Nothing in the Program shall preclude a Participating Faculty Member from terminating his or her employment at any time upon the mutual written agreement of the parties.
8. Participating Faculty Members will remain subject to *The Code* and Policies of the University and NCSSM. In addition, without expressly or constructively terminating any Agreement, the Institution may place a Participating Faculty Member on temporary leave with pay and/or reassign a Participating Faculty Member's duties during or as a result of any investigation or disciplinary action involving the Participating Faculty Member. Such authority shall be invoked only in exceptional circumstances when the Participating Faculty Member's division vice-chancellor determines that such action is in the best interests of the Institution. Further, nothing in the Program or these guidelines shall in any way be interpreted to provide a Participating Faculty Member with greater rights, claims or privileges against his or her Institution and/or the University regarding continued employment than otherwise provided in *The Code* and Policies of the University and NCSSM.

B. Application Procedures

1. Faculty group meetings are held or at least made available at the Institution for all persons eligible to apply for Program participation. 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 vice-chancellor to negotiate participation and their half-time "work plan" for the phased retirement period.
2. An application to enter the Program must be made at least six (6) months but not more than eleven (11) months before the commencement of the first semester or trimester of an Eligible Faculty Member's requested participation in the Program, to begin at the start of the next academic year. For purposes of this Program, a semester or trimester will be deemed to commence on the date that a faculty member rendering services under an individual work plan is required to begin performing services with respect to the pertinent semester or trimester.
3. An unsigned application to enter the Program and proposed work plan must be submitted to the Eligible Faculty Member's vice-chancellor with a copy to the Director of Human Resources. The vice-chancellor evaluates the conditions outlined in Sections II and III above and then develops a mutual "work plan" with the Eligible Faculty Member as outlined in Section VI.C. below. The Phased Retirement Application and Reemployment Agreements should be as uniform as possible within each department or division. The Agreements must be based on the objective needs of the employing department, division, or Institution. Under no circumstances should "deals" be made to encourage faculty members to accept the Program. Likewise, the Institution must not take unjustifiably harsh positions to dissuade an Eligible Faculty Member from participating.
4. Once the duties and arrangements with an Eligible Faculty Member are fully determined by the appropriate vice chancellor in consultation with the appropriate dean and the Director of Human Resources, the agreement to participate in the

Program must be stated in writing in a formal Phased Retirement Application and Reemployment Agreement and signed by the dean of the employing department, the Director of Human Resources, and the vice chancellor for the division. In cases where the Institution and the Eligible Faculty Member cannot successfully agree on a half-time work plan, the Eligible Faculty member will not be allowed to participate in the Program. The Vice-Chancellor shall make a recommendation whether to approve the application to the Chancellor. Final approval of program enrollment rests with the Chancellor.

5. If an Eligible Faculty Member and the Vice Chancellor tentatively agree to the faculty member's participation and a "work plan" that addresses the same, the decision to enter or not enter the Program then rests with the Eligible Faculty Member. Once made, a decision to enter the Program (signified by the Eligible Faculty Member's signing and non-revocation of the Phased Retirement Application and Reemployment Agreement and Release described below) is binding.
6. As described in Section III. above, NCSSM has limits or caps on the number of Program participants independent of limitations based on financial exigency or academic quality. When openings are available under these preset limits or caps, timely applications will be accepted on a first come, first eligible basis except when more timely applications are received than spaces are available. Under those circumstances, 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 the date of receipt for postal handling, whichever is earliest.) The Institution shall promptly and appropriately acknowledge its receipt of all faculty responses. At the close of the response period, the Chancellor should select participants based on the non-subjective criterion of the applicant's employment start date at the Institution (that is, by Institutional seniority, with the qualified person having the most Institutional seniority being selected first). In the event two applicants have the same start date, the Chancellor should select a participant who teaches in both the residential and distance education programs as the more qualified person.

C. Agreement and Release

1. Procedure.

The last step in the application process is to obtain a signed, completed Phased Retirement Application and Reemployment Agreement (the "Agreement") and Release (the "Release") from the electing Eligible Faculty Member. The requirements for a valid release are set out in detail under the Age Discrimination in Employment Act ("ADEA") and, thus, it is mandatory that NCSSM follow the steps outlined below:

- a. When negotiation of a “work plan” has been completed, the electing Eligible Faculty Member should be provided a completed Agreement, which has been signed by the Institution’s administrators, and a Release for review and signature.
- 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. A job title and age Chart for the Institution and the department or school, as described in Section VI.C.4. below.

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

2. Consideration Period.

- a. As required by the ADEA, the Eligible Faculty Member must be offered at least forty-five (45) calendar days to execute and return the Agreement and Release to the Institution. The forty-five day period begins with the date of the final offer, which is the date on which the Institution physically delivers to the Eligible Faculty Member the completed, signed Agreement and the separate Release. If the final offer is not hand delivered to the Eligible Faculty Member by the appropriate vice-chancellor, or designee, it must be sent by a method of delivery that requires a signature for delivery, as described in UNC Policy 101.3.3.
- b. The Eligible Faculty Member should be encouraged to use the full 45 days and to consult an attorney, if he or she desires. Under no circumstances should the Eligible Faculty member be requested or pressured to return the package in a shorter period. However, the Eligible Faculty Member may sign the Agreement and Release before the end of the 45-day period, if he or she so chooses.

3. Revocation Option.

- a. Once an Eligible Faculty Member signs the Agreement and Release, he or she also has the right under the ADEA (if he or she so chooses) to revoke the Agreement and the Release at any time within seven (7) calendar days of the date both documents are fully executed by the parties.
- b. An election to participate in the Program does not become final until after the 7-day revocation period has passed without the Eligible Faculty Member’s revocation. Consequently, if an Eligible Faculty Member uses his or her entire 45-day consideration period, his or her Agreement may not be binding until almost two months after he or she receives the Agreement and the Release to sign.
- c. Revocations must be in a writing personally signed by the Eligible Faculty Member and received by the appropriate vice chancellor.

- d. Revocation may be effected by personal delivery of the revocation to the appropriate vice-chancellor, or by submission of it for postal delivery. (The date of revocation is the date on which the faculty member physically delivers the revocation to the appropriate vice-chancellor or the date on which the revocation is posted to that vice-chancellor; the postmark date or date of receipt for postal handling of the revocation shall be prima facie evidence of the date of the revocation.)
 - e. If an Eligible Faculty Member elects to revoke the Agreement and Release within the 7-day revocation period, the Agreement is void. Moreover, in such circumstances, the Eligible Faculty Member will continue in his or her same full-time employment status as the Faculty Member held immediately prior to the execution of the Release.
4. Job Title and Age List.
- a. The ADEA requires that for a release of age discrimination claims to be valid, the release must include the job titles and ages of all individuals in the same job classification or organizational unit eligible for the Program, and the ages of all individuals in the same job classification or organizational unit who are not eligible. The Chart NCSSM must attach to the Agreement and Release Package is meant to satisfy this requirement.
 - b. The Office of Human Resources is responsible for preparing this Chart, showing eligibility/ineligibility for the Institution as a whole by department and division. Such chart should specifically:
 - i. Contain a list by faculty position, age and department (but without name) of those faculty eligible and those ineligible to participate in the Program.
 - ii. Include as persons eligible to participate those faculty members who would be eligible to participate if they resigned their current full-time administrative positions (including both faculty and administrative titles). For purposes of determining eligibility under this paragraph, a full-time administrator who previously relinquished a regular faculty contract in connection with assuming a full-time administrative position shall be deemed eligible for the Phased Retirement Program.
 - iii. Include as persons ineligible to participate those regular faculty members who meet the eligibility requirements but who are disqualified for one of the reasons identified under the Program (other than current employment in an administrative position), as well as regular faculty members who do not meet the basic eligibility requirements.
 - c. Faculty members remain individually responsible for providing to the Institution age and service data needed to determine their particular Program eligibility.

- d. The Chart should be in the format of the Example set forth below. Data appearing initially on the Chart are required to reflect projected age and service as of August 1, 2011. The Chart should then 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.
- e. The Chart should be prepared under the supervision of the Director of Human Resources 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 highly sensitive and should be treated accordingly.

Example

Job title*	Department	Division	Age	Number Eligible	Number Ineligible
Instructor	Science	Academic Programs	60	3	1
Instructor	Science	Academic Programs	59	0	3
	Subtotal (Science Dept.)	Academic Programs	--	3	4
Instructor	Mathematics	Academic Programs	62	1	1
	Subtotal (Mathematics Dept.)	Academic Programs	--	1	1
		Subtotal (Academic Programs)	--	4	5
		Subtotal (Distance Education and Extended Programs)	--	2	4
	TOTAL (NCSSM)			6	9

*Provide both faculty and administrative titles if an individual is under concurrent appointment.

This Chart is based upon current Institutional information. However, if any error or omission is detected, it should be promptly reported to the Director of Human Resources. Faculty members are individually responsible for providing age and service data needed to determine their Program eligibility.

In addition, regular faculty occupying full-time administrative or staff positions are deemed potentially eligible on the assumption that, prior to accepting early retirement, they must voluntarily resign/vacate their administrative appointment.

5. Data Updates.

Prior to an Eligible Faculty Member receiving a final Agreement and Release package, the chart and data discussed in Section VI.C.4. above must be updated for the Application and 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 proceeding the date on which the application is timely received from a faculty member.

V. DISTRIBUTING INFORMATION ON THE PHASED RETIREMENT PLAN

- A. By September 1 of each year, the following materials shall be prepared and distributed (in hard copy or electronic form) to every regular Faculty Member who appears eligible for or likely to become eligible for the Program by the beginning of the next academic year.
1. The University of North Carolina Phased Retirement Program Policy (UNC Policy Manual 300.7.2)
 2. A letter announcing the Program.
 3. A copy of the University of North Carolina Phased Retirement Application and Reemployment Agreement.
 4. A copy of the University of North Carolina Phased Retirement Program Release.
 5. A Chart reflecting information regarding persons who are eligible and those who are ineligible for potential participation in the Program. (See example at Section VI.C.4., above.)
 6. A Timeline of the current year's application and enrollment cycle.
 7. A schedule of potential services to be provided by a Participating Faculty Member for the department, division or Institution. The schedule may vary by department or division but should 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. 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 three regular-term trimesters or two regular-term semesters of the academic year. The work plan may call for services over all 12 months of the participation year. However, no work plan may include duties incident to summer school curricula.
- B. At the time of each distribution of Program materials to faculty, the Institution shall place a notice of the Program in an Institutional newsletter or other organ of general circulation among faculty (including electronic publications) that invite faculty who

believe they may be eligible to inquire at an identified Institution office about their Program eligibility.

VII. QUESTIONS AND ANSWERS

- A. There are sure to be numerous questions about the Program. NCSSM shall designate specific officials who will be the only persons authorized to respond to these questions. Currently these individuals are the Director of Human Resources, the Vice Chancellor for Academic Programs, and General Counsel. 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.
- B. NCSSM ensures that the information provided to faculty members is accurate and generally consistent by offering presentations at scheduled Program orientations, like the faculty group meetings described above, and posting resources on the NCSSM website (eCentral). Personnel designated to provide Program information should not respond to interpretive policy questions about the operation of the Program and, instead, are advised to refer such questions to the Director of Human Resources.
- C. NCSSM may seek assistance from representatives in the UNC General Administration Divisions of Academic Affairs, Legal Affairs, or Human Resources. This assistance is intended to be a source of information for NCSSM's Program officials, not a hotline for faculty members.
- D. A frequent question will likely be, "Should I apply to participate in the Program?" Faculty members should be advised that the decision to seek entry into the Program is a personal one and one they will have to make on their own. NCSSM's designated personnel 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."
- E. 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, veteran status, sexual orientation, or religion. These circumstances should play no part in information the Institution provides regarding the Program.