

*Constituent Universities*

Appalachian  
State University

East Carolina  
University

Elizabeth City  
State University

Fayetteville State  
University

North Carolina  
Agricultural and  
Technical State  
University

North Carolina  
Central University

North Carolina  
State University  
at Raleigh

University of  
North Carolina  
at Asheville

University of  
North Carolina  
at Chapel Hill

University of  
North Carolina  
at Charlotte

University of  
North Carolina  
at Greensboro

University of  
North Carolina  
at Pembroke

University of  
North Carolina  
at Wilmington

University of  
North Carolina  
School of the Arts

Western Carolina  
University

Winston-Salem  
State University

*Constituent High School*

North Carolina  
School of Science  
and Mathematics

An Equal Opportunity/  
Affirmative Action Employer

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May 9, 2016

Vanita Gupta  
Principal Deputy Assistant Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Dear Ms. Gupta,

We write in response to your letter of May 4, 2016 notifying the University of North Carolina (“University”) that the Department of Justice has concluded that the University is in violation of Title IX of the Education Amendments of 1972 (“Title IX”), the Violence Against Women Reauthorization Act of 2013 (“VAWA”), and Title VII of the Civil Rights Act of 1964 (“Title VII”). According to your letter, the basis for this determination is the fact that the University, as a state agency, is subject to the recently enacted North Carolina Public Facilities Privacy and Security Act (“the Act” or “House Bill 2”), which provides that all public agencies in North Carolina shall require every multiple-occupancy bathroom and changing facility to be designated for and used only by persons based on their biological sex.

The University takes its obligations to comply with federal non-discrimination statutes and their implementing regulations very seriously. We believe that the University has at all times acted in compliance with federal law, and the University intends to continue to comply in the future. Nothing is more important to the University than the safety and well-being of its students, faculty, and staff. We have always worked to make our campuses welcome and safe for students and faculty of all backgrounds, beliefs, and identities. Toward that end, longstanding policy prohibits University personnel from discriminating on the basis of, among other things, gender identity, sex, or sexual orientation.

After the Act’s passage, our chancellors, faculty, staff, and students responded with a flurry of questions and expressed substantial concerns. My April 5 memorandum and April 11 statement regarding the Act reflected good faith efforts on behalf of the University to answer some of these questions and to offer reassurance. Communicating in real time was not only essential, but also exceedingly difficult given the uncertainty in response to the Act. Throughout all of this time, the University has recognized that the Act does not address enforcement and therefore has not taken any steps to enforce the statute’s requirements on its campuses.

We hope that the Department of Justice appreciates that the University is in a difficult position. The University, created by the State of North Carolina, has an obligation to adhere to laws duly enacted by the State’s General Assembly and Governor. So, too, does the University have an equally clear obligation to follow federal law, including federal prohibitions on discrimination. In ordinary circumstances, these obligations are not in tension. In this instance, however, the Department has explained the conflict it sees between the Act and federal civil rights law. The Act remains the law of the State, however, and the

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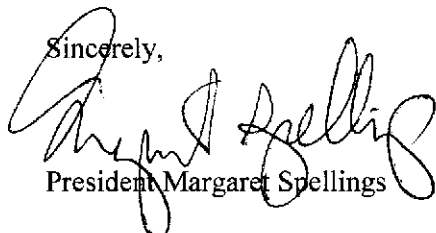
University has no independent power to change that legal reality. As you know, the question of whether Title IX requires schools to allow use of bathrooms and other single-sex facilities based on gender identity remains before the Fourth Circuit in *G.G. v. Gloucester County School Board*. A petition for rehearing *en banc* in that case is pending, and thus the Court has not issued its mandate.

In response to your request for assurances that the University is taking these matters seriously, the Board of Governors has scheduled a special meeting for tomorrow afternoon. At this time, the University pledges its good faith commitment to assure the proper application of non-discrimination law in the university setting, where there remain many difficult and unanswered questions.

We believe that this letter – which unequivocally confirms that the University has and will continue to comply with the requirements of Title IX, VAWA, and Title VII – should suffice at the present time to provide the assurance you sought about the University’s efforts to ensure continued compliance with federal law.

If I can answer any questions or be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margaret Spellings', written in a cursive style.

President Margaret Spellings

cc: W. Louis Bisette, Jr.  
Thomas C. Shanahan