



MEETING OF THE BOARD OF GOVERNORS
Committee on Educational Planning, Policies, and Programs

August 1, 2017 at 12:00 p.m.
University of North Carolina General Administration
Center for School Leadership Development, Room 111
Chapel Hill, North Carolina

AGENDA A

- A-1. Approval of the Minutes of [June 21](#), [July 11](#), and [July 13](#), 2017Anna Nelson
- A-2. [UNC Degree Program Discontinuation and/or Consolidation](#)Kimberly van Noort
- A-3. [Proposed Policy on Involvement of Centers and Institutes in Legal Actions](#)Anna Nelson
- A-4. Adjourn

DRAFT MINUTES

June 21, 2017

University of North Carolina General Administration
Spangler Center, Executive Conference Room / Teleconference
Chapel Hill, North Carolina

This special meeting of the Committee on Educational Planning, Policies, and Programs was presided over by Chair Anna Nelson. The following committee members, constituting a quorum, were also present or on the call: Hannah Gage, Joe Knott, Joan Perry, Laura Wiley, Michael Williford, Pearl Burris-Floyd, and William Web. The following committee members were absent: Madeline Finnegan, Thomas Goolsby, and Therence Pickett.

Staff members present included Junius Gonzales, Kimberly van Noort, and others from General Administration.

1. Call to Order – Special Session (Item A-1)

The Chair called the meeting to order at 1:02 p.m. on Wednesday, June 21, 2017.

2. Recommended Findings and License Restrictions for Charlotte School of Law (Item A-2)

Chair Anna Nelson, President, Kimberly van Noort and Frank Prochaska reviewed with the Committee President Spellings' recommendation to place restrictions on the Charlotte School of Law license to operate the school in North Carolina.

At the May meeting, the Board of Governors approved a resolution that authorizes this committee to take final action on behalf of the Board regarding licensure matters for the period between the May and June meetings.

The recommended disposition would:

1. Prevent CSL from admitting new students. CSL would have to come back to the BOG for permission to lift this restriction. It could not occur without further action by the BOG.
2. CSL must present proof of compliance with financial standards by August 1.
3. CSL must have a bond in place that covers all the prepaid tuition for all students.

4. CSL has to receive approval from the ABA for its teach out and/or remedial plan by the time of the final ABA meeting on August 10. CSL must also have approval from the Department of Education for students to participate in Title IV programs – loans. If either of these conditions are not met, teach out is not feasible, and the license will cease.
5. CSL will be under continuous monitoring by the Licensure Unit, with regular check-ins. They must keep us informed of the Consumer Protection investigation, the ABA, and Department of Education processes.

MOTION: Resolved, that the Committee on Educational Planning, Policies, and Programs approve the decision as presented.

Motion: Joe Knott

Motion carried

3. Adjourn

There being no further business, the meeting adjourned at 1:30 p.m.

Darrell T. Allison

DRAFT MINUTES

July 11, 2017

University of North Carolina General Administration
Spangler Center, Executive Conference Room / Teleconference
Chapel Hill, North Carolina

This meeting of the Committee on Educational Planning, Policies, and Programs was presided over by Chair Anna Nelson. The following committee members, constituting a quorum, were also present or on the call: Darrell Allison, Robert Bryan, Thomas Goolsby, Tyler Hardin, James Holmes, Joe Knott, and Marty Kotis.

Chancellors participating were Johnson Akinleye, Sheri Everts, and Frank Gilliam. Gabriel Lugo, Faculty Assembly Chair was also in attendance.

Staff members present included Junius Gonzales, Kimberly van Noort, and others from General Administration.

1. Call to Order and Approval of OPEN Session Minutes (Item A-1)

The Chair called the meeting to order at 9:32 a.m. on Tuesday, July 11, 2017, and called for a motion to approve the open session minutes of May 15, 2017.

MOTION: Resolved, that the Committee on Educational Planning, Policies, and Programs approve the open session minutes of May 15, 2017, as distributed.

Motion: Darryl Allison
Motion carried

2. UNC Degree Program Establishments (Item A-2)

The Committee on Educational Planning, Policies, and Programs reviewed and discussed degree program establishments for the following:

UNC Wilmington requests establishment of the following degree program:

- Master of Science in Finance and Investment Management (CIP 52.0807)
- Master of Science in Business Analytics (CIP 52.1399)

MOTION: Resolved, that the Committee on Educational Planning, Policies, and Programs approve the above requests to establish degree programs and recommend approval to the full Board of Governors for a vote through the consent agenda.

Motion: Jim Holmes

Motion carried

3. UNC Degree Program Discontinuations (Item A-3)

The Committee on Educational Planning, Policies, and Programs reviewed and discussed degree program discontinuation for the following:

East Carolina University requests discontinuation of the following degree programs:

- BSBE in Business Education (CIP 13.1303)
- BSBE in Information Technologies (CIP 52.0407)
- BSBE in Business and Marketing Education (CIP 13.1303)
- BS in Child Life (CIP 19.0706)
- MAEd in Career and Technical Education (CIP 13.1399)

MOTION: Resolved, that the Committee on Educational Planning, Policies, and Programs approve the above request to discontinue degree program and recommend approval to the full Board of Governors for a vote through the consent agenda.

Motion: Joe Knott

Motion carried

4. Additional Discussion

Discussion ensued centered around Centers and Institutes. A motion was made that the Committee on Educational Planning, Policies, and Programs adopt the modifications to UNC Policy 400.7 provided by Steve Long and transmitted by Andrea Poole to the committee on July 8, 2017.

MOTION: That the Committee on Educational Planning, Policies, and Programs adopt the modifications to UNC Policy 400.7.

Motion: Marty Kotis

Motion failed

The Committee will meet on August 1 in special meeting to discuss the proposed policy change.

There being no further business, the meeting adjourned at 10:04 a.m.

Darrell T. Allison

DRAFT MINUTES

July 13, 2017
University of Asheville
Sherrill Center Room #402
Asheville, North Carolina

This meeting of the Committee on Educational Planning, Policies, and Programs was presided over by Chair Anna Nelson. The following committee members, constituting a quorum, were also present or on the call: Darrell Allison, Robert Bryan, Thomas Goolsby, Tyler Hardin, James Holmes, Joe Knott and Marty Kotis.

Chancellors participating were Johnson Akinleye, Sheri Everts, and Frank Gilliam. Gabriel Lugo, Faculty Assembly Chair was also in attendance.

Staff members present included Junius Gonzales, Kimberly van Noort, and others from General Administration.

1. Call to Order

The Chair called the meeting to order at 2:32 p.m. on Thursday, July 13, 2017.

2. Update on Ongoing Committee Work (Item B-1)

Junius Gonzales provided an overview of ongoing work of the committee, including regular recurring items related to academic program actions (establishments, consolidations, discontinuations); program review; licensure and state authorization actions; mandated reporting; and special initiative updates. A brief overview of several processes was presented.

3. Discussion of 2017-2018 Plan of Work (Item B-2)

The committee discussed possible upcoming agenda items and areas of interest.

There being no further business, the meeting adjourned at 3:30 p.m.

Darrell T. Allison

AGENDA ITEM

A-2. UNC Degree Program Discontinuation and/or ConsolidationKimberly van Noort

Situation: The University of North Carolina at Greensboro requests discontinuation of the following degree program:

- Master of Education in Drama (CIP 13.1324)

The University of North Carolina at Greensboro requests discontinuation and consolidation of the following degree program:

- Bachelor of Fine Arts in Theatre Arts Education (CIP 13.1324)

Background: Per UNC 400.1, the campuses and UNC General Administration review degree program offerings and bring periodic discontinuation and/or consolidation recommendations to the UNC Board of Governors.

Assessment: Discontinuation and/or consolidation of the above-listed degree programs is recommended.

Action: This item requires a vote by the Committee, with a full Board vote through the consent agenda.

**Request for Authorization to Discontinue
Academic Degree Program**

UNC Greensboro – M.Ed. in Drama – (CIP: 13.1324)

Enrollment in this program has been very low since incentives for graduate degree completion by teachers were rescinded in 2014. Because no funding is available to defray travel and housing expenses, most participants in the program came from within a two-hour geographic radius and qualified candidates within that area have been exhausted. In addition, recent directives from the State Board of Education, the North Carolina Department of Public Instruction, and the UNCG School of Education have necessitated a more specific clinical component to the summer-based M.Ed. for theatre arts educators. These requirements dictate highly intensive on-site evaluations and the School of Theatre does not have the necessary personnel available. The program does not represent a high priority need. Admission to the program was suspended and the remaining students will be supported over the next two summers so that they may complete the degree. No faculty or staff reallocation will be necessary.

**Request for Authorization to Discontinue and Consolidate
Academic Degree Program**

UNC Greensboro – BFA in Theatre Arts Education – (CIP: 13.1324)

In investigating the analysis of low-enrollment programs in the School of Music, Theatre and Dance at UNCG, it was discovered that the Theatre Education program was coded differently from the other pre-professional BFA programs at UNCG. The Theatre Education program is a concentration within the BFA in Drama and should be coded as such. This will achieve consistency with other counterparts in the UNC system (ASU, UNC Charlotte) and other programs at UNCG. There will be no impact on students currently in the program as the current degree mirrors that of the BFA in Drama. Nor will faculty or staff be impacted.

AGENDA ITEM

A-3. Proposed Policy on Involvement of Centers and Institutes in Legal Actions.....Anna Nelson

Situation: The proposed policy addresses the participation of Centers and Institutes in litigation.

Background: There are approximately 240 academic Centers and Institutes on the 16 campuses of the University of North Carolina ("UNC" or "the University"). The Board of Governors supports the establishment of Centers and Institutes as one way to strengthen and enrich University programs and activities associated with the University's core missions of research, instruction, and service. Each university must have procedures for establishing Centers and Institutes and each center is required to identify itself as either a research, public service, or instructional unit. The proposed policy was presented to the committee at its March, 2017, meeting. Reports were submitted from the UNC Chapel Hill School of Law and the NCCU School of Law outlining the impact of the proposed policy. Additional information was provided by the UNC Chapel Hill School of Law about possible alternatives. Public comments were gathered via a website and in May, a public comment session was held by the committee. A revised proposal was submitted on July 8, 2017, that excludes law clinics from the restriction.

Assessment: The Board of Governors Centers and Institutes regulation currently limits the ability of Centers to engage in lobbying but does not prevent a center from engaging in litigation.

Action: This item requires a vote by the committee and a vote by the full Board of Governors.

Involvement of Centers and Institutes in Legal Actions

I. **Applicability and Purpose.** The Board of Governors believes that the establishment of Centers and Institutes, as defined in Section 400.5[R] of the UNC Policy Manual, can strengthen and enrich University programs and activities associated with the University's core missions of research, instruction, and service. This policy seeks to protect the academic focus of such entities by restricting Centers and Institutes from participating in litigation.

II. **Legal Actions.** No Center or Institute may do any of the following:

A. File a complaint, motion, lawsuit, or other legal pleading in its own name or on behalf of any individual or entity against any individual, entity, or government or otherwise act as legal counsel to any third party; or

B. Employ or engage, directly or indirectly, any individual to serve as legal counsel or representative to any party in any complaint, motion, lawsuit, or other legal claim against any individual, entity, or government or to act as legal counsel to any third party.

III. **No Application to Law Clinics.** This policy shall not apply to any "law clinic" described in Standards 303 and 304 of the American Bar Association Standards and Rules of Procedure for Approval of Law Schools, or any successor regulation thereof.

IV. **Other Matters.**

A. **Effective Date.** The requirements of this policy shall be effective on the date of adoption by the Board of Governors. The requirements of this policy shall not apply to any pending legal action in which a Center or Institute was participating immediately prior to the effective date of this policy, provided that the Center or Institute notifies the secretary of the Board of Governors, in writing, of its participation in such action within thirty (30) days of the adoption of this policy.

B. **Relation to State Laws and University Policy.** The foregoing policy as adopted by the Board of Governors is meant to supplement, and does not purport to supplant or modify, those statutory enactments and existing University policies which may govern or relate to the matters addressed herein.

C. **Regulations and Guidelines.** This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.



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July 28, 2017

Anna Spangler Nelson
Chair, Educational Planning, Policies and Programs Committee
UNC Board of Governors
910 Raleigh Road
Chapel Hill, NC 27514

Dear Governor Nelson:

Thank you for asking me to address the Educational Planning, Policies and Programs Committee during your August 1 meeting. In this letter, I outline the key points I plan to share with the committee next week, summarize our actions to meet your instructions, and provide an overview of our findings and best understanding of the implications of the current proposed new policy for our Center for Civil Rights and our highly regarded School of Law.

History and Preparation of Response: Four months ago, as Chancellor of the University of North Carolina at Chapel Hill, I was instructed by your committee to answer a series of questions regarding the operations of the Center, a part of the Law School. We were told to submit our initial response in time for the public hearing on May 11 and a supplemental response setting forth an analysis of possible alternatives by June 30. As instructed, we submitted our responses to General Administration by the dates given.

The questions came to us as the result of concerns raised in connection with the proposed new policy creating section 400.7 of the UNC Policy Manual regarding centers and institutes. Although the proposed new policy has been modified since we started this process, it has not deviated from the fundamental policy change called for since its inception. Specifically, the new policy would restrict the right of any UNC center or institute to litigate. Although the new policy does not mention the Center for Civil Rights directly, it is important to note that I was instructed by the committee specifically to determine the effects of the proposed change on the Center and our Law School. We have no other entity at UNC-Chapel Hill to which the new policy could apply.

Because the committee believed that the proposed new policy would have a significant impact on the Center's ability to contribute to the Law School's program of legal education and training, I was directed to suggest alternative models for the operation of the Center that would be consistent with the proposed new policy and outline potential and likely consequences of those alternatives and any actions on this new proposed policy taken by the Board of Governors.

We took these instructions seriously. I appointed a distinguished panel of the state's top legal minds to evaluate the work of the Center for Civil Rights relative to other universities across the country and to thoroughly vet and present alternatives. That group was led by Vice Chancellor and General Counsel Mark Merritt, who is also president of the North Carolina State Bar. Other committee members were Executive Vice Chancellor and Provost Jim Dean; Martin Brinkley, dean of the Law School; Ted Shaw, the Julius L. Chambers Distinguished Professor of Law and director of the Center for Civil Rights; and former North Carolina Supreme Court Justice Robert Edmunds.

This group worked tirelessly and methodically, with help from Law School faculty and staff, to gather, evaluate, and provide this committee with information about the Center and the alternatives in a timely manner. They thoroughly answered every question and met all of your committee's deadlines.

This was not a challenge we sought. From the outset, my colleagues in the UNC-Chapel Hill administration and I are on record with our strong support for the important work and mission of the Center for Civil Rights and its benefits in protecting the civil rights of citizens of our state.

Overview of Findings and Implications: The report we provided to the committee is illuminating on many fronts and reaffirms the critical nature of the Center's work in the comprehensive education and practical training of students in the Law School. With regard to the core of the proposed new policy, there are several points that I want to highlight:

1. **The Center always has operated under American Bar Association (ABA) guidelines and UNC system policies.** The report, the passionate testimony during the committee's May public hearing, and the emails and letters directed to the Board of Governors and the University provide evidence that the Center has contributed greatly to the outstanding education and training of our law students in addition to effectively serving North Carolinians in need. Legal educators and the professional legal community overwhelmingly agree that litigation training is fundamental and absolutely vital to the education of future lawyers. Lawyers who graduated from our Law School attest that the Center has provided them and many others with important litigation training they believe they could not have experienced in any

other way.

All civil rights litigation training at the UNC School of Law comes during the adjudication and litigation of cases the Center participates in and rigorously adheres to ABA standards for awarding academic credit and providing pro bono practice opportunities in a manner consistent with peer law schools. And, since the inception of the Center, the dean of the Law School has had to approve all proposed litigation.

2. **The proposed new policy will fundamentally change how the Center operates and a foreseeable result will be its closure, at least in its current structure.** The Center receives no state funding, but rather relies on philanthropy to fund its current operations. Based on the historical experience of colleagues involved in securing private funding for the Center, the fundamental change restricting the center's capacity to litigate resulting from the proposed new policy is likely to deter key donors from continuing to invest in this work.
3. **A change leading to the closure of the Center places our hard-earned reputation at risk.** At present, students at the Law School receive valuable training in civil rights litigation through the Center. It is important to note that litigation has been just one last-resort strategy our Center offered to citizens and communities who seek to address issues that could not be resolved out of court through education and dialogue. If the option of litigation is no longer available, the Center will not have the capacity to offer the full breadth of training that students who aspire to become civil rights lawyers need.

UNC-Chapel Hill's School of Law is one of the nation's oldest law schools. For 172 years, the school has produced top-notch lawyers who practice throughout North Carolina and our nation. Many of our law graduates have gone on to become business, community, state, and national leaders. The faculty have historically produced outstanding scholarship and highly-sought thought leadership in virtually every field of U.S. and international law.

Yet, as you are aware and has been reported publicly, a July 11, 2017, letter to the Board of Governors signed by 600 law school deans, faculty, and administrators from around the nation – including peers in North Carolina – made clear that preventing the Center for Civil Rights from representing clients in litigation would “needlessly tarnish the reputation of UNC in the national legal education community.” I have received hundreds of letters in support of the Center – 375 in a single day. I am concerned that eliminating or even weakening the Law School's ability to train the next generation of civil rights lawyers will reflect poorly on our University and the School, as well as the University system and our state.

The findings also underscored the inextricable connection between the Center and its inaugural director, the late Julius Chambers. There is no need for me to recite Mr. Chambers' numerous and meritorious contributions to our University, state, and society. The community here and elsewhere does not disassociate the man and what he stood for from the Center and the important work it has done on behalf of thousands of North Carolinians, among them African-Americans and other low-income minorities who otherwise would have had limited or no access to adequate legal counsel.

4. **Maintaining the status quo mitigates the risk of imperiling our reputation.** Preserving the status quo would ensure our students continue to have access to training in civil rights litigation without exposing the Law School and the University to reputational damage.
5. **Converting the Center to a clinic could be done, but would take considerable time and new resources.** The Board of Governors instructed us to provide alternatives to the Center that would be consistent with the proposed new policy.

The alternative most mentioned is a "conversion" to or "creation" of a new clinic, with the same litigation capacities as other clinics. While a civil rights clinic could be established – the Law School has successful clinical programs in several other areas – we do not currently have the funding, staff, or space this effort would require. Our Law School already faces ongoing budget pressures that include a recent \$500,000 recurring cut from the state. We have no assurance that donors who have supported the mission of the Center would want to fund a civil rights clinic. Philanthropy would be vital to any new model, and identifying and securing new donor support would take time and resources. Other practical considerations include space. There is currently no additional room available in Van-Hecke-Wettach Hall for a new clinic, and the Center's current privately funded leased space is not well suited for that purpose.

6. **Aside from establishing a clinic, there were three other options presented, none of which has any certainty of success:**
 - a. Re-Naming the Center and Defining its Educational Role More Precisely;
 - b. Outsourcing Litigation with Ongoing Support; and
 - c. Outsourcing Litigation without Ongoing Support.

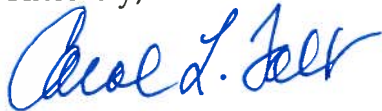
Closing: Our review and the public comment has brought clearly into focus the important educational mission of the Law School and the vital role civil rights training plays for our state and our nation. Because of its importance, nearly all of the many private and public law schools the committee examined, have some form of civil rights

litigation training. At our School of Law, litigation training in civil rights takes place in in our Center. The Law School has enjoyed an historic and proud tradition of producing lawyers who serve our communities, the state, and the nation. It is natural that our students and citizens expect and demand that the Law School provides the best training available, and proper litigation training is fundamental for students to become well-prepared lawyers in all areas, so that they are ready to serve our state and beyond.

In closing, if the committee moves forward with the new proposed policy, we risk significant damage to the reputation of the University and the Law School, as well as uncertainty as to whether we can even create a new clinic for civil rights with no resources. As educators, we strive to determine the best methods of teaching our students and ensuring our graduates are well prepared for the rigors of their chosen professions and to address the pressing issues and opportunities of the times – which include the civil rights of our citizens. In the final analysis, the litmus test on this decision should be what is in the best interests of our students – an imperative I know we all share.

My thanks to you, and the committee, for your careful and thoughtful consideration.

Sincerely,



Carol L. Folt
Chancellor