

APPENDIX E

200.5

Adopted 08/14/98

Replaced 05/14/04

Amended 9/8/05

INITIATING AND SETTLING LAWSUITS

By virtue of N.C.G.S. §116-3, the authority to initiate and settle lawsuits in the name of the University of North Carolina, and on behalf of the constituent institutions, lies with the Board of Governors. A constituent institution has no independent authority to initiate or settle lawsuits in its own name. Many lawsuits, however, are routine in nature and do not require the attention of the Board of Governors to approve their initiation or settlement. The Board of Governors therefore delegates the authority to initiate and settle lawsuits as follows:

1. A constituent institution may initiate a lawsuit in the name of The University of North Carolina if the amount in controversy is less than the jurisdictional amount for civil actions in Superior Court as set out in N.C.G.S §7A-243 upon the approval of the chancellor. The University of North Carolina may initiate a lawsuit concerning issues that do not arise at a constituent institution, or that arise at more than one constituent institution, if the amount in controversy is less than the jurisdictional amount for civil actions in Superior Court as set out in N.C.G.S §7A-243 upon the approval of the president.
2. The Committee on University Governance may authorize the initiation of litigation in the name of the University of North Carolina if the amount in controversy is greater than the jurisdictional amount for Civil Actions in Superior Court, or if injunctive relief is sought. A request to initiate litigation shall be made by the chancellor of a constituent institution, or by the request of the president for issues that do not arise at a constituent institution or that arise at more than one constituent institution. In an emergency, if a constituent institution or the University needs to seek an order from a court sooner than it is practical to call a meeting of the Governance Committee, the constituent institution or the University may initiate litigation on the authorization of the President or the Vice President and General Counsel of the University. The President or Vice President shall consult with the Chair of the Governance Committee before authorizing the litigation if it is practical to do so. If emergency litigation is initiated without the authorization of the Governance Committee, the President, or the President's designee, shall inform the Governance Committee about the litigation at the Committee's next regular or special meeting.
3. If a settlement of a lawsuit that has been filed by or against a constituent institution or the University of North Carolina:
 - a. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay pursuant to an agreement to settle the lawsuit is less than \$75,000, or if the University is to receive a payment, and the amount claimed was less than \$75,000, then the chancellor of a constituent institution is authorized to approve the settlement. If a matter did not arise at a constituent institution or involves more than one constituent institution, the president is authorized to approve the settlement.

- b. Is solely for monetary relief, and if the amount that the University of North Carolina is to pay is \$75,000 or greater, or if the University will receive a payment, and the amount claimed was \$75,000 or greater, then the Committee on University Governance is authorized to approve the settlement.
 - c. Includes an agreement by the University, or one or more constituent institutions, to take, or refrain from taking, a specific action, and the agreement affects only the named parties in the litigation, such as actions that affect only named employees or students, then the president or the chancellor of the constituent institution may authorize the settlement agreement.
 - d. Includes an agreement by the University, or one or more constituent institutions, to take or refrain from taking a specific action which affects a group or class of people or which results in changing a University or constituent institution policy, procedure or regulation, then the Committee on University Governance is authorized to approve the settlement.
- 4. The Committee on University Governance may refer a request to initiate or settle litigation to the Board of Governors, in the committee's discretion. The president may refer a request to settle a lawsuit to the Committee on University Governance in the president's discretion. If the president makes such a referral, the Committee on University Governance is authorized to decide the matter, or it may make a recommendation to the Board of Governors.
- 5. Any settlement approved pursuant to this policy shall be reported to the Committee on University Governance and to the Board of Governors at the next regular meeting of the Board of Governors after the settlement is finalized.
- 6. The University of North Carolina may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the Committee on University Governance. The Committee, in its discretion, may refer the question to the Board of Governors.
- 7. A constituent institution, or a school or college of a constituent institution, may appear as *amicus curiae* in a lawsuit or judicial proceeding only after receiving the approval of the chancellor of the institution and after providing advance written notice to the president. Nothing in this section is intended to limit the ability of an individual University employee or group of employees to appear as *amicus curiae* in the individual's or employee group's name.

This policy does not apply to administrative proceedings. The chancellors and president are authorized to initiate administrative proceedings and to settle administrative proceedings in which the University or a constituent institution is named as a party.

This policy applies to the University of North Carolina Health Care System, to the UNC Physicians and Associates, and to the ECU Medical Faculty Practice plan except as otherwise provided in Policy §§1200.4 and 1200.5 and except as otherwise provided by State law, including G.S. §116-219 *et seq.*