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of NORTH CAROLINA  
at CHAPEL HILL

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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 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,

A handwritten signature in cursive script that reads "Carol L. Folt".

Carol L. Folt  
Chancellor