

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**JOAQUÍN CARCAÑO; et al.,**

*Plaintiffs,*

**Case No. 1:16-cv-00236-TDS-JEP**

**v.**

**PATRICK MCCRORY, et al.,**

*Defendants*

**DECLARATION OF PRESIDENT SPELLINGS**

I, Margaret Spellings, President of the University of North Carolina, declare:

1. I am the President of the University of North Carolina (the “University”), a North Carolina, public and multi-campus university.

2. As President of the University, I am the chief administrative and executive officer of the University with complete authority to manage the affairs and execute the policies of the University and its constituent institutions, subject to the direction and control of the Board of Governors and the provisions of *The Code of the Board of Governors* (“*The Code*”). *The Code*, Sec. 501 A. Exhibit 1.

3. The University’s seventeen constituent institutions receive federal financial assistance from the United States Department of Education and the University must comply with the requirements of Title IX of the Education Amendments of 1972 (“Title IX”), which prohibit discrimination on the basis of sex.

4. The University has a policy of prohibiting “discrimination against any person on the basis of . . . sex, sexual orientation, [or] gender identity.” *The Code*, Sec. 103. Exhibit 2.

5. The University, in accordance with its non-discrimination policies, does not have a policy or practice of prohibiting transgender students from using single-sex restrooms consistent with their gender identity.

6. On March 23, 2016, the North Carolina General Assembly passed the Public Facilities Privacy and Security Act, Act of March 23, 2016, 2016 N.C. Sess. Laws 3 (“the Act”), which amended the North Carolina General Statutes to provide, among other things, that the University and all other public agencies “shall require every multiple occupancy bathroom or changing facility to be designated for and only used by persons based on their biological sex,” which is defined as “the physical condition of being male or female, which is stated on a person’s birth certificate.” Exhibit 3.

7. On April 5, 2016, I sent a memorandum entitled “Guidance - Compliance with the Public Facilities Privacy & Security Act” (“Guidance Memorandum”) to the chancellors of the University’s constituent institutions that set forth the requirements of the Act. Exhibit 4.

8. The Guidance Memorandum stated that the Act “does not require University institutions to change their nondiscrimination policies, and those policies should remain in effect.”

9. The Guidance Memorandum cautioned the chancellors that “[t]he Act does not contain provisions concerning enforcement of the bathroom and changing facility requirements.”

10. The Guidance Memorandum noted that “UNC institutions already designate and label multiple-occupancy bathrooms and changing facilities for single-sex use with signage and should maintain these designations and signage.”

11. The Guidance Memorandum also reminded institutions that they could “provide accommodations such as single-occupancy bathrooms or changing facilities and may designate those facilities as gender-neutral.”

12. At the time of the Act’s passage, the University had no policy and had not issued any instructions to any of its constituent institutions directing that they require students, employees, or third parties to use the restroom or changing facility that corresponds with their biological sex, as listed on their birth certificate.

13. The University has not threatened to enforce the Act’s requirement that the University require individuals to use the restroom or changing facility that corresponds with their biological sex, as listed on their birth certificate. In fact, I

have repeatedly cautioned the constituent institutions that the Act confers no enforcement authority on the University or any other entity.

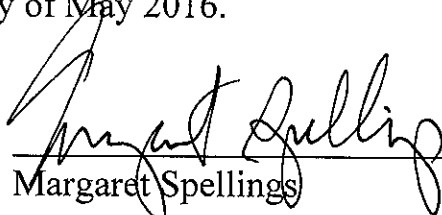
14. Since the passage of the Act, I am not aware of any complaints from any transgender students or employees that any University staff or administrator has required them to use the restroom or changing facility that corresponds with their biological sex, as listed on their birth certificate.

15. If any transgender student or employee does complain that they have been forced to use a restroom inconsistent with their gender identity, I will ensure that the complaint is investigated to determine whether there has been a violation of the University nondiscrimination policy and applicable law.

16. Pending a final judgment in this case, I have no intent to exercise my authority to promulgate any guidelines or regulations that require that transgender students use the restrooms consistent with their biological sex. UNC Policy Manual 100.2 3.(a). Exhibit 5.

17. I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 26<sup>th</sup> day of May 2016.



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Margaret Spellings  
President of the University of North Carolina