

November 24, 2020

Via e-mail: chancellor@uncp.eduDr. Robin Cummings, Chancellor
The University of North Carolina Pembroke
Office of the Chancellor
Lumbee Hall 406
PO Box 1510
Pembroke, NC 28372**RE: “Suspension” of Women’s Varsity Golf Team at UNCP in Violation of Title IX**

Dear Chancellor Cummings:

I and my co-counsel have been retained by members of the women’s varsity golf team to prevent their team’s “suspension” and, if necessary, pursue a class action lawsuit against The University of North Carolina Pembroke (“UNCP”) for depriving women athletes and potential athletes of equal participation opportunities, athletic financial aid, and treatment in violation of Title IX of the Education Amendments of 1972. Please respond to this letter as soon as possible and, in any event, no later than Tuesday, December 1, 2020.

On September 10, 2020, UNCP announced that it was “suspending” its women’s golf team for at least two years. According to the information that is publicly available, the “suspension” of the team is a flagrant violation of Title IX, which, among other things, prohibits educational institutions receiving federal funds from eliminating women’s teams for which interest, ability, and competition are available unless “intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.” 44 Fed. Reg. 71418 (Jan. 16, 1996).

I would like to meet with you and/or the school’s lawyers and discuss the relevant facts and the law, as well as the likely outcome if a lawsuit is filed. It is my hope that UNCP, in its wisdom, will agree to reinstate the women’s golf team and come into compliance with Title IX to avoid the need for a lawsuit. I have been successfully representing women athletes and potential athletes in Title IX litigation against colleges and universities for 35 years and have never seen a more blatant violation of the law. UNCP was already depriving women of their fair share of participation opportunities and, apparently in response to Covid-19 and a budget crunch, it decided to “suspend” even more.

According to the most recent publicly available Equity in Athletics Disclosure Act data that UNCP submitted and verified to the U.S. Department of Education, in the 2018-2019 academic year, the school had an undergraduate population of 2,961 women and 1,966 men. So

undergraduate enrollment was 60.1% women. The school's intercollegiate athletic teams that academic year had 298 men and 170 women, or 36.32% women—creating a 23.78% gap between women's undergraduate enrollment rate and their intercollegiate athletic participation rate. Given the number of men on the varsity teams, UNCP would have needed to add 279 women to its athletic program to be providing equitable participation opportunities for women.

With the “suspension” of the women's golf team announced on September 10, the school's athletic participation numbers dropped to approximately 298 men and 161 women, or 35.08% women—increasing the participation gap to 25.02%. As a result, UNCP would need to add approximately 288 women to reach gender equity under Title IX. This is, of course, an unobtainable number, given the size of the university's athletic department. And it shows why the school's decision to “suspend” women's golf was such an obvious—and illegal—mistake.

Based on these facts, unless UNCP agrees to reinstate the women's golf team or has some plans for compliance with Title IX we do not yet know, we will seek a preliminary injunction immediately reinstating and preserving the team. Courts throughout the country have consistently issued preliminary injunctions preserving women's varsity teams when the elimination of a women's team violates Title IX. *See, e.g., Mayerova v. E. Michigan Univ.*, 346 F. Supp. 3d 983, 997 (E.D. Mich. 2018), *appeal dismissed*, No. 18-2238, 2020 WL 1970535 (6th Cir. Apr. 20, 2020) (granting preliminary injunction to reinstate the women's varsity softball and tennis teams); *Portz v. St. Cloud State Univ.*, 196 F. Supp. 3d 963, 978 (D. Minn. 2016) (granting preliminary injunction to reinstate the women's varsity tennis team); *Biediger v. Quinnipiac Univ.*, 616 F. Supp. 2d 277 (D. Conn. 2009) (granting preliminary injunction to reinstate the women's varsity volleyball team); *Choike v. Slippery Rock Univ.*, 2006 WL 2060576 (W.D. Pa. July 21, 2006) (granting preliminary injunction to reinstate the women's varsity water polo and swimming teams); *Barrett v. West Chester Univ. of Penn.*, 2003 WL 22803477 (E.D. Pa. Nov. 12, 2003) (granting preliminary injunction to reinstate the women's varsity gymnastics team); *Favia v. Indiana Univ. of Penn.*, 812 F. Supp. 578 (1993) (granting preliminary injunction to reinstate the women's varsity gymnastics and field hockey teams); *Cohen v. Brown Univ.*, 809 F. Supp. 978 (D. R.I. 1992), *aff'd* 991 F.2d 888 (1st Cir. 1993) (granting preliminary injunction to reinstate the women's varsity gymnastics and volleyball teams).

We hope that will not be necessary in this case. I look forward to hearing from you as soon as possible and, in any event, no later than Tuesday, December 1, 2020.

Sincerely,



Arthur H. Bryant

AHB/am

cc: Daniel K. Bryson, Whitfield Bryson LLP