



FIRE

Foundation for Individual
Rights and Expression

June 7, 2023

Kevin M. Guskiewicz, Ph.D.
Office of the Chancellor
University of North Carolina at Chapel Hill
103 South Building, Campus Box 9100
Chapel Hill, North Carolina 27599-9100

Sent via Electronic Mail (chancellor@unc.edu)

Dear Chancellor Guskiewicz:

FIRE¹ is concerned UNC is continuing to deviate from its binding commitments² to academic freedom by maintaining review, promotion, and tenure standards at the UNC School of Medicine that require faculty to demonstrate commitment to diversity, equity, and inclusion (DEI) and to “integrate social justice” into their teaching, research, and service.³ In communications with UNC’s legal counsel, FIRE was under the impression UNC intended to remove these ideology-based requirements for all faculty at the medical school. Because we have recently learned UNC’s planned rescission applied only to one of the medical school’s components, we again call on UNC to eliminate or revise its unconstitutional mandate for all School of Medicine faculty.

FIRE’s April 7 letter⁴ detailed First Amendment concerns about the School of Medicine’s “Task Force to Integrate Social Justice into the Curriculum” and its report,⁵ calling for medical school faculty to be “assessed regarding their contributions in the domain of social justice”⁶ through

¹ As you may recall from previous correspondence, the Foundation for Individual Rights and Expression is a nonpartisan nonprofit dedicated to defending freedom of speech, expression, and conscience, and other individual rights on campus.

² Of the nearly 500 colleges and universities rated in FIRE’s Spotlight database, UNC is one of only 61 schools to have earned a prestigious “green light” rating. *Spotlight on Speech Codes*, FIRE (2023), <https://www.thefire.org/research-learn/spotlight-speech-codes-2023>.

³ Julia Draper et al., *Task Force to Integrate Social Justice into the Curriculum Final Report*, UNIV. OF N.C. SCH. OF MED., 36 (2020) [hereinafter SOM Report] (on file with author).

⁴ Letter from FIRE to Kevin M. Guskiewicz, Chancellor, (Apr. 7, 2023), <https://www.thefire.org/research-learn/fire-letter-university-north-carolina-april-7-2023-0>.

⁵ SOM Report, *supra* note 3.

⁶ *Id.* at 33.

departmental evaluations,⁷ annual reviews,⁸ and promotion and tenure policies.⁹ Our letter also expressed concerns about a similar, separate initiative by a department within the medical school. The Department of Allied Health Sciences’ “Task Force to Integrate Social Justice into the Allied Health Curricula” and its report¹⁰ calling for the department to incorporate DEI and social justice initiatives into faculty peer evaluations,¹¹ annual reviews,¹² and promotion and tenure decisions,¹³ would, if implemented, violate faculty members’ constitutional rights.

On May 4, FIRE spoke with Senior University Counsel Kirsten Stevenson who represented telephonically our First Amendment concerns were addressed. On May 11, in furtherance of the May 4 conversation, she wrote to FIRE:

[T]he UNC Chapel Hill School of Medicine, Department of Health Sciences, Task Force to Integrate Social Justice into the Department of Health Sciences Curricula (“Task Force”) . . . recommendations have not been operationalized and the Task Force has concluded its work. There is no plan to implement the Task Force’s recommendations now or in the future. Even if the recommendations were revisited in the future, further review and revision would be required.¹⁴

On June 1, FIRE sought clarification whether UNC meant to include both the School of Medicine’s task force and the Department of Allied Health Sciences’ task force in the May 11

⁷ *Id.* (“100% of departments will have evaluation tools that assess and incentivize a faculty member’s contributions to social justice in their teaching by 2024.”).

⁸ *Id.* at 13 (“*Recommendation 3.5*: Develop uniform policies and procedures on how social justice contribution is integrated into the annual reviews and tied to incentives.”).

⁹ *Id.* (“*Recommendation 3.6*: Revise Promotion and Tenure Guidelines to include a social justice domain required for promotion.”); *Id.* at 33 (“Promotion and Tenure Guidelines will have social justice or DEI added as a domain required for promotion for all faculty by 2024.”).

¹⁰ *Task Force to Integrate Social Justice into the Allied Health Curricula Final Report*, DEPT. OF ALLIED HEALTH SCIS., 2 (2021) (on file with author).

¹¹ *Id.* at 6 (“*Recommendation 3.6*: Develop a process to articulate how social justice is incorporated into teaching/clinical/research and associated rubrics for Peer Teaching Evaluation and other types of faculty evaluation.”); *Id.* at 21 (“Update Annual Review Form to include key items on inclusion of social justice in faculty instructional material, participation in annual required training in social justice principles, and items from student course evaluations.”).

¹² *Id.* at 22 (“All annual faculty reviews will include an assessment of how the faculty member contributed to social justice in their work (teaching/clinical/research) and this assessment will be linked to the department’s compensation plan and other incentives by 2023.”).

¹³ *Id.* at 20 (“All Peer Teaching Evaluations for promotion or other types of faculty evaluation (Peer Clinical Evaluation) will include a social justice component as part of the evaluation by July 2022.”).

¹⁴ Letter from Kirsten C. Stevenson, Senior University Counsel, to Harrison M. Rosenthal, Litigation Fellow (May 11, 2023), <https://www.thefire.org/research-learn/university-north-carolina-chapel-hills-response-fire-may-11-2023>.

letter.¹⁵ Ms. Stevenson responded that the operative language relates only to the Department of Health Sciences' task force.¹⁶

As FIRE has explained,¹⁷ to the extent UNC creates inherently subjective standards compelling faculty to voice or demonstrate commitments to prescribed views on contested questions of politics or morality to avoid adverse employment action, these standards violate the First Amendment. To the extent the task forces' recommendations constitute viewpoint discrimination and compelled speech proscribed by the First Amendment, they violate the UNC system-wide policy on employee political activities,¹⁸ a concern that University Counsel said she shares.¹⁹

UNC maintains FIRE's highest "green light" rating for its speech protective policies. But these policies are merely words on paper if the university does not put them into practice. Accordingly, we call on the School of Medicine at large to eliminate or revise its mandate.

We respectfully request a substantive response to this letter no later than Tuesday, June 20, 2023.

Sincerely,



Harrison M. Rosenthal, J.D., Ph.D.
Litigation Fellow

Cc: Stephen R. Hooper, Ph.D., Associate Dean and Chair, Department of Health Sciences, UNC School of Medicine
Wesley Burks, M.D., Dean, UNC School of Medicine, Vice Chancellor for Medical Affairs, CEO of UNC Health
Kirsten C. Stevenson, Esq., Senior University Counsel, UNC at Chapel Hill

¹⁵ Email from Rosenthal to Stevenson (June 1, 2023, 14:45 EDT) (on file with author).

¹⁶ Email from Stevenson to Rosenthal (June 5, 2023, 13:14 EDT) (on file with author).

¹⁷ Letter from FIRE, *supra* note 4.

¹⁸ Political Activities of Employees, UNIV. OF N.C. SYS., (amended Feb. 23, 2023), <https://www.northcarolina.edu/apps/policy/doc.php?id=125> [<https://perma.cc/UG2V-JA8M>] ("To mitigate the risk of compelled speech that undermines the intellectual freedom and fostering of free expression required of the University of North Carolina by Article 36 of Chapter 116 of the General Statutes and embraced in Chapter VI of the UNC Code and Section 1300.8 of UNC Policy, the University shall neither solicit nor require an employee or applicant for academic admission or employment to affirmatively ascribe to or opine about beliefs, affiliations, ideals, or principles regarding matters of contemporary political debate or social action as a condition to admission, employment, or professional advancement.").

¹⁹ Letter from Stevenson, *supra* note 14.