



MEETING OF THE BOARD OF GOVERNORS
Committee on University Governance

September 21, 2022 at 12:00 p.m.
Via Videoconference and PBS North Carolina Livestream
UNC System Office
140 Friday Center Drive, Room 128
Chapel Hill, North Carolina

AGENDA

OPEN SESSION

- A-1. Approval of the Open Session Minutes of July 20, 2022 Kellie Blue
- A-2. Committee on University Governance 2021-22 Annual Report.....Kellie Blue
- A-3. Resolution on Security Clearance Requirements.....Kellie Blue
- A-4. Report on Free Speech and Free Expression
within the University of North Carolina System.....Andrew Tripp

CLOSED SESSION

- A-5. Approval of the Closed Session Minutes of July 20, 2022 Kellie Blue
- A-6. Legal Affairs Report Andrew Tripp

OPEN SESSION

- A-7. Adjourn



MEETING OF THE BOARD OF GOVERNORS
Committee on University Governance
September 21, 2022

Closed Session Motion

Motion to go into closed session to:

- Prevent the disclosure of information that is privileged or confidential under Article 7 of Chapter 126 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

- Consult with our attorney to protect attorney-client privilege.

Pursuant to: G.S. 143-318.11(a)(1) and (3).



DRAFT OPEN MINUTES

July 20, 2022

Via Videoconference and PBS North Carolina Livestream
UNC System Office
140 Friday Center Drive, Board Room
Chapel Hill, North Carolina

This meeting of the Committee on University Governance was presided over by Chair Kelli Blue. The following committee members, constituting a quorum, were present either in person or via videoconference: C. Philip Byers, Joel Ford, J. Alexander Mitchell, David Powers, and Michael Williford.

Chancellors present were Dr. Burks, Chancellor Dixon, and Chancellor Rogers.

Staff members present included Meredith McCullen, Andrew Tripp, and others from the UNC System Office.

1. Call to Order

Chair Kelli Blue called the meeting to order at 12:31 p.m., on Wednesday, July 20, 2022.

The chair reminded all members of the committee of their duty under the State Government Ethics Act to avoid conflicts of interest and the appearances of a conflict of interest. The chair asked if there were any conflicts or appearances of conflict with respect to any matter coming before the committee. No members identified any conflicts at the time.

The chair next called for a motion to approve the open session minutes of May 16, May 25, and June 30, 2022.

MOTION: Resolved, that the Committee on University Governance approve the open session minutes of May 16, May 25, and June 30, 2022, as distributed.

Motion: Joel Ford

Motion carried

2. University of North Carolina at Pembroke Board of Trustees Appointment (Item A-2)

Chair Blue provided the committee with brief background information on the nomination to fill a partial-term vacancy on the UNC Pembroke Board of Trustees.

MOTION: Resolved, that the Committee on University Governance approve Judge James E. Lockemy to fill the partial-term vacancy effective July 1, 2022, and ending June 30, 2023.

Motion: David Powers

Motion carried

3. PBS North Carolina Board of Trustees Appointments (Item A-3)

Chair Blue provided the committee with brief background information on the nominations to reappoint two members and appoint three new individuals to the PBS NC Board of Trustees.

MOTION: Resolved, that the Committee on University Governance approve the nomination for reappointment of Mr. Cullet Carson and Mr. Bill West, and the appointment of Mr. James Broughton, Ambassador James Cain, and Mrs. Brenda Gibson to the PBS NC Board of Trustees beginning July 1, 2022, and ending June 30, 2026.

Motion: C. Philip Byers

Motion Carried

4. North Carolina Central University Board of Trustees Nomination (Item A-4)

Chair Blue provided the committee with brief background information on the nomination to fill a partial-term vacancy on the North Carolina Central University Board of Trustees.

MOTION: Resolved, that the Committee on University Governance approve Ms. Alexandra Valladares to a partial term vacancy effective July 1, 2022, and ending June 30, 2025.

Motion: Michael Williford

Motion Carried

5. Overview of the 2022-23 Boards of Trustees Selection Process (Item A-5)

Chair Blue reviewed the process and calendar for the 2022-23 Boards of Trustees Selection Process.

6. Closed Session

Chair Powers called on Mr. Williford for the closed session motion. Mr. Williford moved that the committee go into closed session to prevent the disclosure of information that is privileged or confidential under Article 7 of Chapter 126 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes; to consult with our attorney to protect attorney-client privilege; and to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action for the following cases: *UNC-Chapel Hill Residential Landlord Tenant Matter*. Pursuant to G.S. 143-318.11(a)(1) and (3).

Motion: Michael Williford

Motion carried

THE MEETING MOVED INTO CLOSED SESSION AT 12:40 P.M.

(The complete minutes of the closed session are recorded separately.)

THE MEETING RESUMED IN OPEN SESSION AT 12:48 P.M.

7. Adjourn

There being no further business and without objection, the meeting adjourned at 12:51 p.m.

Michael Williford, Secretary



AGENDA ITEM

A-2. 2021-22 Committee on University Governance Annual Report Kellie Blue

Situation: Each standing committee submits an annual report of its activities to the Board of Governors.

Background: Pursuant to Section 302 E of *The Code*, “Each standing committee shall make a written report to the Board of Governors at least annually, reviewing the work of the committee during the preceding year.”

Assessment: The annual report on the activities of the Committee on University Governance for fiscal year 2021-22 is ready for review and submission.

Action: This item requires a vote by the committee to accept the report for submission to the Board of Governors.

DUTIES AND MEMBERSHIP

The Committee on University Governance is responsible for reviewing and making recommendations for proposed changes to the UNC Policy Manual, including *The Code*, and the delegations of duty and authority involving University governance; for nominating individuals for election to the 17 institutional boards of trustees and other university-related boards; and for authorizing the initiation and settlement of litigation and pending litigation in circumstances where that authority has not otherwise been delegated. This report summarizes the work of the committee from July 2020 through June 2021.

The committee was composed of the following Board members: Pearl Burris-Floyd, N. Leo Daughtry, Mark Holton, Terry Hutchens, and David Powers. Mr. Powers served as chair, Mr. Hutchens served as vice chair, and Mr. Holton served as secretary.

Dr. Wesley Burks (UNC Health Care System), Chancellor Dixon (Elizabeth City State University), and Chancellor Rogers (East Carolina University) also served on the committee.

ACTIONS

Appointments to Boards for Affiliated Entities

Pursuant to the committee's recommendations for affiliated entities to the UNC System, the Board of Governors made the following appointments or confirmations:

Name of Board	Member	Term Ending
Appalachian State University BOT (partial term)	Anita B. Greene	June 30, 2023
Litigation Insurance Trust Fund	Latonya Brown	N/A
North Carolina Central University BOT (partial term)	Alexandra Valladares	June 30, 2025
North Carolina School of Science and Mathematics (ex officio)	Tonya Smith-Jackson	June 30, 2025
NC Education Assistance Authority BOD	Tim Montgomery	January 15, 2026
NC Teaching Fellows Commission	Donnell D. Cannon	June 30, 2023
NC Teaching Fellows Commission	Lisa M. Chapman	June 30, 2023
NC Teaching Fellows Commission	Erin Lisi	June 30, 2023
NC Teaching Fellows Commission	Nancy Bell Ruppert	June 30, 2023
NC Teaching Fellows Commission	Joy Turnheim Smith	June 30, 2023
NC Teaching Fellows Commission	Bo Somers	June 30, 2023
NC Teaching Fellows Commission	Malishai L. Woodbury	June 30, 2023
NC State University BOT (partial term)	Erik Dixon	June 30, 2025
PBS North Carolina	Culley C. Carson, IV	June 30, 2026

PBS North Carolina	Anne Mayo Evans	June 30, 2026
PBS North Carolina	Brenda Gibson	June 30, 2026
PBS North Carolina	James Broughton	June 30, 2026
PBS North Carolina	James Cain	June 30, 2026
PBS North Carolina	Bill R. West	June 30, 2026
Project Kitty Hawk, Inc.	Nancy J. Cable	January 31, 2023
Project Kitty Hawk, Inc.	Ray Carey	January 31, 2023
Project Kitty Hawk, Inc.	Susan Cates	January 31, 2024
Project Kitty Hawk, Inc.	John Comly	January 31, 2024
Project Kitty Hawk, Inc.	Courtney Crowder	January 31, 2023
Project Kitty Hawk, Inc.	Franklin D. Gilliam, Jr.	January 31, 2024
Project Kitty Hawk, Inc.	Philip G. Rogers	January 31, 2024
State Building Commission	Katherine C. Lynn	June 30, 2022
UNC Health Care System	Hayden Pappas Kirby	October 31, 2025
UNC Health Care System	William Winkenwerder Jr.	October 31, 2026
UNC Pembroke BOT (partial term)	James E. Lockemy	June 30, 2023
UNC Press	Osamudia James	June 30, 2026
UNC Press (Partial Term)	Angela K. Miles	June 30, 2024
UNC Press	Matthew Booker	June 30, 2027
UNC Press	Anita Brown-Graham	June 30, 2027
UNC Press	Blair L.M. Kelley	June 30, 2027
UNC School of the Arts BOT (partial term)	Graydon Pleasants	June 30, 2025
UNC Wilmington BOT (partial term)	Perry Trask Chappell	June 30, 2025
Vidant Medical Center	Roger LaVern Davenport	February 28, 2026
Vidant Medical Center	Michael Waldrum	February 28, 2026
Vidant Medical Center	Angela A. Allen	February 28, 2027
Vidant Medical Center	Carlester T. Crumpler	February 28, 2027
Vidant Medical Center	Philip G. Rogers	February 28, 2027

Campus Liaison Assignments

Each constituent institution and selected affiliated entities were assigned a “liaison” from the Board. The 2021-22 campus liaisons were:

Ms. Burris-Floyd	North Carolina A&T State University North Carolina Central University University of North Carolina at Asheville North Carolina Arboretum
Mr. Daughtry	East Carolina University Fayetteville State University North Carolina School of Science and Mathematics
Mr. Holton	University of North Carolina at Charlotte University of North Carolina School of the Arts University of North Carolina Wilmington Winston-Salem State University

Mr. Hutchens	NC State University University of North Carolina at Greensboro Western Carolina University PBS North Carolina
Mr. Powers	Appalachian State University Elizabeth City State University University of North Carolina at Chapel Hill University of North Carolina at Pembroke UNC Health Care Other Appointments

Review of *The Code*, UNC Policy Manual (Policies, Regulations, and Guidelines)

The committee is responsible for reviewing and making recommendations for proposed changes to *The Code* and the UNC Policy Manual, and the delegations of duty and authority involving University governance. During the 2021-22 period, the following policy items were considered or reviewed by the committee:

1. UNC Policy Manual

- a. Amendments to Section 301 of *The Code*.** Chapter III of *The Code* of the University of North Carolina establishes committees of the Board of Governors. Section 301 of *The Code* provides for the standing committees of the Board along with the jurisdiction of each committee. The Board of Governors created the special Committee on Military and Veterans Affairs to increase UNC System enrollment, retention, graduation, and post-graduation success of military-affiliated (MA) students. To continue the work of this important special committee, Chair Ramsey dissolved the special Committee on Military and Veterans Affairs and requested amendments to *The Code* to rename the standing Committee on Public Affairs to the Committee on Military and Public Affairs. In addition to the name change, there were amendments to the jurisdiction to encompass the new responsibilities and to increase the number of members allowed to serve on the committee. Additional recommended amendments were passed: (1) revise the name of the Committee on Personnel and Tenure to the Committee on University Personnel; and (2) clarify the jurisdiction of that committee.

2. Technical Corrections to the UNC Policy Manual

Section 100.2 VI.D. of the UNC Policy Manual authorizes the secretary of the University, in consultation with the senior vice president and general counsel, to make technical changes to the UNC Policy Manual. Technical changes are defined as including:

- Correction of typographical errors;
- Updates to names, titles, statutory, and regulatory references, and other designations;
- Correction of inconsistencies among policies that may result due to a more recent policy adoption, amendment, or rescission;
- Assurance that board delegations and resolutions are accurately reflected throughout *The Code* and the UNC Policy Manual; and
- Annotation of policies, regulations, and guidelines to cross-reference other provisions of the UNC Policy Manual.

Pursuant to this policy, which requires technical corrections to be summarized and reported in writing to the chair of the Board of Governors and the Committee on University Governance, Attachment B of this report provides all the technical corrections that were completed during the 2021-22 year.

Department of Defense Classified Research

The committee passed a resolution on Clearance Requirements, which is an annual requirement related to Department of Defense contracts. The Department of Defense requires the UNC System to maintain Facility Security Clearance. Department of Defense regulations permit the exclusion from the personnel clearance requirements of certain members of the Board and other officers, provided that this action is recorded in the corporate minutes. This resolution was included on the Thursday, September 16, 2021, consent agenda.

Litigation Requests/Settlements

The committee considered and approved a range of requests to settle legal matters and heard updates on pending disputes from its counsel.

Free Speech and Free Expression

G.S. 116-301 requires that the Board designate a standing committee to act as the Committee on Free Expression and report annually to the public, the Board, the Governor, and the General Assembly on issues related to free speech and free expression within the University. The Board has designated the Committee on University Governance to fulfill these responsibilities. As part of its duties, the committee received the annual report and hosted three presentations surrounding free speech and free expression.

1. **Annual Report.** As required by state law and Section 1300.8 of the UNC Policy Manual, the Committee on University Governance is responsible for preparing an annual report on free speech and free expression within the University that addresses at least the following topics:
 - Any barriers to or disruptions of free expression within the University's constituent institutions;
 - The administrative handling and discipline relating to disruptions or barriers to free expression;
 - Any substantial difficulties, controversies, or successes in meeting the requirements of maintaining institutional neutrality as provided in the law and Section 1300.8 of the UNC Policy Manual; and
 - Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

The report reviewed free speech and free expression within the UNC System for the period of time between July 1, 2020, and June 30, 2021. The report finds that constituent institutions are committed to promoting and protecting free speech and free expression, and that disruptions and interference at scheduled speaking or expressive events have been minimal over the past year. The report details steps that constituent institutions are taking to inform campus constituencies about rights and responsibilities, as well as recommendations for improving free expression across the System.

2. **Presentations.** The Committee on University Governance continued its series of presentations surrounding free speech and free expression at UNC System constituent institutions during the 2021-22 year. The presentations provided opportunities for the constituent institutions to showcase their commitment to promoting and protecting free speech; their efforts at informing students, faculty,

and staff about rights and responsibilities; and their strategies for seeking and implementing recommendations to improve free expression across the System.

- a. **Presentation Three – Free Speech and Free Expression with North Carolina Supreme Court Justices.** Chief Justice of the North Carolina Supreme Court, Paul Newby, and Associate Justice Michael R. Morgan participated in a discussion with the committee that focused on the virtue that free speech and free expression rests on the idea that individuals are better hearing ideas with which they may disagree.
- b. **Presentation Four – Free Speech and Free Expression Discussion with State Elected Officials**
The fourth presentation on free speech and free expression consisted of a panel with members of the North Carolina House of Representatives and North Carolina Senate. Representing the NC House of Representatives were Representatives Zack Hawkins and Jon Hardister. Representing the NC Senate were Senators Amt Galey and Mike Woodard. The discussion focused on finding common ground with differing opinions as well as the safety of students on campuses.
- c. **Presentation Five – Free Speech and Free Expression Discussion with former Solicitors General**
The fifth and final presentation surrounding free speech and free expression included a discussion with former United States Solicitors General Noel J. Francisco and Seth P. Waxman. The discussion primarily focused on the law and culture around free speech and free expression as it relates to our universities.

3. Free Speech Survey

In November 2020, the committee began its series of presentations on free expression and free speech with an informative discussion on the state of free expression. The committee was joined by three members of the faculty from the University of North Carolina at Chapel Hill: Mark McNeilly, Jennifer Larson, and Timothy Ryan. The speakers presented findings from a survey of students at UNC-Chapel Hill on free expression issues.

With support from the System Office, the research team replicated and expanded the UNC-Chapel Hill study to a broader group of institutions. The original research team from UNC-Chapel Hill partnered with faculty from seven additional campuses to survey 500 students at each university. Each survey included both core items that are common across all institutions, as well as survey questions that were customized to each institution. Institutions participating in the survey are: Appalachian State University, North Carolina Central University, University of North Carolina at Asheville, UNC-Chapel Hill, University of North Carolina at Charlotte, University of North Carolina at Greensboro, University of North Carolina at Pembroke, and University of North Carolina Wilmington. These findings were presented at the May 2022 meeting of the Committee on University Governance.

The survey found that UNC System institutions do face challenges concerning their cultures for free expression and constructive dialogue. However, these challenges are far more complex than many popular narratives would lead one to appreciate. Many UNC System students do indeed have significant concerns about expressing political views on campus. These concerns arise disproportionately from students who describe themselves as conservative, but they affect students of nearly all backgrounds. And contra a common narrative that liberal-leaning faculty members attempt to impose their views on the students they teach, the survey found that students worry about the reactions of their peers more than those of faculty.

2021-22 Annual Report on Technical Corrections

<i>The Code/UNC Policy Manual</i>	UNC Policy Manual - Chapter	Policy/Regulation/Guideline	Section(s)	Technical Correction(s)	Effective Date (Posted to Webpage)
<i>The Code</i>	Chapter II – The Governors	<i>The Code</i>	Section 202 C(1) Quorum	Inserted commas in two places within the second sentence.	9/8/2021
<i>The Code</i>	Chapter VI – Academic Freedom	<i>The Code</i>	Entire Chapter	Update reference to “Committee on Personnel and Tenure” to “Committee on University Personnel” and other Style Guide corrections consistent with later amendments to the UNC Policy Manual.	9/22/2021
UNC Policy Manual	Chapter 200, Board of Governors Affairs	Policies	Section(s) 200.3, 200.6, 200.8	Update reference to “Committee on Personnel and Tenure” to “Committee on University Personnel” and other Style Guide corrections consistent with later amendments to the UNC Policy Manual.	9/22/2021
UNC Policy Manual	Chapter 300, Personnel Policies	Policies and Regulations	Sections 300.1.1 II.A.1.c, 300.1.4, 300.8.5[R] XI, 300.2.14 and 300.2.14[R]	Update references to “Committee on Personnel and Tenure” to “Committee on University Personnel.” Update references to “General Administration” and other stylistic corrections consistent with later amendments to the UNC Policy Manual. Standard policy and regulation language added at the end.	9/23/2021 (300.1.1) 9/29/2021 (300.1.4) 9/29/2021 (300.8.5[R]) 9/22/2021 (300.2.14) 9/29/2021 (300.2.14[R])
UNC Policy Manual	Chapter 400, Academic Programs	Policy	Section 400.3.6, Intro Paragraph and Subsection I.B.	Update References to “Committee on Personnel and Tenure” to “Committee on University Personnel.”	9/23/2021

2021-22 Annual Report on Technical Corrections

UNC Policy Manual	Chapter 600, Financial Matters, Real Property, Endowment, and Trust Funds	Policy	Corrections made throughout entire Section 600.3.4.	Update references to “Committee on Personnel and Tenure” to “Committee on University Personnel.” Update references to “General Administration” and other corrections consistent with later amendments to the UNC Policy Manual. Standard policy language added at the end.	9/22/2021
UNC Policy Manual	Chapter 300, Personnel Policies	Policy	Section 300.2.1	Updated various formatting such as spacing, capitalization, and structure. Updated certain references to “UNC General Administration” to “UNC System Office” or “UNC System.” Updated references to “State Personnel Act” to “North Carolina Human Resources Act.”	1/6/2022
<i>The Code</i>	Appendix I	<i>The Code</i>	Opening paragraph; Section I.A., through C.; Section VII.; and Section IX.E.	Update references to <i>The Code</i> , the North Carolina Human Resources Act, and the University of North Carolina System.	1/27/2022
UNC Policy Manual	Section 600.2.1, <i>Policy on Endowment Funds</i>	Policy	I.; I.II; II.J; III.J; III.K; IV.H; IV.I; V.H; and V.I	Correct references to the “advisory Budget Commission” to “Director of the Budget,” as approved by the Committee on Budget and Finance at its February 22, 2022 meeting. Corrected word “and” to “an” in the sentence “G.S. 116-36 provides the Board of Governors with authority to prescribe such terms and conditions under which each of the board of trustees of each constituent institution shall establish and maintain <i>an</i> endowment fund for the constituent institution.”	5/23/2022 6/6/2022 (600.2.1 I.)
UNC Policy Manual	Section 400.2.3[R]	Regulation	I. A.B.C.D.E.	Corrected the sequence of items under I. from “A.B.C.D.D.E.” to “A.B.C.D.E.”	6/7/2022



AGENDA ITEM

A-2. Resolution on Security Clearance Requirement.....Kellie Blue

Situation: A resolution is required annually of the Board of Governors by the United States Department of Defense.

Background: The Department of Defense requires the UNC System to maintain a Facility Security Clearance in the performance of classified contracts. In connection with this Facility Clearance, certain senior management officials must obtain an individual security clearance. This resolution is required to exempt members of the Board of Governors and senior officers of the UNC System from the requirement to obtain individual security clearances.

Assessment: This is an annual resolution to be adopted by the Board of Governors.

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



**RESOLUTION OF THE BOARD OF GOVERNORS OF
THE UNIVERSITY OF NORTH CAROLINA
AUTHORIZING SECURITY CLEARANCE**

WHEREAS, current Department of Defense Regulations contain a provision making it mandatory that the chair of the Board and principal officers meet the personnel clearance requirements established for a contractor's facility clearance; and

WHEREAS, said Department of Defense Regulations permit the exclusion from the personnel clearance requirements of certain members of the Board of Governors and other officers, provided that this action is recorded in the corporate minutes.

NOW, THEREFORE, BE IT DECLARED that the chair of the Board, the president of the University of North Carolina, Insider Threat Program Senior Official, and the University's Facility Security Officer and Assistant Facility Security Officer at the present time do possess, or will be processed for, the required security clearance; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as chair of the Board, the president of the University of North Carolina, Insider Threat Program Senior Official, or as the University's Facility Security Officer or Assistant Facility Security Officer, such individual shall immediately make application for the required security clearance; and

BE IT FURTHER RESOLVED that the following members of the Board of Governors and other officers shall not require, shall not have, and can be effectively excluded from access to **CLASSIFIED** information in the possession of the corporation and do not occupy positions that would enable them to affect adversely corporate policies or practices in the performance of classified contracts for the Department of Defense or the User Agencies of its Industrial Security Program.

NAME	TITLE
Norma Reid Houston	Chief of Staff
John Michael Vollmer	Senior Vice President and Chief Operating Officer
Jennifer Healy Haygood	Senior Vice President for Finance and Administration and Chief Financial Officer
David Judson English	Interim Senior Vice President for Academic Affairs and Chief Academic Officer
Andrew Patrick Kelly	Senior Vice President for Strategy and Policy
Scott Bartley Goodson	Senior Vice President of Government Affairs

NAME	TITLE
Darryl Bass	Vice President and Chief Human Resources Officer
Andrew Tillman Tripp	Senior Vice President and General Counsel
Thomas Alvester Walker, Jr.	Senior Advisor to the President for Economic Development and Military Affairs
Marvin Lee Barnes Jr.	Member
Kellie Hunt Blue	Member
Kirk Jackson Bradley	Member
Pearl Burris-Floyd	Member
Charles Philip Byers	Member
Jimmy Dean Clark	Member
Carolyn Lloyd Coward	Member
Joel Douglas McClure Ford	Member
John Alfred Fraley	Member
Thomas Cowart Goolsby	Member
Reginald Ronald Holley	Member
James Leroy Holmes, Jr.	Member
Martin Luther Holton III	Member
Hilton Terry Hutchens	Member
John Alexander Mitchell	Member
Wendy Floyd Murphy	Member
Anna Spangler Nelson	Member
Sonja Phillips Nichols	Member
Raymond Theodore Palma	Member, <i>ex officio</i>
James Arthur Pope	Member
David Murphy Powers	Member
Lee Harriss Roberts	Member
Orris Temple Sloan, III	Member
Michael Leighton Williford	Member

The foregoing resolution was duly adopted by the Board of Governors at a regular meeting of the Board on the 22nd day of September 2022.

STATE OF NORTH CAROLINA)
)
 COUNTY OF ORANGE)

SS:

SECRETARY'S CERTIFICATE
OF AUTHORIZATION

I, Meredith R. McCullen, associate vice President and Secretary of the University of North Carolina, *DO HEREBY CERTIFY* that (1) the foregoing is a full, true and correct copy of the approving resolution adopted by the Board of Governors of the University of North Carolina at its regular meeting on September 22, 2022, and appearing in the minutes of such meeting; (2) notice of the meeting of the Board of Governors of the University of North Carolina held on September 22, 2022, was sent to each member of the Board; and (3) a quorum was present at the meeting on September 22, 2022, at which time the foregoing resolution was adopted.

WITNESS, my hand and the seal of the University of North Carolina this 22nd day of September 2022.

[SEAL]

Meredith R. McCullen
Associate Vice President and Secretary
The University of North Carolina



AGENDA ITEM

- A-4. Report on Free Speech and Free Expression
Within the University of North Carolina System..... Andrew Tripp

Situation: As required by state law and Section 1300.8 of the UNC Policy Manual, the report on free speech and free expression provides information annually on the following subjects:

1. Any barriers to or disruptions of free expression within the UNC constituent institutions;
2. The administrative handling and discipline relating to disruptions or barriers to free expression;
3. Any substantial difficulties, controversies, or successes in meeting the requirements of Section 1300.8 of the UNC Policy Manual; and
4. Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

The UNC System Office staff worked with constituent institutions responsible officers to compile information on the required topics and other issues related to campus speech activity.

Background: G.S. 116-301 requires that the Board designate a standing committee to act as the Committee on Free Expression and report annually to the public, the Board, the Governor, and the General Assembly on issues related to free speech and free expression within the UNC System. The Board has designated the Committee on University Governance to fulfill these responsibilities.

Assessment: This report addresses free speech and free expression at the constituent institutions for the period of time between July 1, 2021, and June 30, 2022. The report finds that constituent institutions are committed to promoting and protecting free speech and free expression, and that disruptions and interference at scheduled speaking or expressive events have been minimal over the past year. The report details steps that constituent institutions are taking to inform campus constituencies about rights and responsibilities, as well as recommendations for improving free expression across the UNC System.

Action: This item requires a vote by the committee.



THE UNIVERSITY OF NORTH CAROLINA SYSTEM

REPORT:

2021-2022 Report on Free Speech and Free Expression Within the University

September 21, 2022

**University of North Carolina System Office
Chapel Hill, North Carolina**

UNC Board of Governors

Committee on University Governance, acting as the designated Board Committee on Free Expression 2021-2022 Report on Free Speech and Free Expression Within the University

I. Executive Summary

This report addresses free speech and free expression at the constituent institutions¹ of the University of North Carolina System (“UNC System” or “the University”) for the period of time between July 1, 2021, and June 30, 2022, as required by the [Restore/Preserve Campus Free Speech Act](#) (“the Act”).² In preparing and publishing this report, the UNC System Board of Governors Committee on University Governance (“committee”), as the designated Committee on Free Expression,³ was guided primarily by the elements required by the Act.⁴ Additionally, the committee relied on information provided by the constituent institutions, information shared with the president and/or members of the Board of Governors, and on relevant articles and media stories published in the past year.

The committee’s intent in issuing this annual free expression report is to address the specific categories of information identified in the Act, assess institutional compliance with [Section 1300.8](#) of the UNC Policy Manual, survey the expressive events that took place at the UNC System constituent institutions during the relevant period, review progress since last year’s report, and provide recommendations for the upcoming academic year.

With the requirements of the Act in mind, this report provides background on and context for free speech and free expression at UNC System constituent institutions, highlights experiences at our institutions over the past year, identifies some key findings by the committee, and offers recommendations that are aimed at providing more awareness and transparency on issues related to free speech and free expression.

Specifically, as will be further detailed in this report, the committee found that:

¹ Because of the additional protections afforded to K-12 institutions under the First Amendment, the North Carolina School for Science and Math, the University of North Carolina School of the Arts for its high school students, and any lab schools operated by a constituent institution are not included within the scope of the report. Even so, these institutions are expected to comply with Article 36 of Chapter 116 to the extent there is not a conflict with relevant First Amendment jurisprudence applicable to K-12 institutions.

² The Restore/Preserve Campus Free Speech Act was enacted in 2017 as [S.L. 2017-196](#) and is codified in the North Carolina General Statutes as Article 36 of Chapter 116.

³ The Act requires the Board of Governors to establish a Committee on Free Expression. [N.C. Gen. Stat. § 116-301](#) (hereinafter G.S.). Section 10.3 of [S.L. 2018-5](#) (“Current Operations Appropriations Act of 2018”) amended G.S. 116-301 to allow the chair of the Board of Governors to designate a standing or special committee of the Board as the Committee on Free Expression.

⁴ [G.S. 116-301\(c\)](#) articulates specific information to be provided in the annual report. See Section IV., herein, for more information.

1. The constituent institutions remain committed to promoting and protecting free speech and free expression;
2. Disruptions and interference at scheduled expressive events have been minimal;
3. Constituent institutions have developed and utilized mechanisms for receiving, investigating, and resolving complaints regarding alleged free expression policy violations;
4. The constituent institutions are regularly providing information to campus constituencies about rights and responsibilities associated with expression on campus through policies, training, and other outreach;
5. The Foundation for Individual Rights in Education (FIRE), which rates college and university speech policies, has awarded its highest rating (“green light”) to 14 UNC System constituent institutions—up from the 11 UNC System constituent institutions reported last year.⁵
6. No reporting constituent institutions have incurred expected or unexpected financial costs related to security surrounding speakers or expressive events on campus; and
7. Constituent institutions continue to accept the recommendations for improvement contained in last year’s report by taking actions such as thematic branding of free and open discourse, working to update and improve policies and ensuring that all student groups needing faculty or staff support can have it, and creating and maintaining “one stop” destination websites for fostering free expression on campus.

The committee acknowledges that the UNC System’s constituent institutions have a long record of hosting events without significant disruption or interference, and many successful events tend not to garner significant publicity or public attention. This past year was no exception.

In addition to work happening on each individual campus, the University’s collection of Responsible Officers, which are designated to ensure compliance with [Section 1300.8](#) of the UNC Policy Manual, have also engaged cooperatively to create and improve resources regarding free expression within the University system. The UNC System Office continues to maintain and update a webpage dedicated to providing information and resources related to free speech and free expression within the University.⁶ Finally, new initiatives are underway systemwide. The committee is pleased to inform the

⁵ See Foundation for Individual Rights in Education’s Speech Code Rating Database, https://www.thefire.org/resources/spotlight/?x=&speech_code=Green&y=NC&institution_type=Public&speech_code_advanced=Green&y_advanced=NC#search-results.

⁶ See UNC System Office “Campus Speech and Free Expression” website <https://www.northcarolina.edu/campus-free-speech>.

General Assembly, the Governor, and the public about certain Board- and System Office-level efforts to foster and facilitate free and open debate across the UNC System in accordance with the law.

II. Background

A. University Commitment to Free Speech and Free Expression

As the nation's first public university, the University of North Carolina System affirms its long-standing commitment to free speech and free expression for its students, faculty members, staff employees, and visitors under the First Amendment of the U.S. Constitution and Article 1, Section 14 of the North Carolina Constitution. The University and its constituent institutions protect and promote these freedoms, consistent with First Amendment jurisprudence.⁷ Through its policies, the University has expressly established that no employment decision or academic decision shall be based on the exercise of these constitutional rights.⁸

The University's mission includes the transmission and advancement of knowledge and understanding, the pursuit of which is dependent upon the ability of our faculty and students to remain free to inquire, study, evaluate, and gain new maturity and understanding.⁹ The University supports and encourages freedom of inquiry for faculty members and students to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors.¹⁰ The University has explicitly stated that faculty and students of the University share the responsibility for maintaining an environment in which academic freedom flourishes and in which the rights of each member of the academic community are respected.¹¹ Academic freedom has indeed been acknowledged by the Supreme Court as "of transcendent value to all of us" and "a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."¹²

B. Restore/Preserve Campus Free Speech Act

Through statute, the North Carolina General Assembly has affirmed that the primary function of the University of North Carolina System and each of its constituent institutions is the discovery,

⁷ See, e.g., Sections 601, 604, and 608 of *The Code of the University of North Carolina ("The Code")*. See also Sections 101.3.1, 300.1.1., 300.2.1, 700.4.2, and 1300.8 of the UNC Policy Manual.

⁸ See Sections 601, 604, and 608 of *The Code*. See also Sections 101.3.1, 300.1.1, 300.2.1, 700.4.2 of the UNC Policy Manual.

⁹ See *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

¹⁰ Section 600(1) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

¹¹ Section 600(3) of *The Code*. See also Section 700.4.2 of the UNC Policy Manual.

¹² *Keyishian v. Board of Regents, State Univ. of N.Y.*, 385 U.S. 589, 603 (1967).

improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, each constituent institution must strive to ensure the fullest degree of intellectual freedom and free expression. According to G.S. 116-300(2), “it is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.”¹³

The General Assembly has also established several requirements for the Board of Governors, the University of North Carolina System, and its constituent institutions regarding free expression. In response, the Board of Governors has designated a Committee on Free Expression¹⁴ and adopted a University-wide free expression policy which, among other elements, maintains institutional neutrality.¹⁵ A copy of the policy is linked [here](#). Additionally, the University meets its statutory obligations by providing training for institutional officers and administrators charged with responsibilities for compliance with the Act and coordinating campus-based training (“Responsible Officers”) and publishing this annual report. A list of current Responsible Officers is available at this [link](#).

III. Discussion of Free Speech and Free Expression at the University During the 2021-22 Academic Year and Committee Findings

Pursuant to the Act, the University’s policy, and the Board’s interest in a broad review of free expression across the University, the committee received information from responding constituent institutions in 9 areas. The questions and summaries of the institutional responses are provided below.

¹³ [G.S. 116-300\(2\)](#).

¹⁴ Section 10.3 of [S.L. 2018-5](#) (Current Operations Appropriations Act of 2018), which became law on June 12, 2018, amended the requirements for the committee to allow the chair of the Board of Governors to designate a standing or special committee of the Board as the Committee on Free Expression. See <https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S99v6.pdf>. The chair of the Board of Governors has designated the Committee on University Governance as the statutorily mandated Committee on Free Expression.

¹⁵ In this context, “institutional neutrality” specifically means only that “the constituent institution may not take action, as an institution, on the public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.” [G.S. 116-300\(3\)](#).

QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS	SUMMARY OF INSTITUTIONAL RESPONSES
<p>(1) A description of any barriers to or disruptions of free expression within the constituent institution, including specific incidents and/or particularized complaints.¹⁶</p>	<ul style="list-style-type: none"> • No constituent institution reported an institutional barrier or disruption of free expression during the academic year. • Notwithstanding the foregoing, Fayetteville State University noted the bomb threat it experienced in February of this year. Understandably, that threat delayed or cancelled student events for reasons unrelated to the content of any one speech or event. • The UNC School of the Arts received a complaint about the title and tone of an event. The matter was investigated, and the event did not occur for other reasons.
<p>(2) A description of the administrative handling and discipline relating to disruption or barriers identified in response to (1).¹⁷</p>	<ul style="list-style-type: none"> • No responding institutions had administrative action to report.
<p>(3) Identification and description of any difficulties, controversies, and successes in maintaining a posture of administrative and institutional neutrality about political or social issues.¹⁸</p>	<ul style="list-style-type: none"> • The responding institutions reported consistently that the work of free expression went on. • The responding institutions consistently reported steady and regular efforts to foster a culture of free expression.

¹⁶ [G.S. 116-301\(c\)\(1\)](#) and Section 1300.8, VIII.C.1 of the UNC Policy Manual.

¹⁷ [G.S. 116-301\(c\)\(2\)](#) and Section 1300.8, VIII.C.2 of the UNC Policy Manual.

¹⁸ [G.S. 116-301\(c\)\(3\)](#) and Section 1300.8, III and VIII.C.3 of the UNC Policy Manual.

QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS	SUMMARY OF INSTITUTIONAL RESPONSES
(4) Any assessments, criticisms, commendations, or recommendation the constituent institution would like the committee to consider in preparing the annual report. ¹⁹	<ul style="list-style-type: none"> • None reported.
(5) Confirmation of whether the institution fulfilled the University policy requirements to disseminate information about institutional policies during the 2021-22 academic year.	<ul style="list-style-type: none"> • All responding institutions indicated that they had disseminated information as required by policy.
(6) Identification of representative institutional policies that reinforce commitment to free speech and free expression (e.g., academic freedom, tenure regulations, facilities use, etc.).	<ul style="list-style-type: none"> • Many institutions reported amending or adopting policies, including facilities use policies, student codes of conduct, and student organization policies or referenced back to having previously undertaken those efforts in prior years. • UNC Asheville, and specifically Interim General Counsel John Dougherty, worked tirelessly to help UNC Asheville earn the coveted “Green-Light” status from the Foundation for Individual Rights and Expression. • So, too, did the UNC School of the Arts through tireless work by David Harrison, the General Counsel at the school. • Notably, UNC Chapel Hill’s Board of Trustees passed a resolution affirming the University’s commitment to academic freedom and freedom of speech on campus.

¹⁹ [G.S. 116-301\(c\)\(4\)](#) and Section 1300.8, VIII.C.4 of the UNC Policy Manual.

QUESTIONS SENT TO THE CONSTITUENT INSTITUTIONS	SUMMARY OF INSTITUTIONAL RESPONSES
(7) Examples of speakers or other events that have been held at the institution during the 2021-22 academic year.	<ul style="list-style-type: none"> • Institutions provided representative samplings of events and all institutions reported multiple speakers or free expression events during the academic year. • Several institutions reported instances of speakers engaging in free expression on campus without invitation or registration.
(8) Identification of communications, trainings, or other educational outreach regarding free speech and free expression that have been provided during the 2021-22 academic year.	<ul style="list-style-type: none"> • All institutions identified free expression communications, trainings, or outreach that had taken place during the academic year. One noteworthy effort occurred at Appalachian State University where various divisions of the school’s leadership came together to launch their Free Speech website. Additionally, Elizabeth City State University offers an example of a triple pronged approach to Free Speech and Expression Training during its 21-22 academic year. Finally, NCSU maintains multiple outlets, including a dedicated website and email addresses to foster conversations regarding and awareness of the importance of free speech.
(9) Information about security and other costs associated with protecting and affirming free expression on campus.	<ul style="list-style-type: none"> • Institutions report either no or minimal additional security costs associated with expressive events. Multiple campuses reported the policy framework each has in place to impose fees and assess costs against sponsoring organizations.

As a result of the information gathered, it appears again this year that (1) the constituent institutions remain committed to promoting and protecting free speech and free expression; (2) disruptions and interference at scheduled speaking or expressive events have been minimal over the past year; (3) the constituent institutions continue to work to provide information to various campus constituencies about rights and responsibilities associated with speech and expression on campus

through policies, training, and other outreach; (4) the Foundation for Individual Rights in Education (FIRE), which rates college and university speech policies, has awarded its highest rating (“green light”) to 14 UNC System constituent institutions—up from 11 reported last year; and (5) no constituent institutions have reported incurring meaningful additional costs related to security surrounding speakers or expressive events on campus, likely due to the use of virtual platforms.

IV. Implementation of Past Report Recommendations

Constituent institutions reported a variety of processes and resources that have been introduced or improved to implement recommendations from the committee’s 2021-22 free expression annual report.

V. New Initiatives & Committee Recommendations for 2021-22

The committee recognizes that there are always opportunities for improving the University’s commitment to free speech and free expression. Specifically, the UNC System Office proudly moved forward under President Peter Hans’ leadership with the expansion of an earlier study of free expression by a trio of University of North Carolina at Chapel Hill professors entitled “[Free Expression and Constructive Dialogue at the University of North Carolina at Chapel Hill](#).” This study was discussed in last year’s report. Since then, President Hans directed funds to expand the study to include 8 different UNC campuses, including UNC Chapel Hill. The product of the expanded study was presented to the Governance Committee in May 2022 and is available online.

That Governance Committee itself has redoubled its efforts to foster free expression and proudly hosted two events discussing the climate of discourse on UNC System campuses at two of its regular meetings. At its November 17, 2021 meeting, the committee heard from Chief Justice of North Carolina Paul Martin Newby and Associate Justice Mike Morgan. On May 25, 2022, at the same meeting attended by the studying professors described above, the committee participated in a lengthy discussion with two former Solicitors General of the United States, Seth Waxman and Noel Francisco. Both discussions foster an “upfront” mentality on enabling free speech across the UNC System. If we are talking about it, our campuses are thinking about it.

Within the Office of Legal Affairs, lawyers working for the UNC System Office are working to obtain recognition from FIRE for the longstanding commitment to free expression memorialized in the UNC Policy and thinking about ways to reach “green” status for the remaining UNC System campuses.

This annual report provides a welcome opportunity to consider options that will demonstrate our System-wide leadership and action in support of free speech and free expression. The committee

therefore offers these recommendations for consideration for implementation by the UNC System Office:

1. Continue to foster opportunities for free speech and free expression among campus communities that are geographically disconnected due to social distancing guidelines.
2. Continue to adapt traditional free expression expectations within increased virtual instruction and online interaction.
3. Continue to provide training to constituent institution administrators who have transitioned into the Responsible Officer title.
4. Continue to foster a culture of conversation among all stakeholders about the importance of free expression. High repetition of low intensity reminders pays dividends in the way that all campus stakeholders consider the importance of free expression in their daily lives.
5. Seek universal “green” status across the UNC System from FIRE.

V. Conclusion

The committee continues to support the UNC System Office’s and the constituent institutions’ work and efforts in promoting and protecting free speech and free expression, increasing awareness and understanding of the broad protections for speech and expressive activities on campus, and taking action, when needed, to prevent substantial disruption or interference in scheduled events.

Our constituent institutions offer a range of speakers, topics, and outreach, and we recognize the efforts of our faculty, administrators, and students to invite different, and even unpopular, views and opinions on important issues.

The annual obligations that produce this report effect a culture of periodic “well visits” checking into the health of free expression on our campuses. This report confirms that the transparency and accountability required by the originating legislation are having their desired effect. While the content of this report remains consistent generally year over year, the report serves as an annual “well visit” for the state of discourse at the University. The reporting and survey responses document that the importance of free expression is at the fore of our responding campuses’ minds and creating neutral forums in which diverse thought is fostered has become a habit at our campuses and within the committee itself.

Accepted by the UNC System Board of Governors Committee on University Governance, the designated Board Committee on Free Expression on September 21, 2022.