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Positive Changes Made, Full Equality Not Achieved: NC A&T State University in the UNC System and the Benefits It Received (1972-81)

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**POSITIVE CHANGES MADE,
FULL EQUALITY NOT ACHIEVED:
NC A&T STATE UNIVERSITY IN THE
UNC SYSTEM AND THE BENEFITS IT RECEIVED (1972-81)**

by J. Charles Waldrup, JD, PhD

September 23, 2022

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I want to express my great appreciation to Chancellor Harold L. Martin, Sr., of A&T, for proposing I do this project. This legal history effort turned out to be more lengthy and complicated than the one I did for him about the creation of A&T while I was still its General Counsel. Yet, I think in the end it was well worth this effort. I also appreciate his many years of friendship.

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Lastly, but certainly not least, I want to thank our son, Brian, who worked me through how to take a computer directory file, and copy and convert it into a .txt file, so I could then convert that into a Word file, to attach at the end of this paper, so readers would have a list of the resources I used in writing this "magnum opus."

ABOUT THE AUTHOR

J. Charles Waldrup is a native of Asheville, NC. He received his bachelor's degree in history from the University of Tennessee-Knoxville; and his law degree and master's and doctorate, both in history, all from the University of North Carolina-Chapel Hill.

After working in two private law firms for a few years, he spent 34 years as an attorney for 3 different units of the University of North Carolina. First he was a litigator and in-house advisor for the NC Attorney General's office at UNC Hospitals in Chapel Hill for 17 years, ending as a Special Deputy Attorney General. Next, he moved to the UNC system's central office, General Administration, in Chapel Hill, where he was an Associate Vice President for Legal Affairs, working in human resources and benefits law for 8 years. Following that he worked for a little over 9 years as General Counsel for NC A&T State University in Greensboro, the largest HBCU in the nation. After retiring in September 2018, he took a break of a little more than a year. Then he "failed" retirement, by returning to A&T to teach part-time in the Department of History/Political Science. He has taught writing for the social sciences, history, and constitutional law courses since then.

“A lie doesn’t become truth,
wrong doesn’t become right,
and evil doesn’t become good,
just because it’s accepted by a majority.”

--Booker T. Washington

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in 1973. UNC submitted first a program, then a real plan, in Feb 1974. After pressure from OCR, UNC sent a revised plan, which was approved in July 1974. Since this was the beginning of the OCR-UNC struggle, I thought it worth more detail to provide context, especially since the approved plan ended up having a role in the veterinary school placement issue.

IV. PLACEMENT OF THE VETERINARY SCHOOL

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Since A&T was 1 of 2 candidates for placement of the vet school, and the survey instrument used in making the consultant's recommendation was implicitly biased against A&T, I thought this incident was worth considerable detail. NCSU had established a veterinary science department 2 years previously and thus had all types of perceived advantages for the vet school being built there. Legislators and veterinarians wanted it there as well. OCR was not told of this issue in advance, as it thought it should have been under the desegregation plan. Only OCR pressed the question about why not place the school at A&T? A&T seemed a feasible location if UNC was willing to upgrade the campus, per its desegregation plan, though admittedly it would take longer and be more expensive to get the vet school up to full speed at A&T because of the lack of past state funding. But UNC used the lack of facilities at A&T against it. President Friday treated OCR with arrogance during this controversy. In deciding to place the vet school at NCSU, UNC said it would consider locating a related facility at A&T to complement the vet school. OCR used the vet school placement controversy as 1 of 2 elements to declare UNC in violation of its desegregation plan in July 1975. This was resolved Oct 1975. A lawsuit by African Americans to block the placement of the vet school ultimately failed. This was a clear example of the cost of past inadequate funding of HBCUs.

V. AFRICAN AMERICAN DISCONTENT WITH UNC ACTIONS

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The vet school issue appeared to leave a legacy of ill will among the African American community toward UNC. The NC Alumni questions about the long range plan were apparently not addressed at a BOG meeting approving it, but were later. Nor were BOG member Julius Chambers' questions fully addressed that day. A meeting of an African American who's who in the state was then held in May 1976 to discuss the HBCUs and UNC. The NC Alumni were later angry that a UNC study of HBCU disparities did not consider historical funding inequities. They were told that past funding inequities did not matter—current funding was the issue. I thought setting out these views was a good counter-point to UNC's arguments.

VI. ADAMS PLAINTIFFS' INTENSIFIED OCR COMPLIANCE EFFORTS

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In 1975 the LDF concluded that OCR was not pushing hard enough on Title VI compliance and it returned to court for help. The court ordered a more aggressive approach. UNC alone was singled out for attack in the LDF motion, so I gave this detailed attention. (In moving forward in the UNC-OCR struggle, I devoted far less attention to negotiation details because they did not usually concern A&T

(though the vet school issue did arise occasionally so I discussed it). As a result of the court order, OCR, in 1977, revoked acceptance of UNC's desegregation plan, and later issued new criteria and ordered submission of a new plan. UNC submitted a plan that deliberately did not meet the required criteria. Upon revision, it was conditionally accepted in May 1978. But when UNC did not find any unnecessary program duplication in its study of that topic, OCR revoked its approval of the plan in March 1979. Program duplication was the major stumbling block. When OCR began enforcement proceedings, UNC sued it in federal court in Raleigh in April 1979. That court blocked the withholding of funds until the administrative case was completed. The two sides were never able to reach a compromise themselves thereafter, even while attempting to do so during the administrative hearing.

VII. CONSENT DECREE

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The administrative enforcement hearing began July 1980. A year later only the affirmative case had been presented (approximately 15,000 pages of witness testimony and 500+ exhibits). Rebuttal witnesses were yet to come. Reagan's election offered UNC opportunities that it immediately recognized. Its officials met with Sec. of Ed. Bell on February 1, 1981 (who also met with the HBCU chancellors in a separate meeting). Bell hired a private Washington attorney to negotiate a compromise with UNC's attorneys. So only a group of White men settled this case with no one representing the interests of the African American students/faculty/administrators. Settlement was announced June 20, 1981. The LDF was not included in the negotiations (since it was not a party to the NC litigation) and was livid about the settlement. The settlement was structured as a consent decree (court approved settlement) in the Eastern District of NC case, which Judge Dupree approved July 17. The LDF tried unsuccessfully in Raleigh and DC to block the settlement. The settlement ran through December 31, 1988. It barred any involvement by OCR and the Washington federal court (Pratt) in UNC's affairs during the period of the settlement. The LDF appealed the approval without success. The NC Alumni had concerns about the settlement, but Friday's response was brusque.

VIII. CONCLUSION

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UNC was the only *Adams* state unable to settle directly with OCR. Why? I believe it was because of its persistent refusal to locate the new vet school at A&T, and Friday's arrogance toward OCR when they pressed him on the matter. Bad blood on this issue lingered until at least 1979. Add to that UNC's agreement to remove educationally unnecessary program duplication from nearby campuses, such as A&T and UNCG/ UNCC and then turning around declaring it found no unnecessary program duplication, while at the same time it was granting degree programs to PWIs that already existed at HBCUs, which undercut their chances for success. This is why OCR did not trust UNC. UNC did not recognize that times had changed and called for bold new approaches. It did not tap into its campuses' Schools of Education for ideas

of how to attract more African American students to its PWI campuses. It did not think big about what major programs, like the vet school, it could place on HBCU campuses to make them a major draw for White students. UNC tried to continue doing business as it had been. It was this slick behavior and lack of creative thinking/ bold leadership that caused it to be in an 11 year unproductive, expensive fight with OCR. It was only saved by the Reagan administration’s sweetheart consent decree. The period of 1972-81 can rightly be labeled a needless tragedy in UNC’s history because the leadership did not work productively with OCR on desegregation. But it was a time in which African Americans secured at least some gains thanks to pressure on UNC from OCR and the African American community.

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PREFACE: ORGANIZATIONAL ABBREVIATIONS AND IDENTIFICATION OF PEOPLE AND OTHER ITEMS

Adams v. Richardson (and succeeding Secretaries of HEW and Education)—lawsuit mandating enforcement of Title VI against UNC and other public universities

A&T—North Carolina Agricultural and Technical State University

ALJ—Administrative Law Judge

Bell, Dr. Terrel H.—Secretary of US Education under President Reagan (1981); formerly Utah's Commissioner of Higher Education and US Commissioner of Education (1974-76)

BHE—North Carolina Board of Higher Education—governing body for A&T, 1955-1972

BOG—Board of Governors of the UNC system

Califano, Joseph A., Jr.—Secretary of US HEW under President Carter (1977-79)

Chambers, Julius Levonne—Charlotte Attorney; BOG member from 1972-77; elected President of LDF in 1974 and continuing at least until 1977; and later Chancellor at NCCU (1993-2001)

Coble, Dr. Charles Ray, Jr.—Associate VP for Planning at GA (since at least Aug 1975- ?)

Dawson, Dr. Raymond H.—UNC Vice President for Academic Affairs (1972-92), lead in handling desegregation issue after John Sanders

DoE—U.S. Department of Education—carved out of HEW effective May 4, 1980—took over enforcement of Title VI

Eizenstat, Stuart—Assistant to the President for Domestic Affairs and Policy during the Carter administration and former student of Ray Dawson

Fairfax, Jean—LDF field representative

Friday, Dr. William (Bill)—UNC President (1956-1986)

Gerry, Martin—Acting Director (initially), then Director, Office of Civil Rights (OCR) of HEW (acting since at least Aug 1975; director 1975-77)

Hackley, Dr. Lloyd Victor (Vic)—Official at General Administration (twice), and later Interim Chancellor of A&T from 2006-2007; then Chancellor at FSU (twice)

Hamilton, Peter B.—Deputy General Counsel for OCR (since at least 1979)

Hamlin, Albert T.—Acting Director, Office for Civil Rights; then Asst. Gen. Counsel, Civil Rights Division, HEW

Harris, Patricia Roberts-- Secretary of US HEW under President Carter (1979-81)

HBCUs—Historically Black Colleges and Universities, also called TBIs by HEW/OCR at that time

HEW—U. S. Department of Health, Education, and Welfare—initially enforced Title VI

Holmes, Peter E.—Acting Director (initially), then Director, Office of Civil Rights (OCR) of HEW (1973-?)

Hufstedler, Shirley—Secretary of US Education under President Carter (1979-81)

Joyner, L. Felix—UNC Vice President for Finance (1968-1995)

LDF—National Association for the Advancement of Colored People (NAACP) Legal Defense Fund

Levin, Joseph J., Jr—attorney with Charles Morgan & Assoc. of DC who represented UNC in litigation against OCR

Libassi, Peter—General Counsel, HEW (1977-79)

Mathews, Dr. F. David-- Secretary of US HEW under President Ford (1975-77), and former and future president of the University of Alabama

NAFEO—National Association for Equal Opportunity in Higher Education—Chancellor Lyons of FSU was one of the Presidents; it frequently submitted positions statements or amicus briefs.

NC Alumni—North Carolina Alumni and Friends Coalition—A group of African American alumni leaders from the 5 HBCUs' alumni associations, educators and administrators—including Henry Frye, who apparently was one of the leaders in its founding. They advocated for the state's HBCUs.

OCR—Office for Civil Rights—Unit of HEW (and later Education) that was responsible for working with UNC in enforcing Title VI

Orleans, Jeff—Attorney in Office of Legal Affairs at UNC (1975-84); (formerly an attorney for OCR in July 1973)

Panetta, Leon—Director, Office of Civil Rights (1969-February 1970)

Pratt, John H.—Federal district court judge in U.S. District Court for District of Columbia, presiding over *Adams v. Richardson* case

PWIs—Predominately White institutions

Richardson, Elliot—Secretary of US HEW under President Nixon (1970-73)

Robinson, Richard H., Jr. (Dick)—Assistant to UNC President (General Counsel) (from at least 1970-appx. 2001)

Sanders, John L.—UNC Vice President of Planning at GA (1973-79); played a significant role initially in handling the desegregation dispute with OCR. He became Director of the UNC-CH Institute of Government in 1979.

SREB—Southern Regional Educational Board

Spruill, Albert W.—A&T's Dean of the Graduate School in 1974

Stewart, Roma—Director, Office of Civil Rights (since Dec 1979 -)

Tatel, David S.—Director of Office for Civil Rights (since some time in 1977-79)

Thomas, William H.—Director of OCR's Region IV (Atlanta) Office

Thompson, Dr. Cleon F., Jr.—UNC Vice President for Student Services and Special Programs (from 1975-?); later interim Chancellor of A&T (1980-81) and Chancellor of WSSU (1985-1995)

UNC—University of North Carolina system—governing body for A&T after mid-1972

Vanore, Andrew A., Jr. (Andy)—Senior Deputy Attorney General of NC

Weinberger, Caspar—Secretary of US HEW under Presidents Nixon and Ford (1973-75)

Williams, Robert—Employee at UNC General Administration

CHAPTER I

BRIEF HISTORY OF A&T PRIOR TO JOINING THE UNC SYSTEM

- A.** From 1955 to 1972, the North Carolina Board of Higher Education (BHE) was the governing authority over A&T and 9 other state universities and School of the Arts. In 1939, A&T was authorized to award master's degrees.
- B.** By 1959 the state had improved academic programs and facilities for all campuses. The 1967 legislature had recommended special financial assistance for HBCUs to strengthen them, which was funded at \$1M total for the 2 FYs of 1967-69 and \$1.3M total for the 2 FYs 1969-71 (UNC's Feb 8, 1974 desegregation plan, p 75-78 and revised plan p 80-83). The BHE indicated A&T received a bit more than \$88,000 of that money in FY1968 and \$152,500 the next year. [The Federal Reserve says \$1 in 1969 was worth \$7.39 in 2021 dollars.] As of June 5, 1973, for FY 1971-73, A&T had been appropriated nearly \$5.5M in capital funds for projects started as of May 31.
- C.** A&T appeared to have been the best funded of all the HBCUs under the BHE, even compared with many of the predominantly White institutions (PWIs).
- D.** The UNC system controlled 6 universities and coordinated with the BHE, but was not governed by it.

CHAPTER II

WHY DID A&T BECOME PART OF THE UNC SYSTEM?

A. William A. Link's biography of former UNC president Bill Friday, titled *William Friday: Power, Purpose, and American Higher Education* (2013), devotes a chapter to the intricate politics of the 1950s and '60s surrounding the organizational structure of UNC and higher education in the state. According to Link, by the late 1960s, legislative interference and the BHE's weakness and dysfunction required its reorganization. Gov. Robert Scott was also interested in diminishing the power of UNC. Of course, Friday sought to have UNC come out on top and to remove politics from higher ed. So, what transpired was basically a power struggle between the supporters of the two entities.

B. With the BHE so weak, it appeared that all 16 of the universities independently lobbying the legislature for resources (broadly defined) did not result in good policy but rather led to wasteful duplication. Gov. Scott held that view and his plan was to destroy both existing systems and create a new coordinating board to decide system-wide matters with each campus having its own board. He did not end up getting exactly what he sought, since UNC came out on top.

C. The resulting compromise creating the present UNC system, of which A&T became a member, was effective July 1, 1972.

CHAPTER III

START OF DESEGREGATION BY US OFFICE OF CIVIL RIGHTS

A. From January 1969-February 1970, the US Department of Health, Education, and Welfare's Office of Civil Rights (OCR) found NC's public universities, and those of 9 other states, in violation of Title VI of the Civil Rights Act of 1964, which thus placed federal financial aid to education at risk.

B. According to an OCR letter of January 28, 1970, UNC had cooperated with a compliance inspection of UNC-Chapel Hill on December 17, 1969. Not surprisingly, OCR found that campus deficient. The regional director, Ms. Severinson, wrote that in 1970 "a more vigorous prosecution of the present programs must be expected." To assist, she suggested: putting equal opportunity statements on campus publications; communicating more with, and having more visits from, African American high schools; enhancing financial assistance; ending limitations on scholarships based on race; considering remedial programs; assuring job recruiters not discriminate; recruiting efforts of African American students should at least equal those of Whites; and recruiting efforts of African American faculty should at least equal that of Whites.

In responding on April 13, 1970, President Friday (on behalf of the pre-1972, smaller UNC system) generally accepted the proposals of OCR, and set out what the various campuses were doing. But, he did pushback on the remedial programs. He believed, since most of the students admitted to the UNC campuses were presumed to be qualified, they did not need such aid. According to historian William Link in his biography of Friday, Friday's response made "vague and probably meaningless guarantees" to HEW's Region IV Office. (pp 252-3) There were later exchanges of letters on points of clarification.

But, UNC ignored OCR's letter of February 16, 1970 about submitting a desegregation plan. In fairness, it may have thought its interactions with OCR were sufficient.

C. The NAACP Legal Defense Fund (LDF), representing the individual plaintiffs in *Adams v. Richardson*, sued HEW in the US District Court for the District of Columbia, in October 1970, for enforcement of Title VI. OCR had never brought an action against a state for failing to comply with that statute for desegregation in higher education institutions/systems.

D. Judge John Pratt was assigned the case and in February 1973 ordered HEW to commence proceedings against the states, including North Carolina, if they did not voluntarily comply. Throughout the next 11 years, Pratt would continue over the *Adams* case. UNC would rant at times about OCR being unreasonable in its demands. But,

OCR was looking over its shoulder at how the LDF and Judge Pratt would react to positions UNC was asking OCR to accept—something UNC would conveniently forget.

E. OCR sent UNC its letter to begin enforcement action March 27, 1973. It pointed out no plan had been filed in response to its request of February 16, 1970.

In a May 21, 1973 letter, expressly requesting a desegregation plan by late June, OCR noted that UNCG and A&T offered many duplicate programs and that UNCG offered “many attractive programs which A&T does not. . . .” It also stated that NC State’s programs were “far more extensive than those of A and T. . . .,” “particularly in agriculture and engineering.” Friday tried to justify this by the different missions of the campuses. (June 5, 1973)

F. Responding to ORC’s second request for a desegregation plan, UNC submitted its “program” to OCR in June 1973, saying it would give a “high priority to the development of a state plan. . . .” (p iv) For an agency under a court-ordered time limit, this missed the mark. Among other things, the program discussed how UNC had “substantially reduced” (not equalized) faculty salary differentials between 5 year PWIs compared with 5 year HBCUs. (p12) (OCR was likely underwhelmed.) The program made some modest commitments, especially concerning African American students, but much less so concerning faculty.

G. OCR replied November 10, 1973 that the “program” was not a plan and UNC needed to try again. It provided details of what was needed. “The closing or downgrading of any of the predominantly black institutions in connection with desegregation would create a presumption that a greater burden is being placed upon the black students and faculty in the state.” It seemed to set a quota of White students on HBCU campuses of at least 1/3 of the student body for desegregation to be reached. It seemed either ignorant of tenure processes in higher ed, or throwing them out the window, by having non-tenured faculty from all institutions considered for hire and tenure at an institution. It also required the plan to “insure that the range and quality of present and proposed instructional and non-instructional programs, services, and degree offering provided by predominantly black institutions are comparable to those offered by predominantly white institutions.” This last point undoubtedly sent administrators in UNC’s General Administration figuratively through the roof, given the cost of adding such comparable offerings.

H. The UNC system filed its 1st plan of 241 pages (plus appendices) on February 8, 1974. (It apparently first received input from the NC Alumni, a group of sophisticated alumni from the 5 HBCUs, who would carefully monitor UNC’s interactions with OCR over the next several years.) In part, the Plan said (with page references to similar remarks in the later May revised plan):

1. The state ended all race discrimination for admission to its public universities “many student generations ago.” (p1 and p1 of revised plan) But African Americans were only admitted to UNC Chapel Hill’s law and medical schools in 1951 (limited numbers) and its undergraduate graduate program in 1955 (limited numbers). Was that “many student generations ago?”
2. UNC assumed, the racial composition of its campuses’ student bodies, whether predominantly White or African American, was due to “entrenched social and psychological forces, derived from the era of de jure segregation,” resulting in students choosing attendance “to perpetuate the racial identities of institutions.” (p1-2 and revised plan p2)
3. UNC stated its plan sought to get more eligible NC high school students to attend the university, with emphasis on increasing African American enrollment; equality of educational opportunity for African American students; and increasing multiracial experiences in the university. (p7-8 and revised plan p7-8)
4. The system would generally work with high schools to prepare and increase interest of students in university attendance, to provide more differentiation of the campuses to high school students to better match their interests to a campus, increase financial aid, help African American students overcome deterrents to higher ed, and make both HBCUs and PWIs more attractive to African American students. (p11-12 and revised plan p 11-12)
5. UNC agreed that the quality of historical Black institutions must be improved since they were “disadvantaged” in the past and access of Black students to PWIs must be increased—both consistent with state financial resources and public policy priorities. (p13-14 and revised plan p13-14) The limitations at the end are interesting.
6. UNC implied that private colleges/universities were still mostly segregated and enrolled 1/3 of the state’s students, complicating efforts to desegregate the system. It implicitly suggested OCR should pursue desegregating them as well. (p68-69 and revised plan p74-75)
7. The system had existing programs to aid high risk students and planned a study for remedial programs. (p107 and revised plan p112-113)
8. In 1972-73, 19% of students received some federal financial aid, with 53% of African American and other minority students receiving such assistance, amounting to 59% of the total. (p132 and revised plan p139) UNC would use financial aid to encourage minority student attendance, whatever their race, on campuses of the other race (Black on White and White on Black). (p134 and revised plan p141-142)

9. At the HBCUs, Whites comprised 20.4% of the faculty. (p149 and revised plan p159) The plan set out campuses' hiring goals for additional African American faculty on PWIs. (p153 and revised plan p163) UNC's original plan pointed out General Administration did not employ faculty—campuses did that. Tenure was held at the campus level and not university-wide [changing that would be detrimental to hiring]. General Administration could not transfer faculty to improve racial profiles of campuses. In the revised plan of the following May, UNC spent much more space reminding OCR that faculty hiring was a campus decision, not a central office one; and that tenure was held at the campus level, not the system level—thus clearly setting out the limits of General Administration's ability to desegregate the faculty. (p70-72, 155 and revised plan p76-78, 164-168)

10. In studying salaries, UNC found that generally African American faculty at both HBCUs and PWIs were paid higher than comparable White faculty of the same rank. (p165 and revised plan p184) Yet, p211 of the revised plan raised the possibility that if “substantial increases in faculty salaries” at HBCUs were needed, “much money will be required.” This seemed to undercut the earlier African American faculty pay claim.

11. UNC's study of legislative funding found no “no racial discrimination now being exercised against the predominantly black institutions in the allocation of State operating funds.” (p179-181 and p202-203 of revised plan)

12. The system's study did “not demonstrate a pattern of racially discriminatory judgments against the predominantly black institutions by State budgeting authorities in the provision of academic facilities. Analysis of the new academic facilities now funded and in course of construction shows, moreover, that the black institutions are fairing [sic] considerably better than is the average white institution in the number of square feet per student being added to their campuses.” (p182-183 and p204-205 of revised plan) [The later revised plan of May added, “During the time that the Board of Governors exercised legal responsibility for University finances (i.e., since July 1, 1972), no differentials in the cost of state-financed construction or in the quality of physical facilities constructed at predominantly black and predominantly white campuses respectively have been planned, acquiesced in, or approved by the Board which reflect racial consideration or the predominant racial character of any campus.” (p 205 of the revised plan)] Yet, on February 12, 1974, the NC Alumni, concluded that from 1962-1972 [under the BHE], adjusted for inflation, the HBCUs had been underfunded for capital improvements by nearly \$15.6M and the Alumni sought a compensatory allocation. Their statistics showed a per student, per year shortfall of \$500 during that period.

13. Dividing the number of bound volumes by the number of full time equivalent students, UNC found that “Among the five-year institutions, the two predominantly black

institutions have a commanding lead over the four white institutions in the number of volumes per student.” The conclusion was no discrimination was shown in the library holdings. (p184-185 and p207-208 of revised plan)

[OCR’s July 31, 1975 findings of plan non-compliance by UNC, p36, raised a question about this statement, based on the expert’s findings for the veterinary school placement. The *Adams* motion of August 1975 cites NCCU’s inadequate law school library as a basis for threatening accreditation. OCR’s litigation memo of January 25, 1978, said an American Bar Association review of the NCCU law library found it “decidedly out-of-date.” An editorial on WCHL radio in January 1979 asserted that NCCU still did not have a law library. All of this information raises questions about UNC’s data, which bring to mind the phrase associated with Mark Twain about “lies, damn lies, and statistics.”]

14. A long range plan would be conducted over a year. As a part of that study, UNC would consider the roles of the institutions. It would also consider unnecessary duplication of programs. (p200-201 and p226-228 of revised plan)

I. On February 12, 1974, the NC Alumni, sought a long list of items mostly not on UNC’s plan, including: more capital improvements for HBCUs, considerably greater numbers and roles for African Americans on higher ed boards and committees and employment in higher ed in the state as administrators and faculty, funds for HBCUs to compete with PWIs, and more up-to-date career preparation for students. They wanted a veterinary school at A&T as well as a nuclear reactor to upgrade its engineering program. They wanted A&T responsible for the Ag Extension Services for ½ the state, from Durham westward. They wanted A&T and Central (implicitly these 2) authorized to award PhDs. Most of their suggestions concerning students were similar to UNC’s plan.

J. Following an April 15 meeting with state officials, on April 24, 1974, Peter Holmes sent OCR’s 14 page critique of UNC’s plan, with many suggested changes. He sought a revised plan by June 1, in order to meet the amended court deadline of June 21, 1974. Among the comments were: repeated requests throughout for considerable details on plan actions (OCR wanted “maximum results” in the first two years); impact of actions; wanted HBCUs’ resources (very broadly defined) equalized with those of PWIs (or by FY 1976-77); information about quality of faculty and staff; and the role of each campus. OCR “encouraged” program duplication reviews between UNCG, A&T, and WSSU, especially concerning home ec, education, and nursing; and NCSU, A&T, and UNCC, especially concerning education, agriculture, animal science, engineering, and extension service programs, and made the same suggestions in four instances of other campus combinations. It wanted more efforts against internal discrimination on campuses; use of a “state-wide applicant pool” for faculty to be used when a suitable minority candidate was not located for a position; more graduate and professional African American students

and graduates, which should result in increasing minority faculty; and more African Americans on governing boards.

K. The NC Alumni, on May 20, 1974, sent President Friday a letter in which they concurred with many of OCR's April 24 recommendations. They also sought programs at HBCUs to be enhanced and made "uniquely attractive." They wanted more than White students recruited by HBCUs; they sought all schools of predominantly one race to recruit students of the other race.

L. On May 31, 1974, UNC sent a "revised" state plan of 286 pages plus numerous appendices in response to Holmes' request. Its changes were not indicated in this version—the reader had to search them out by comparing the 2 plans line by line. (Was this intended to be aggravating?) UNC again first received input from the NC Alumni prior to submission. As in the February 8 plan, UNC pleaded shortness of time in the face of the recent "consolidation of the 16 institutions into a single system, the melding of the administrative staffs. . . , the preparation and adoption of a code of government for the system, . . . new budgeting processes, and the preparation of a long range plan. . . ." (p73) UNC failed to mention ignoring the February 16, 1970 request for a plan, which would not have created the time crunch for the response about which they were now somewhat complaining. Much of the May plan was a verbatim repeat of the February 8 plan, but new material included:

1. Pointing out the "experimental" nature of some of the proposed programs, warning some might fail, and that the legislature might not provide adequate funding. (p19-20)

2. A fuller discussion of the distinctions in the four types of campuses: PhD degree granting, Master's granting, Bachelor's granting, and School of the Arts. (p27-30)

3. UNC said it offered solutions to the extent possible about increasing African American student enrollment and also proposed studies to better understand problems so as to offer solutions. (p74) UNC reminded OCR that it could not control high school counselors in advising students about which universities/colleges to attend—that its efforts to advise them of campuses' offerings and future training in racial objectivity was all it could do. (p129-130)

4. It would seek expanded financial aid. (p143-144)

5. Student teachers would be assigned schools regardless of race or color. (p148)

6. Non-discrimination by approved campus organizations was set out. (p152)

7. Allegations of discrimination in services provided by campuses would be investigated. (p149)

8. Data by race would be recorded concerning graduate student retention for analysis and reports. (p154)

9. UNC offered possible near-by campus exchanges of faculty of different races for a semester. (p172)

10. The plan discussed initiatives taken by the three PhD campuses to encourage more African Americans to become faculty. (p175-176)

11. It pointed out highest degree and/or period of service were not always determinants in fixing salaries. (p183)

12. It was noted that if quality of programs, services, staff, number/quality of degrees were deficient at HBCUs, as OCR alleged, it would be impossible to correct by fall 1976 as requested. If faculty and program upgrades were needed, that could take at least a decade. (p211-212) Again, this uncut the earlier praise about the wonderful HBCU faculty salaries.

13. UNC disputed both that Winston-Salem was part of the Greensboro academic community and that Fayetteville and Pembroke were part of the same community (p229).

14. The new material included this statement: “As to some of the factors included in HEW’s definition of ‘resources’ it has already been demonstrated that equality for those [HBCU] institutions has been achieved or exceeded. This is true of percapita expenditures of operating funds and library holdings, for example, and it arguable is true of facilities. As to such matters as the quality of programs, services, and staff and the number and quality of degree offerings available, it is the purpose of the intended study to identify and determine the cost and means of remedying deficiencies.” (p210-211 of revised plan)

15. Of subsequent interest to the location of a veterinary school was this language:

An established part of the evaluation process applicable to each new curriculum proposed for approval by the Board of Governors is the projection of the racial impact of the adoption of the program on the student body of the institution that would sponsor it. Consistent with necessary considerations of educational quality, institutional mission, and statewide needs, the Board of Governors normally will not approve the establishment of any new academic program unless in its opinion such action would not impede the elimination of the dual system of higher education in North Carolina.
(p 232 of revised plan)

16. Also of interest to the later vet school issue:

All administrative officials of The University. . . are sensitive to and will remain sensitive to the need to attempt to assess the racial impact implications of educational actions, such as the addition, deletion, expansion, or contraction of academic programs, the construction, expansion, or closing of facilities, the establishment or discontinuation or significant modification of the mission of a constituent institution. . . . A basic commitment is herein made by the Board of Governors to ensure that such assessments are made, in recognition of the fact that one critical consideration (but not the only proper consideration) in resolving basic questions about the role, scope, and mission of The University is the need to encourage at all times, in every way feasible, the further elimination of identifiable racial duality. In any case where the strong possibility of a negative impact attributable to a particular course of action is perceived, the action will not be taken unless there are countervailing legitimate and compelling inducements, of a sound educational character, which militate in factor of the proposed action. (p 282-283)

M. Peter Holmes, of OCR, sought clarification of several points in the revised plan, especially the last two points above. President Friday made this commitment on June 18, 1974:

The foregoing statements take it for granted that only under unusual circumstances would the Board of Governors authorize an action which it anticipated would impede the elimination of the dual system, and in those instances in which it did do so, the Board would assume the burden of proof that the ultimate result of the action, or of a group of related actions, would be to further the objective of eliminating the effects of the racially dual system, or would have some other educational objective of such compelling validity that its value would outweigh any anticipated negative effect of the particular action on the racial composition of the student body of the institution; in either case, review of the proposed action by the President and the Department of Health, Education and Welfare prior to its implementation [emphasis added] would be had. It should be reiterated, however, that such instances will be rare and will be the subject of special treatment and justification.

N. In a letter of July 19, 1974, Peter Holmes approved UNC's desegregation plan.

O. A draft speech to the UNC-CH Faculty Club, in November 1974, indicated that General Administration understood OCR did not want "black institution[s] . . . abolished" and did not want black institution programs merged with those of a PWI in a way disadvantageous to an HBCU.

P. In a December 9, 1974, report to General Administration, A&T's dean of the graduate school, Albert W. Spruill, did not mince words on what it would take the school to increase African American attendance so as to increase future faculty, per the desegregation plan. In a time prior to doctoral programs at A&T, he needed more money for student financial aid and money to hire more faculty to teach the additional master's and sixth year students. With that financing he thought A&T could nearly double attendance. He noted the school's enrollment had increased by nearly 400% over the last 5 years—to nearly 800 students, 75% of whom were African American—under the present funding.

Initially, 300 assistantships at the rate of \$2,400 per year would be a good beginning to increase enrollment. These students would not be freeloaders. Rather, they would be assigned to various departments to assist in classroom responsibilities, departmental activities and generally promoting the professional life of the university.

It is telling he felt the need to point out the scholarship money would not be a form of welfare. He estimated the needed budget for this proposal to be a bit over \$1M.

Although it is difficult for institutions to admit it, one of the main reasons for the limited number of blacks in graduate and post-baccalaureate professional fields is due, in a large measure, to past deficits. Schools that have traditionally served a black clientele have never been treated equally in support of educational programs. Even catch-up financial aid will not turn the pendulum around immediately. It will take large sums at first to enable institutions like our own to make an impact and these funds must be continued.

CHAPTER IV

PLACEMENT OF THE VETERINARY SCHOOL

A. By 1973, animal agriculture in North Carolina was a \$1B+ industry. Calls for a veterinary school in the state went back at least as far as 1967. In 1970, Governor Robert Scott, himself a dairy farmer, joined the effort. On October 24, 1974, President Friday recommended to a subcommittee of the UNC Board of Governors (BOG) that a school of veterinary medicine be established within UNC, rather than continue to be dependent upon the inadequate number of slots in other states' vet schools for training NC veterinarians. Such a school would not only help address the shortage of veterinarians but also provide diagnostic/health services, continuing education, and research. Only A&T and NC State requested to be considered for this school.

B. A&T was late to this process, submitting its proposal to the BOG on November 1, 1974. It referred to UNC's state plan for desegregation and indicated this new college would "broaden" its "appeal to a more racially diverse student body. . . ." Its application set out the number of commercial animals in counties near A&T, and the fact that the state zoo was near-by and would provide a great opportunity to work with exotic animals. It set out the proposed curriculum and detailed the build out of its student body. It noted the campus' on-line access to 5M citations, journals and monographs in the National Agricultural Library, in addition to A&T's physical library. As would be expected of a school starved of money since its existence, the finances projected were much smaller than those anticipated by NCSU.

C. For objective advice on placement of the vet school, Friday hired a veterinary medical educator from Ohio State. The consultant's report was dated October 29, and included A&T, so the campus had obviously made its interest informally known earlier.

The evaluator's score for each campus only was: A&T 453.20 and NC State 673.16. He then also evaluated the 2 schools of agriculture (ag) as part of his recommendation. Their scores were: A&T 45.80 and NC State 377.60. Thus, the total score for A&T was 499.00 and for NC State 1050.76. Clearly it was a "no brainer" as to where the vet school should be built. Or was it?

The evaluation sometimes favored A&T on a factor, or concluded both campuses were equal on a factor. However, looking at other scores for just the campuses (and not the schools of ag), one can see implicit bias in the evaluation tool generally, whether or not such was intended. For instance, on legislative support A&T received a score of 21.12 while NC State's was 44.65. The photos of legislators in the *NC Manual* for 1971 showed only 2 readily identifiable African American law makers. (I have no reason to think there was any significant change by 1973-74.) While some Whites undoubtedly supported A&T, to use legislative support as a criteria for placement of the vet school at

that time period was seemingly to rig that item's outcome. Likewise, the score on veterinarian support for placement was A&T 0 ["no support reported"] and NC State 41.80. The BOG's December 18, 1974 report cited no more than 6 African American vets out of 502 in the state. Thus, again, to use this criteria seemed to manipulate the result. On institutional interest in the vet school, A&T received 16.65 and NC State 37.00. Much of NC State's points were based on their planning for the school since 1970 and having established a Department of Veterinary Science in 1972. How much of that score was based on legislative access/clout that A&T lacked, since A&T was not a doctoral granting campus?

A&T was downgraded on university owned land on the campus for the vet school: 15 acres vs. 39 acres (14.80 points v. 25.16). A&T also lost points for not having land near the campus that could be used by the school: 25.90 to 37.00. On the issue of plans to purchase land, A&T only scored 18.5 points (presumably because of the uncertainty of legislative funding) vs. the 37.00 score NC State received for not needing to purchase any. (How could it receive any points on planning to purchase land when it had no such plans?) The scoring on land ownership and future purchase seemed to punish A&T for its comparative lack of finances and to question if it would be purchasing additional land if it acquired the vet school. As to the suitability of the land for the new school, both were said to have excellent building sites. How large did the vet school building need to be? While 8 of A&T's acres are noted to be swampy, that still left 7 that were not. Yet A&T received a score of only 12.80 vs. 32.00. As to being a nuisance to the surrounding area, A&T's land was next to privately owned animal and crop farms. It planned to dam up an area for a lake for animal excrement. But there was no indication of a nuisance to the outside area. NC State's land was distant from residential areas. A&T's score was only 12.95 vs. 37.00. The lake was a concern. As to its "wonderful" library (one that GA bragged about to OCR), A&T got dinged on the score for existing library facilities to support the program: A&T 0.00 v. NC State 18.50. The reviewer noted A&T's lack of space for a vet library. A&T's lack of funding really seemed to be the issue in most of these scores.

On allied health programs, A&T scored only 2.90 for its nursing program, while NC State received a 14.50 for having a medical technologist program. On the availability of satellite facilities for program use, A&T received a 13.60 compared to NC State's 32.30. A&T had many such programs available but State had some of its own facilities, RTP, and access to Duke. On this issue, the reviewer noted "The proximity of Raleigh to Chapel Hill will encourage cooperative arrangements with UNC-CH for teaching and research programs." He failed to note that for A&T.

As to the ag school evaluations, A&T was hammered for not having a veterinary science department, 0.00 vs. 38.00 points. Again, A&T's poor library hurt its effort, since it did not have a portion of the library dedicated to agriculture and/or veterinary science: 0.00 vs. 31.35. A&T lost out for not having an ag experiment station that included veterinary science (0.00 to 42.00). Nor did it have a veterinary extension program (0.00 to 38.00) or

a continuing ed program for vets (0.00 to 33.00). A&T did not have a laboratory animal resources program (0.00 vs. 20.40). A &T lost over 96 points because it did not have the Department of Veterinary Science that NC State had. A&T had no veterinary research program while NC State's was budgeted at \$380,000 per year (0.00 points to 29.60). In short, NC State's 300+ point lead in the score of its ag school was due mostly to it already having the veterinary science program up and running. That entire part of the evaluation was seemingly rigged against A&T.

If A&T had received the financial and legislative support over the years comparable to that of NC State, it would have been a serious contender for the placement of the vet school under this evaluation tool, especially with it being in the center of the state at the intersection of two major interstate highways. But instead, it was ruled out of competition on criteria that favored a school with much better funding and public support, using an evaluation tool that for whatever reason favored NC State. Was this result deliberate bias by the evaluator and General Administration, or were they blinded by such bias as to how things should be that they did not see the implicit biases contained in the evaluation instrument?

Finally, there was likely real or perceived political pressure on the BOG and President Friday from sources such as former Governor Scott and the corporate agriculture interests, who assumed/wanted the vet school at NC State. But let us be clear, whatever may have occurred in the background, the evaluation instrument was not fair to A&T considering its long history of funding disparity compared to NC State and the racial bias involved in the public support that NC State received. So the consultant's "objective" advice had flaws that were overlooked or ignored. A&T was not treated fairly in being considered for the vet school.

D. On November 14, 1974, a stern letter was hand delivered to President Friday from William Thomas, Director of OCR's Atlanta Office, telling him that OCR had first learned, from an October 25 radio news broadcast, about UNC's plan to build a veterinary school. Thomas stated he had spoken with Vice President John Sanders (Director of Planning) on October 25 about the "need for an impact study" concerning the placement of this program, and was assured it would be done prior to the placement decision. Thomas had asked that OCR be updated on developments and sought a copy of the consultant's report, which he had not yet received. With the BOG set to receive Friday's recommendation the very next day, November 15, and presumably decide then on placing the veterinary school, it was clear Thomas was angry about the overall situation. He quoted two sections from UNC's desegregation plan and several sections from Friday's June 18 letter, including about first consulting with HEW on such program developments prior to implementation. *Thomas was allowed to read his letter to the full BOG the next day.*

E. A follow-up letter of November 26 from Thomas set out considerations OCR believed should be considered in the impact study UNC would conduct about the placement of the vet school. (Note it had not been conducted prior to the November 15 meeting, as promised by VP Sanders.) The last item of Thomas' letter cut to the heart of the issue:

10. In determining the location of the DVM program, consideration of factors that are vestiges of the dual system may perpetuate a dual system. Accordingly, to what extent, if any, does previous unequal or discriminatory treatment of black institutions affect the potential for locating the DVM program?

Thomas' letter then closed:

It is my understanding that you will provide this office the impact study prior to the Board of Governors meeting December 18, 1974.

I appreciate your assurance that this matter will be reviewed and that no action will be undertaken until all the reports are at our disposal and we have had the opportunity to discuss it as set forth in your June 18th letter. We would appreciate you informing us of your recommendation to the Board prior to the next meeting.

F. The vet school placement issue was raised implicitly in a statement by Peter Holmes during a meeting of the Southern Regional Educational Board (SREB) and OCR officials on December 2, 1974:

“[G]iven a history of neglect of the predominantly black institutions, how can you reverse the condition of these colleges continually being "second" in competing for new programs, especially those which are unique and prestigious? Because, as a group, the predominantly white institutions enjoy a variety of resources which enable them to justify and support additional new programs, the predominantly black institutions will continue to lose in this competition unless the criteria by which these decisions are made are modified.”

This comment was a clear warning shot across UNC's bow. Since notes of this meeting are in the files of UNC, likely at least one, if not more, administrators were present to hear this statement.

G. In a response of December 6, 1974, President Friday stated that the racial impact study was being included in the vet school report to the BOG, which report included all items requested by OCR. But, he denied UNC's obligation to obtain a consult or OCR's prior approval of a decision on placement of the vet school.

The racial impact study will be considered by the Board of Governors on December 18, when the Board has stated that it will make a decision on the location of the school of veterinary medicine. Until the impact study has been considered and a decision has been made by the Board, I do not consider it timely or consistent with our approved State plan to submit this matter to your office.

Since it took Friday 21 days to inform OCR of UNC's view of the alleged misinterpretation of its authority over UNC's consideration of new programs, the delay suggested that UNC's position was not obvious to it and took considerable thought to devise before articulating to OCR. Friday also had casually dismissed OCR's requests about prior review/consultation concerning placement of the vet school, despite his previous "assurance" to the contrary.

H. That same day, December 6, the Educational Planning, Policies, and Programs Committee of the BOG voted unanimously to place the vet school at NC State. It found that in doing so it "would not impede the elimination of the dual system of higher education in North Carolina." Faculty of A&T and UNC-CH were to be included "in the development and operation" of the new school.

As a further consolation to A&T and OCR, the resolution went on to require,

6. That the Board of Governors direct the Chancellors of North Carolina State University at Raleigh and of North Carolina Agricultural and Technical State University to examine and report to the Board on the feasibility, cost, and benefits of locating at North Carolina Agricultural and Technical State University a related facility that would complement the school of veterinary medicine in its educational and service roles and enable the fuller utilization of the capacities of North Carolina Agricultural and Technical State University to contribute to the health and productivity of the animal population of the State.

Was this window dressing, or was it serious? Only time would tell.

I. On December 11, 1974, the same day the committee's full report was apparently typed in final form, President Friday notified OCR's William Thomas of the committee's recommendation for placement of the school at NC State. He said when Thomas arrived the day before the BOG meeting of December 18 (to vote on the vet school placement), he would give Thomas a copy of the Planning Committee's findings and recommendations.

J. On December 16, William Thomas rebutted Friday's prior rejection of OCR pre-review.

As I stated in my letter of November 14, 1974, and in my remarks on November 15, 1974, at the Board of Governors' meeting, the circumstances surrounding the location of the proposed veterinary school in North Carolina are considered by this office as unusual. This is consistent with your approved plan and it is timely that the proposed action be reviewed by this Department. Additionally, in our letter of April 24, 1974, Page 4, it was stated that:

Impact statements and the State's disposition of proposed actions should be submitted to OCR as part of the periodic reporting system, or whenever else necessary to give OCR reasonable advance notice of an action whose favorable impact on desegregation is questionable and which might not readily be reversed.

One of our concerns in the present proposed action has to do with how difficult, if at all possible, would it be to reverse a decision that has been acted upon by the legislature.

While it is recognized that the plan speaks to 'prior to implementation', this time frame has not been defined. Therefore, as aforementioned, the proposed action regarding the veterinary medicine school location appeared to be one that would be difficult to reverse.

As requested in my letter of November 26, we feel that impact studies should be furnished this office prior to action by the Board of Governors.

K. On December 17, UNC General Administration hand delivered to an OCR employee a copy of the draft report on the placement of the vet school, along with the OCR requested impact study. In a letter of December 19, while still challenging the obligation to report to OCR prior to BOG action, Friday noted he had complied with the request for the impact study prior to the BOG vote (by one day). Friday informed William Thomas that the prior day the BOG had adopted the draft report on placement of the vet school, with one minor change.

L. In its special report on "Veterinary Medical Education in North Carolina" of December 18, 1974, the BOG stated that NCSU's proposal called for its program to first admit students in the fall of 1977, with a full class of 65 admitted 2 years later. As to A&T, the BOG noted no interest in a vet school there until September 1974. A&T projected enrolling its first students in the fall of 1977, with full enrollment of 80 students 2 years later. As to NCSU's qualifications, it stated:

Through the investment of much money and professional effort over several decades, North Carolina State University at Raleigh has developed several strong schools and departments whose advanced graduate and professional instructional programs, research activities, and related operations (such as the Cooperative Agricultural extension [sic] Service and the Agricultural Experiment Station) would give it special strength as the sponsor of a school of veterinary medicine. These related departments and programs whose faculties and laboratories would complement a school of veterinary medicine include

As to A&T, the BOG report stated:

Its programs have never been as widely diversified or as strongly developed, especially at the graduate and professional levels, as have those at Raleigh. As a result, North Carolina Agricultural and Technical State University has not had occasion to acquire the instructional and research capacity that would enable it to provide at an early date the same kind and quality of support for a school of veterinary medicine that its counterpart at Raleigh could provide.

Note the lack of reference to A&T's cooperative extension program and ag experimental station. Just as the "impartial reviewer" failed to note A&T's close proximity to UNC-CH for joint work on the vet school, this "oversight" in failing to mention A&T's ag extension work shows A&T consistently not being given credit for things it should have been recognized for.

To justify its decision the BOG addressed the past funding disparity head-on:

It may be argued that the present inter-institutional disparities between the program offerings and activities of the type relevant to a school of veterinary medicine are due to past instances where racial considerations governed budgetary decisions. The point may be made with equal force that the very existence of North Carolina Agricultural and Technical State University is attributable to the same factor. But for the then-prevailing policy of excluding blacks from North Carolina State University at Raleigh, there would have been no reason to create a second land-grant college in North Carolina in 1891. It hardly makes sense today, with legally-required segregation by race a generation in the past, to argue that we should now under take to duplicate a wide and very expensive array of degree programs and other activities at North Carolina Agricultural and Technical State University solely in order to enable it to compete on more equal terms with North Carolina State University at Raleigh for the sponsorship of a school of veterinary medicine. To do so would, moreover, enlarge significantly the number of racially identifiable duplicating programs

within The University of North Carolina, contrary to one of the commitments made in the State Plan.

The above argument flies in the face of OCR's demand that HBCUs be enhanced to attract White students. Even UNC was on record that it was not closing any HBCU. So if all the HBCUs were continuing operation and OCR wanted them improved, the excuse of not wanting A&T to compete with NC State rings hollow.

M. President Friday, along with his January 8, 1975, letter to William Thomas, sent various requested documents related to the vet school issue that were considered by the BOG.

N. William Thomas provided OCR's opinion on the vet school placement, March 25, 1975, in a thorough analysis, which, though lengthy, is worth quoting in detail:

[T]he study appears to justify the continued inequality between predominantly black and predominantly white institutions and fails to take into account actions promised in the plan to enhance the predominantly black institutions. The following passage from page 39 of the December [sic] 18 report exemplifies the basis for our concern:

He quotes much of the last paragraph from the BOG special report quoted above, which talks about no competition with NCSU.

In my letter to you dated November 26, 1974, with respect to conducting the racial impact study, I indicated, in part, as follows:

In determining the location of the DVM program, consideration of factors that are vestiges of the dual system may perpetuate a dual system. Accordingly, to what extent, if any, does previous unequal or discriminatory treatment of black institutions affect the potential for locating the DVM program?

We believe the evidence submitted by the Board in support of its decision to locate the School of Veterinary Medicine at North Carolina State is tainted by reliance on factors caused by past discrimination. Many of the unfavorable comparisons of North Carolina A&T to North Carolina State which were made by the consultant in his evaluations were based on qualitative differences in the two institutions stemming from the past neglect of A&T because of its predominantly black character.

Thomas discusses the difference in scoring bases on A&T's "interest:"

This difference was based entirely on North Carolina State's activities in the period from 1970-1974. During this period, A&T was a regional five-year institution, not authorized by the Board to offer doctoral programs. Therefore, any failure on its part to seek establishment of such programs during this period was completely due to the restrictive role assigned to it by the Board. This restrictive role was a vestige of the de jure system of higher education in the State and it was not until the Plan was submitted that a commitment was made to change this role. Therefore, any stigma imposed by the consultant's evaluation in regard to this fact must be said to be a direct result of past discrimination.

He analyzed the legislative support score, which

was a result of favorable assessment of legislative action taken in regard to establishing the school at North Carolina State during the period between 1970-74 when North Carolina A&T was ineligible to be considered because it was not authorized to offer doctoral programs.

His criticism of the veterinarians' support score was even stronger:

Much of the veterinary support for North Carolina State was evidenced by votes of the Veterinary Medicine Association taken during the period when the choice really was between a veterinary school at North Carolina State or no veterinary school. The support was clearly more for a veterinary school at any site during that period than for a veterinary school at North Carolina State. Also, the fact that there were no black members of the veterinary society prior to 1974 indicates that there is a strong likelihood that when the executive committee of the Association did express support for North Carolina State over other sites, the vote was influenced to some extent by considerations of race. At a minimum, it is beyond dispute that blacks did not participate in this process.

He noted that a significant number of points in evaluating the schools of ag came because NC State had already established the department of veterinary science.

This department was established in 1972 as step one of a four-step plan to establish a veterinary school in the State. At that time, no consideration was given to the placement of a department of veterinary science at North Carolina A&T. Various State officials were predisposed to think in terms of certain schools as sites for professional programs, and no predominantly black school was among those schools. Not until 1974 was A&T belatedly asked to submit a

proposal. Thus, as far as we can determine, no thought was given to equipping A&T to be able to compete for a significant professional program such as the school of veterinary medicine. Therefore, the approximately 160 additional points awarded to North Carolina State over North Carolina A&T based on this criterion can be said to be points which have accrued to North Carolina State because of previous discrimination on the part of the Board and its predecessors.

* * *

Accordingly, we are requesting you suspend your decision to award the School of Veterinary Medicine to North Carolina State pending the conduct of a racial impact study in conformance with the objectives and commitments of the North Carolina State Plan. If, as a result of that study, you decide to place the School of Veterinary Medicine at North Carolina State, before proceeding to establish this School, you must award a program of similar stature and attractiveness to North Carolina A&T. The suggestion in your impact study that the Chancellors of North Carolina State and North Carolina A&T evaluate the feasibility of ‘developing (at North Carolina A&T) a facility or activity that would complement the school of veterinary medicine at Raleigh’ does not appear to be the kind of proposal which would satisfy this requirement.

We firmly believe that until North Carolina's planning and decision-making processes are modified to overcome the effects of past discrimination, North Carolina's Plan will not be fulfilled and, accordingly, the State's public institutions of higher education will be in violation of Title VI of the Civil Rights Act of 1964. May I hear from you on this matter within the next 30 days. [sic]

O. On April 29, 1975, more than 30 days (deliberately so?) after Thomas' request for a response about the placement of the vet school, an angry Bill Friday showed haughtiness in his response to OCR, the agency regulating the university and thus having control over university receipt of federal funds.

First, he indicated his contempt for OCR (not only by the late reply, but) by saying that UNC had moved forward with its decision on placing the vet school by sending its request for funding to the legislature, where bills to that effect “have been introduced.” Thomas could state his objections to the General Assembly leadership. “In order that the appropriate State officials might be aware of your concerns, I have sent copies of your letter of March 25 to Governor Holshouser, to Lieutenant Governor Hunt and to Speaker of the House James Green.” Friday was implicitly telling Thomas it was too late for OCR to complain. UNC had beaten OCR. Was it wise for UNC to snub its federal regulatory agency in this manner? For an allegedly politically astute Friday, this seemed an ill-advised move.

He then went on to respond to Thomas' criticisms, citing language from OCR's letter about not complying with UNC's plan: "The University has never represented that it would pursue singlemindedly a particular program or course of activity because of its anticipated salutary impact on racial duality, to the exclusion of all other valid considerations."

Friday then quoted seven sections from UNC's desegregation plan before concluding,

The Board has complied with its commitments as articulated in the State Plan. The veterinary school question had been under active consideration by the Board and its staff since early in 1974. When the Board of Governors eventually was presented with and availed itself of the opportunity to consider two possible institutional locations for a school of veterinary medicine, its first attention was directed to an evaluation of the relative capacities of the two institutions to provide a base on which to erect that program. The conclusion, as measured variously, was that North Carolina State University does provide a strong base for that purpose and that North Carolina Agricultural and Technical State University does not provide a strong base for that purpose. That judgment was predicated primarily on comparative assessments of institutional programs, facilities, staff, and other pertinent capacities then in place at the respective institutions. *The collary [sic] conclusion was that North Carolina Agricultural and Technical State University arguably could be made an adequate base for this program only at enormous expense and over a relatively long period of time, and that such expenditure would have to be devoted, unavoidably, to the creation of various capacities at that location which would duplicate, completely unnecessarily and unjustifiably, and with clear racial overtones, capacities already in existence at North Carolina State University.* [emphasis added] Accordingly, as measured by 'sound educational policies of benefit to students without reference to racial considerations,' as measured by 'considerations which transcend race-consciousness,' as measured by the essential determination to avoid 'unnecessary duplication,' and with paramount allegiance to the factors of 'educational quality, institutional mission, and statewide needs,' the Board of Governors concluded that only one of the two institutions presented a realistic prospect of being able to develop a suitable program, given the fiscal and educational policy constraints then and now viewed as being of paramount importance.

He went on to say that the BOG delayed and conducted the racial impact study as requested, finding little difference between the 2 possible locations.

The disability under which North Carolina Agricultural and Technical State University labors in this competitive context is attributable, in part, to differences in previous levels of support as between North Carolina State University and

North Carolina Agricultural and Technical State University. That fact, however, does not justify the position which you have articulated, to wit, that the State of North Carolina and the University now should undertake, for purposes of making North Carolina Agricultural and Technical State University a suitable base for this new program, a complete redress of any such imbalances without reference to anticipated cost or demonstrated program validity of any such undertaking and without reference, furthermore, to the inevitable (and forbidden) result of program duplications that have no non-racial justification. [emphasis added]

OCR had complained that based upon the treatment of A&T, HBCUs were locked into their inferior status from which they would never be allowed to “break out.” Friday denied that conclusion.

He also objected to the notion of “the establishment of a compensatory program of “similar stature and attractiveness”” to make up for A&T not receiving the vet school.

Again, it has never been the University's commitment merely to ‘enhance’ any institution, through role assignments and program modifications, in a single-minded manner which takes little or no account of considerations other than the imperative further to eliminate evidences of racial duality and racial identifiability. We cannot agree with your proposition that the quid pro quo for location of a program at a predominantly white institution is the location of an equivalent compensatory program at a predominantly black institution, without reference to cost factors, program needs, geography, or any other ‘non-racial’ factor.

Friday went on to stress how UNC had developed a comprehensive program of desegregation of its complex educational system that sought to eliminate racial identifiability of campuses. He objected to using “racial impact and institutional image” as the grounds for placing an academic program on an HBCU to “enhance” it.

As a historian, I hate to say this, but Friday and the BOG’s positions seemed to be, in effect, that the past was “just history” and had no bearing on the present. I vigorously disagree with such a view. In undertaking this project, I never expected to find so blatant a smoking gun as these last 2 UNC documents in support of a racist justification for the placement of the vet school so as not to permit A&T to have a chance to develop in a manner to compete with NC State.

Friday’s arrogance continued in writing his regulatory agency:

Your analysis of the issue presented by a need to determine location of a veterinary medicine school within The University of North Carolina *is unacceptable to us.* [emphasis added] It disregards both the letter and the spirit of the State Plan which previously received the approval of the Office for Civil Rights.

P. According to UNC's August 18 response to OCR about plan non-compliance (p13), the state had a budget shortfall of \$250M in the 1975 legislative session. The General Assembly indicated that the Governor had not requested funds for the veterinary school. It granted only a planning appropriation for it of \$500,000 for FY 1976-77, not the \$4M UNC had requested. The session law recited that the BOG had "established a school of veterinary medicine at North Carolina State University, conditional on the appropriation by the General Assembly of sufficient funds to initiate that school. . . ." This bill was enacted prior to gubernatorial veto, so it automatically became law. By not granting enough funds to "initiate" the school, had the legislature effectively postponed the decision about the placement?

Q. OCR repaid Bill Friday's arrogance on July 31, 1975, when it issued a 51 page report concluding in its cover letter that:

. . . . actions taken during the period July 1, 1974 - January 31, 1975 by the Board of Governors of the University of North Carolina . . . to implement the accepted Plan or otherwise eliminate the vestiges of the dual post-secondary education system *have clearly fallen short of the commitments made by the State to remedy the violations of Title VI.* . . . [emphasis added]

The 2 most critical failures by UNC as set out in the cover letter:

The decision by the Board of Governors, to place the School of Veterinary Medicine at North Carolina State, is a direct violation of the State's important commitment to encourage desegregation of the State's racially identifiable institutions in every way feasible. The Board refused to consider, as a factor in its assessment of the racial impact of placing the veterinary school at N.C. State or at N.C. A&T, the positive effect on the desegregation of predominantly black North Carolina A&T and on its concomitant ability to attract white students which would have occurred from such a significant improvement in the program offerings of that institution. The Board considered in its decision factors relating to the current strength of the institution which did nothing more than continue the existence of the present effects of past discrimination. Finally, the Board refused to undertake other action to enhance the academic program strength of predominantly black North Carolina A&T and, thus, its decision to place the

veterinary school at North Carolina State not only had the effect of perpetuating the existing dual system but also of further increasing existing inequities.

The second major failure of UNC was in not timely following through in developing a long range plan.

The Board's delay in completing the Long Range Plan is of crucial importance because of the interrelation of this activity with the State's obligations to define the roles of the institutions in The University system, to study and eliminate any existing disparities in resources between the predominantly black and the predominantly white state-operated institutions, and to eliminate unnecessary duplication of curricula.

Other issues concerned UNC not providing proof of follow-through on commitments, not following up on campuses' compliance with policies, or failing to take promised action.

OCR gave the state 10 days to show compliance with its Title VI obligations, or face administrative proceedings for enforcement.

The actual report had more to say about the vet school issue:

When The University was informed that the impact study which it had submitted was deficient because it failed to account for possible enhancement, because it failed to provide the basis for the numerical projections which it contained, and because its conclusion was based in part on an assessment of certain educational variables which continued the effects of past discrimination, it refused to reevaluate its assessment. (p44)

The actual report also provided additional detail about the concern over the lack of a long range plan:

Until the roles of the institutions are evaluated and modified, the historical functions of the 16 institutions will continue to be reinforced by the program decisions made by the Board of Governors. The status quo will become more ingrained because the black institutions will continue to be limited in their ability to branch out into new areas. For the most part, these institutions are restricted in the kinds of programs which they can propose for adoption by the facilities, resources, and roles which they have inherited from the previous de jure system. (p33)

R. Governor Holshouser secured additional time to respond, so UNC's 140 page response (not counting the Community College's comments) to OCR was submitted on

August 18. In addressing the vet school issue, UNC covered many of the same points as before. One new one was:

(4) Beyond the expense of creating a veterinary medicine degree-granting facility, per se, the estimated cost of creating at North Carolina Agricultural and Technical State University the requisite support capacities now lacking at that location would be substantial. The level of such estimates suggests that, if the school could be built only at North Carolina Agricultural and Technical State University, the State probably does not have or would not be willing to commit the amount of money required to establish a veterinary medicine program, and certainly it could not do so without a diversion of scarce resources that would adversely affect all of the other fifteen constituent institutions of the University.

This comment appears to assume all such expenses would occur in a single year. NC State's Department of Veterinary Science was apparently built over a two year period. A&T could have been upgraded over a few years. While a vet school built immediately would be optimal, that was not necessary, as the state's budget situation ended up showing. If the state was serious about upgrading the HBCUs, this was a good time to start on A&T, rather than continuing to "kick the can down the road." Also, OCR would probably contend that cutting back on developing new programs at PWIs, until the HBCUs had caught up with them, was a reasonable use of university funds, so the diversion concept would be acceptable to some extent.

UNC explained more about the foundations needed for a vet school:

The base on which a veterinary medicine program must be built has two components: first, a strong undergraduate program in the biological sciences and related fields; and, second, advanced programs of a more specialized nature, adequately sustained by faculty, library, laboratory and other instructional and research resources.

Needed library and lab space could have been built in the new vet school building.

UNC was unclear if there was a real deficiency as to the first component at A&T. As to the second component, those facilities had only been developed at NC State—and there was no need to do so at a second campus. This was, *again*, the real issue.

UNC called attention to a December 1974 lawsuit filed against it in the Middle District NC federal court about the placement of the vet school, as a reason OCR should not administratively challenge the same issue.

As to the lack of a timely promulgation of a long range plan, in part UNC argued that OCR did not understand such a plan—that many aspects of it had already been studied, including long range plans being developed by each campus and other studies conducted by entities to be fed into the overall plan when it was conducted.

As to the lesser items of non-compliance, UNC argued that OCR was too quick to conclude noncompliance and bad faith. It had ignored the warning about the vet school, and was then surprised at the result. In view of Friday's and the BOG's conduct toward OCR about placing the vet school at NC State, an impartial observer could understand OCR's attitude toward UNC. The system argued that much of what OCR sought was contained in its recently submitted July 31, 1975 report. It also contended it did not understand the level of detail OCR sought to show compliance (and were now submitting it), that General Administration assumed campuses would comply with new policies and should not be expected to take on new monitoring duties in the name of compliance, that UNC was delinquent on a few items for varying reasons beyond its control (that it now explained), and lastly that there many instances of alleged non-compliance which were interpretative differences that could have been resolved by discussion.

S. President Friday either gave a press conference or released remarks to the press on August 19 about the OCR allegations of non-compliance with the desegregation plan and UNC's responses, as well as releasing a copy of both the OCR report and UNC's reply. As in UNC's document, he tried to cast blame on OCR for not waiting until it received UNC's July 31, 1975 report and implied that OCR's expectations for information were unreasonable. "Poor" UNC was being beat upon by the "mean" federal agency and unfairly threatened with loss of federal funds, according to him. He ended, "We shall continue to stand for the right and authority of the Board of Governors to make educational decisions free of imposed restraints." Friday's stridence did not sound like someone willing to work cooperatively with his regulatory agency.

T. Friday was surprisingly prickly about negative public comments for a public figure. The files have copies of several letters and notes he wrote defending himself. One personal letter to the editor of the *Charlotte Observer* (not for publication) about the vet school issue, dated August 22, 1975, is very insightful. It again argued for the BOG's decision, saying it was not a power play but thoughtfully made after careful analysis. The editor apparently had contended that A&T should have been closed, but UNC made the decision to keep it. Friday pointed out that the General Assembly and the OCR did not give UNC the authority to close A&T. His most intriguing comment seemed to really explain why he was so adamant about the vet school not going to A&T:

The last paragraph of your editorial is the most disturbing of all. *It does not acknowledge the deficiencies in these institutions that money cannot correct or that a long period of time may be required to correct these problems.* [emphasis

added] The editorial suggests, in effect, that we go back to the doctrine of separate but equal. Our obligation is to provide the best educational opportunity that we can provide for all citizens at all of our institutions, within the limits of the resources we have available. We cannot do that if we engage in the kind of program and resource allocation that HEW is demanding.

Friday closed his letter carping that the federal government had not gone after South Carolina to desegregate their public colleges/universities nor done so against private ones in North Carolina which received federal support.

U. Congressman James Broyhill entered the fray with a July 1975 letter, to which OCR Director Peter Holmes responded on November 3, 1975, inquiring about OCR's position concerning the vet school placement.

V. On December 19, 1974, plaintiffs in *Atkins v. Scott*, an existing desegregation suit against UNC (which was put on hold due to the *Adams* case) had been reactivated in federal court in the Middle District of NC over the vet school placement. UNC learned approximately July 1, 1977, that it had prevailed in that action, in part because of the racial impact study OCR had mandated. On May 3, 1979, the US Fourth Circuit Court of Appeals affirmed in favor of UNC, with one judge dissenting. The majority concluded that the racial impact would be approximately the same for each campus. They perceived the District Court was correct: that an injunction in the case would harm UNC by disrupting its decision making process, adding cost due to a delay, and denying educational opportunities.

W. During the hearing in *Atkins*, Dr. Cole provided insightful testimony about the comparative situation of the two schools:

Dr. Cole further concluded that although a School of Veterinary Medicine could be located at NCA&T, it would take at least six to ten years to establish such a school and would cost millions of dollars more to establish the school at NCA&T instead of at NCSU. Dr. Cole found that a quality School of Veterinary Medicine could be established at NCSU within three years and that the institution could admit its first students as early as 1979 at a much less cost than would be required were the school to be located at NCA&T.

X. The vet school issue continued to be raised during the struggle between UNC and OCR about coming to terms over a desegregation plan. See Chapter VI, Sections A (p50-51), Section B, (p51-52), Section DD (p70-71), and Section GG (p73-74).

Y. After OCR provisionally accepted UNC's desegregation plan, President Friday returned his attention to the vet school issue on June 21, 1978. He wrote the chancellors at A&T and NCSU that, back in 1974 when the vet school was established, the BOG had ordered them to report

on the feasibility, cost, benefits, and the recommendations for locating at North Carolina Agricultural and Technical State University a related activity that would complement the school of veterinary medicine and enable the fuller utilization of the capacities of North Carolina Agricultural and Technical State University to contribute to the health and productivity of the animal population of the State.

The vet school was to a point that further legislative funding would be requested shortly, and the A&T related activity funding would be included in that request.

Chancellor Joab Thomas of NCSU, responded on July 20 for the 2 chancellors. They proposed:

- 1) A baccalaureate program in veterinary animal science.
- 2) A preveterinary internship program.
- 3) A veterinary animal science research facility.
- 4) A veterinary animal science teaching and research staff. [6 faculty, including 2 vets]
- 5) A veterinary medicine extension activity.

Z. Whether by coincidence or it spurred Friday's letter to the 2 chancellors, that same day, June 21, OCR Director Tatel wrote Friday noting that OCR had just learned the NC General Assembly was about to grant funding for building the vet school. He said OCR thought the "establishment of the school was no longer under active consideration," and since UNC was obligated to enhance its HBCUs under its new plan, he "suggested" UNC reconsider the placement of the vet school.

Friday responded sharply a few days later, pointing out that OCR had been told only \$2M had been previously appropriated for the vet school, so the recent appropriation should not have been a surprise. He pointed out that in OCR's comments of November 7, 1977, they specifically discussed UNC's plans for related programs at A&T. He ended his letter saying UNC was not going to "re-open the question" and the "matter is closed." Again, Friday's arrogance toward his regulator is unbelievable.

On July 19, 1978, VP Ray Dawson replied to a Tatel letter in Friday's absence, rejecting that the prior discussion on the vet school with former OCR Director Peter Holmes was merely a "verbal understanding." He enclosed a letter sent to Governor Hunt from HEW Secretary Califano standing by Holmes' decision and ending the matter.

CHAPTER V

AFRICAN AMERICAN DISCONTENT WITH UNC ACTIONS

A. The handling of the A&T vet school issue obviously bought a lot of ill will for UNC in the African American community. With the approval of the long range plan looming on April 2, 1976, the NC Alumni wrote the BOG on March 30, requesting their letter be read at their next meeting. The Alumni were concerned that the promised HBCU study of strengths and weaknesses was unfinished. They perceived the absence of this information from the long range plan would delay, or even deny, needed improvements of the HBCUs, and cited the shortcomings of A&T and NCCU (as listed in the *Adams* motion below). Their letter cited fairness and said, “Hopefully North Carolina is also committed to correcting any deficiencies, maintaining quality education and instituting new programs at predominantly Black institutions.”

B. Vice President Sanders’ 10 page response of April 23, well after the BOG meeting, indicated their full letter was read to the BOG meeting, as requested. He further pointed out that each campus had filed a 5 year “growth and development” plan with the President in 1974, and those provided much of the bases for the long range plan. He also reported that “[t]he major part” of the study of the 5 HBCUs, “facts about their students, faculties, programs, libraries, buildings, and finances[,] was completed.” The President proposed to distribute what was available to the BOG for review, but the HBCU chancellors opposed that action until their study was completely finished (to address “findings as to the nature of the problems to be dealt with and the development of proposals for dealing with those problems.”) The President agreed. Sanders’ letter took considerable space discussing improvements to NCCU’s law school.

It would seem unnecessary for Sanders to write this lengthy a response if the NC Alumni’s concerns had been addressed by President Friday at the BOG meeting on April 2. Furthermore, Sanders’ letter does not reference any comment(s) by Friday on any of the issues. Friday seemed to have missed an excellent opportunity to mend fences with the African American community by speaking to this group’s concerns and having the media report on his comments.

C. As the BOG was about to approve the long range plan on April 2, one of its members, Charlotte attorney Julius Chambers, moved for a delay because the study of the HBCUs had not been completed. His motion was seconded. At that point, the NC Alumni letter was read to the BOG. But Chambers’ motion was then defeated and the long range plan was adopted, with 4 BOG members voting nay.

D. VP Sanders, in a 13 page letter, wrote Chambers on June 10, 1976 to provide greater detail in response to his questions about the long range plan at the April BOG meeting.

Among other topics, Sanders pointed out a 25% increase in African American students at UNC campuses between 1973 and 1975, while White student attendance had grown only 14%. HBCUs were still hiring faculty without PhDs despite an increase in faculty salary funds. Those were campus decisions, but the President was reviewing, and hoping ways “may be found” for campuses to implement higher standards in employment. Sanders set out the substantial amounts of various forms of financial aid African American students were receiving.

He then moved on to discuss academic programs:

12. Thirty bachelor's degree programs were authorized by the long-range plan to be planned by the institutions and 15 of these 30 authorizations were given to the five predominantly black institutions. Two of the master's degree programs authorized for planning are at a predominantly black institution, and the other predominantly black institution which has authority to give master's degrees requested no new master's degree approval. Thus emphasis was placed by the Board of Governors on broadening the educational programs at the predominantly black institutions. . . .

Sanders added,

The plan does recognize that not all of the programs in The University are at the desired level of strength, and it clearly states the priority of the Board of Governors to be that weak programs should be strengthened before new programs are undertaken, and that if weak programs are incapable of being strengthened to the level that they are worthy of sponsorship by the Board of Governors, they should be discontinued.

He pointed out the explicit language in the document about there being no plans to close any campus, especially an HBCU, since the federal government would oppose that. He explained that UNCW was authorized to plan master's programs in education while FSU was refused its request because UNCW had better prepared faculty and UNCW's students scored substantially better on the teacher's exam. Also, the State Board of Education found FSU had 3 programs that did not meet required standards “with respect to faculty, curriculum, and facilities and equipment.” It was deemed that FSU also had other problems to deal with before working on graduate programs.

E. On May 5, 1976, a dinner meeting of approximately 50 “concerned black citizens” was held in Raleigh to address issues about the HBCUs and the UNC system. It was a who's who of African American leadership in the state, which included the chancellors of the 5 UNC HBCUs, Julius Chambers, future NC Supreme Court Chief Justice Henry

Frye, future federal judge Richard Erwin, future state legislator Mickey Michaux, and future Congresswoman Eva Clayton.

The long range plan was analyzed. There was a belief that if UNC complied with the plan it was “to be commended,” yet there was a perception of the HBCUs “at some point in the plan” being “treated as ‘junior partners.’” VP Sanders’ letter to the NC Alumni was circulated and discussed.

Chancellor Dowdy of A&T was

Critical of the present budget procedure (poor check and balance). The Chancellor presents a budget to the President who in turn more or less determines what percentage of that amount should be put in the formal budget. Of course, the discussion that takes place with me and the President is primarily [sic] for the record. This process should include more people at varied levels of the structure for the initial request does not get to the Board of Governors.

Chancellor Thorpe of ECSU had “[r]equested \$9 to 10M to upgrade academic program. [sic] This proposal was not even partially funded.” He feared that ECSU was destined to become only a 3rd and 4th year institution with 2 local community colleges feeding into it. He disclaimed any part in the over-enrollment debacle of the prior year involving hundreds of student.

Chancellor Lyons of FSU was critical of General Administration for the delay in completing the HBCU study, saying it was not the chancellors’ fault. He called for 1960s style protest marches by the students and creation of a “statewide political task force.”

Chancellor Whiting of NCCU only spoke concerning the law school situation. Chancellor Williams of WSSU said “[n]othing of substance. Quiet throughout the evening.”

Campus trustees did not take an opportunity to comment.

Attorney and BOG member Julius Chambers had this to say:

The black institutions receive many positive things out of the UNC system. Blacks serve on the Board and are assigned to key committees. The action is at the committee level so if we fail to function or meet our responsibility, then it is purely our fault. The restructuring was a clever [sic] piece of work. Now it is up to the participants, at all levels, to do their jobs. . . .

BOG member E.B. Turner told the chancellors to provide budget information to “all members of the Board” prior to meetings so they could “ask the right questions at the right time. . . .”

For then-legislator Henry Frye, Chancellor Lyons’ radicalism was too much. He thought “student participation or a statewide political group would not serve a useful purpose” and would not participate in such.

Undoubtedly this group assumed their comments were in confidence, and would likely have been shocked to learn that the memorandum of their meeting made its way into the files at General Administration. There is no indication how the memo got into those files.

F. The long awaited "A Comparative Study of the Five Historically Black Constituent Institutions of The University of North Carolina" was finally released in late May/early June 1976. On June 9, the NC Alumni shot off a letter of consternation about it to the chair of the BOG. The BOG report stated:

we realize that they [the conclusions] do not dispose of the basic question: Are there identifiable deficiencies in the quality of the black institutions that are attributable to past influences of racial prejudice in the distribution of State funds to those institutions and are now remediable by money? . . . In order to find answers to the basic question posed above and to many related questions, we have determined that a study will be undertaken. . . .’

The alumni wanted a study of funding disparities from the time each HBCU became a public institution to determine the current impact of the funding during the segregation era. They thought for comparison purposes A&T should be held up to NC State and NC Central to UNC-CH. They believed UNC was blaming the victims in the report:

‘The dominant, distinctive characteristics of the traditionally black institutions thus relate to their faculties, their overall academic performance requirements, and to their students, rather than to their programs or to any pattern of financial deprivation on the part of the State.’

As an historian, I know what the additional study should find. It seemed gamesmanship by UNC to do the first study and then say they needed to do yet another study with such an obvious answer.

G. Two days later, June 11, William Dees, the chair of the BOG, responded to the NC Alumni. He explained that the study for OCR was supposed to focus only on the present and future. “We are not required to examine the record of financial support since the beginning of these institutions. To do so would serve no useful educational purpose.” The last statement was clearly a matter of opinion.

Dees later went on:

The comparative study of the historically black constituent institutions makes it clear that ‘fair and equitable treatment’ of these institutions, ‘along with other constituent institutions,’ has been attained. In planning for the future development of these institutions, there is no necessity for, and no purpose served by, focusing upon the past or predicating institutional comparisons upon policies that were established under the doctrine of ‘separate but equal.’

He closed by saying the report was not placing blame on anyone, but was seeking to show the state was not denying the HBCUs “their fair and equitable share of support.” Where the BOG found problems, it would work to resolve them.

H. On July 9, 1976, President Friday met with members of the NC Alumni to speak about the

“Comparative Study of the Five Historically Black Constituent Institutions.” He repeated some of what Dees had previously written. He recited the “large investments of State capital and operating funds” in the HBCUs and their benefits to the state.

But he went on to provide more detail than in the past:

Early in 1975, the Chancellors of the five predominantly black institutions were asked to file with me reports describing the deficiencies and strengths of the institutions they head and giving their estimates of what would be needed to remedy their deficiencies and maintain their strengths. This they did. A total of five meetings were held by the members of my staff and me with the five Chancellors as a group, and there were individual contacts as the work on the study progressed. Our discussions have been candid, and as a result of the Chancellors' advice, a number of changes were made in drafts of the report prior to its submission to the Planning Committee of the Board of Governors.

...

On June 1, the five Chancellors met with the Planning Committee to present directly their comments on the study. Obviously the report is not written as any one of them would have written it. The important point, however, is this: The

five Chancellors stated to me and to the Planning Committee that they concur in the basic findings of the study as presented to you and in the recommended actions it sets out.

I. The letter sent by the NC Alumni on July 20 was appreciative and mostly positive. It was generally understanding of UNC's positions, but still unhappy over not being able to address "identifiable deficiencies in the quality of the black institutions that are attributable to past influences of racial prejudice in the distribution of state funds. . . ." They felt "a fair and appropriate assessment of the state's responsibility for these deficiencies should be cited. Only a historical review would allow this fair assessment."

J. In March 1977, a student provided "A Profile of the North Carolina Alumni and Friends Coalition" to former NCSU Chancellor John Caldwell, who shared it with UNC's General Administration. Apparently a political science class project, the 18 page paper was based upon interviews with some of the group's members. Henry Frye led the founding of the group in 1973. Its genesis was based out of concern that HBCUs would be lost in the push for desegregation. It represented the 5 HBCUs' alumni associations and other African American groups, but it also includes the chancellors. Its initial questions and request for documents to the desegregation planning committee, related to submitting a desegregation plan, were ignored. This "affront" did not sit well with the group, for obvious reasons. It wanted more African Americans on university governing boards and committees and in staff roles; funds for Ph.D. faculty at HBCUs; more African American faculty members at PWIs; a broader range of academic programs; more graduate and professional students; a vet school at A&T; enhanced engineering programs at A&T, including a nuclear reactor; the Home Ec Dept at UNCG moved to A&T; land grant extension services divided at Durham, with A&T covering the western part of the state and the land grant funds appropriated equitably; and upgrades to the HBCUs.

K. On May 19, 1977, the NC Alumni wrote President Friday about their concerns over the long range plan and UNC's proposed budget. They viewed the university as limiting the growth/development of HBCUs so as to bar their participation in research.

L. Despite lengthy technical details offered in draft responses by his staff (including that provisions were made for research at A&T and NCCU), President Friday wrote May 27 to thank the Alumni for their support. In response to their concern, he added,

If our request is funded adequately, we can make significant progress in expanding educational opportunity and in improving the quality of our educational programs in all of our institutions. I do not believe that either of these

basic purposes, which all of us share with the Coalition, is served by investing our limited resources in starting up costly new programs that are not needed.

M. On February 21, 1979, Floyd McKissick, Sr wrote President Friday urging UNC enhance “black institutions.” Apparently the word was out among the national African American leadership about what the LDF was pushing for and what OCR was doing.

N. The NC Chapter of the NAACP sent an interesting proposal to President Friday on March 8, 1979. They suggested uniting UNC-CH, NCSU, and NCCU into a single consortium campus and A&T, UNCG, and WSSU into a separate consortium campus with an administrative and governing board structure over each consortium. Students would be tested via SAT and divided into 2 pools, those above a 900 score and those at or below it. One-half of each admitted class would come from each pool, with a student having a chance to enter each of the 6 campuses. Faculty would receive tenure within the consortium, not per campus. Faculty would be required to teach at a different campus at least once every 3 semesters. Employment, promotion, and tenure would be handled by the consortium. This proposal would seem to solve many of the issues confronting UNC and OCR.

CHAPTER VI

***ADAMS* PLAINTIFFS' INTENSIFIED OCR COMPLIANCE EFFORTS**

A. Concluding that OCR was not being aggressive enough in its enforcement of Title VI, in what was now captioned as *Adams v. Weinberger* (for the new Sec. of HEW), on August 1, 1975, plaintiffs filed a more than 115 page motion (plus appendices) in the DC federal district court. It asked for an order striking OCR's approval of the states' desegregation plans and mandating the submission of new ones. The inadequacy of North Carolina's plan was singled out, which was chastised in a 34 page attack.

The motion complained generally that the OCR-approved state plans were

lacking measures to eliminate racial duality of state systems, and failing even to promise actual desegregation results: (1) The state plans consistently decline to abandon or alter admission, retention, scholarship, and program elements at their prestigious white institutions, so as to achieve proportionate or even significantly increased black enrollments both at these schools and state-wide; (2) The state plans consistently decline to reassign staff or otherwise alter faculty distribution so as to achieve proportionate or even significantly increased black faculty representation at traditionally white campuses; (3) The state plans consistently decline to abolish duality and promote desegregation by eliminating duplication of programs and degree offerings, especially at neighboring black and white institutions; (4) The state plans consistently decline to upgrade existing black institutions in order to redress decades of discrimination and to facilitate their desegregation; (5) The state plans consistently decline desegregation of institutional governance structures, largely continuing to confine blacks to management roles on black campuses; (6) The state plans consistently fail to project specific desegregation goals or the dates on which the dual structure and functioning of their institutions will be eliminated. . . . (7) Finally, apart from the absence of specific action commitments in salient areas, or even of the promise that desegregation will be achieved at a foreseeable future time, the state plans also lack the crucial ingredient of comprehensiveness. (p2-3)

Plaintiffs then asserted that the 1975 reports to OCR showed “no substantial change” in the states. Plaintiffs went on to make more specific complaints, including:

4) The states have not undertaken to equalize and upgrade the black institutions subjected to years of systematic deprivation and impoverishment. The black schools continue to lack prestigious special departments, graduate schools, quality faculty, and programs comparable to those long established at the white institutions. Indeed, in the immediate vicinity of the black schools, the states have built new community and junior colleges offering further duplicative programs

and departments which provide attractive alternatives to white students and faculty who might otherwise go to the black colleges. . . . (p9)

The motion's detailed analysis of the failings of UNC's approved plan (and that of the Community College system's) commences on page 20. It characterized UNC's desegregation plan communications with OCR as "unwillingness to accept HEW's mandate" (p24), "reluctance to use available authority" (p25), "intransigence" (p25), "denial" (p25), and "defiance" (p25)—providing examples of each. The motion noted an "argumentative" tone set in UNC's February 1974 submission, its Plan, and its letters. (p25) Overall, plaintiffs argued that UNC's plan deliberately failed to meet the requirements concerning "students, faculties, curriculum duplication, the enhancement of traditionally black institutions, governance, measurement or progress and comprehensiveness." (p26)

The motion called out UNC for two specific failings: the American Bar Association's threat in February 1975 to withdraw accreditation from NCCU's School of Law. The ABA had raised concerns about the "quality of the instructional program, management, curricular offerings, the number and quality of full-time faculty, the library and the physical plant."

Predictably, the placement of the vet school was the other UNC failing raised in the motion.

Aside from the question of institutional resources, the fact that the state's veterinarians, legislators, governors and NCSU had always assumed that Raleigh would be the location and had never considered a black institution as a potential sponsor of a center of such importance to the State virtually predetermined the location of the Veterinary School. The official report to the legislature described the proposed school as a 'unique program unlikely ever to be duplicated in North Carolina' and made a telling comment on A.&T.'s inferiority:

Its programs have never been as widely diversified or as strongly developed, especially at the graduate and professional levels, as have those at Raleigh. As a result, (A.&T.) has not had occasion to acquire the instructional and research capacity that would enable it to provide at an early date the same kind and quality of support for a school of veterinary medicine as . . . Raleigh. . . . The library holdings . . . have been determined by the limited nature of the academic programs they have been assembled to support . . . (Appendix XIV(j))

The Board of Governors conceded that the ‘establishment of a good school of veterinary medicine would tend to enhance generally’ . . . (the sponsoring institution) . . . and make it ‘more attractive to students enrolling . . . in other programs as well’ and that ‘present inter-institutional disparities . . . (might be) due to past instances where racial considerations governed budgetary decisions.’ Nevertheless the Board was adamant.

When HEW required North Carolina in March 1975 to suspend the development of the veterinary school pending a thorough review of the impact of the decision on the dismantling of the dual system, the state was defiant and declared that it would ‘seek a court test’ before changing the decision. (RALEIGH NEWS AND OBSERVER, 4/3/75)

Plaintiffs complained that OCR accepted UNC’s plan “which rejected each of the seven chief ingredients of an acceptable desegregation plan as defined by HEW itself. Moreover, North Carolina's rejection of desegregation action and commitments was overt and explicit.”

Citing that 5 years had passed since OCR sent out its first notices of non-compliance and 2 years since the court had ordered enforcement of Title VI, plaintiffs requested that OCR revoke its approval of the states’ desegregation plans and require submission of new ones. It also requested that HEW report to the court AND plaintiffs annually each March 1 on its work and the success in ending the dual higher education systems and provide to both a status report by July 15, 1976 on its acceptance of new state plans, commencement of administrative actions, and termination of Title VI funding.

B. Apparently OCR had shielded UNC from the pressures it was under from the *Adams* plaintiffs and Judge Pratt prior to the August 1 motion. With that motion, UNC seemingly realized that OCR was the least of its problems. Apparently aware of the coming LDF motion, on July 31, the new Acting Director of OCR, Martin Gerry, sent notice to Gov. Holshouser that OCR would begin administrative enforcement against NC for Title VI unless the state could settle the matter.

UNC and OCR staff had some sort of “session” on September 25, 1975, to discuss the threat of noncompliance and UNC’s response (reporting and technical requirements were discussed), followed by a face-to-face meeting in DC October 2 between President Friday and others from UNC to discuss policy issues with Peter Holmes and other OCR staff. A sort of resolution on the vet school came from that meeting, as set out in Friday’s letter of October 3.

I now understand from our conversation that your concern was that this important educational decision was one which. . . had to be reviewed without the context of a completed long range plan addressing. . . the future of the five predominantly

black institutions in public higher education. You expressed your particular concern that these five institutions be strengthened.

So far as our decision in 1974 to locate the veterinary school at North Carolina State University is concerned, you have agreed that, when viewed from an educational-planning and resource-utilization perspective, the decision was an appropriate one. However, you reiterated your concern about the absence of a completed long-range plan which sets forth future relationships among all of the constituent institutions of the University, and which charts a course for the improvement and development of the predominantly black institutions to make them more attractive to students of all races

Friday continued about HBCU upgrades in general:

Moreover, in the course of our discussion there was mutual acknowledgement that many of the problems associated with the predominantly black institutions do not derive from scarcity of material resources and cannot be remedied through the infusion of additional material resources. Therefore, ‘enhancement’ and ‘upgrading’ may consist initially of improving qualitatively the performance of current assignments.

C. When UNC officials met with Holmes on October 2, one item they discussed was how OCR would respond to the motion in the *Adams* case. Later, back home, from October-November, 1975, UNC considered its own options. Its General Counsel, Richard Robinson, consulted with NC’s Senior Deputy Attorney General Andrew Vanore whether UNC should interplead, seeking to become a defendant in the case, or file a friend of the court (amicus) brief setting out its positions. The BOG appointed a 3 attorney subcommittee to consider the matter. The concern was UNC’s ability to defend its plan in court. The subcommittee wanted to intervene formally through private counsel. Two private attorneys on the BOG, along with Vanore, and Robinson, traveled to Washington for a 3 hour conference with the named partners of a high powered firm, who advised UNC not to subject itself to the jurisdiction of the DC federal district court—the same conclusion Vanore and Robinson had reached originally. They said UNC would have better opportunities to argue their positions later in other courts.

D. It was over a year before this matter heated up again. OCR officials spoke at a meeting on December 7, 1976, which included some UNC officials. Director Gerry, of OCR, delivered a new proposal to the states subject to the *Adams* case and, in effect, a perceived message from the NAACP’s LDF. As to state plans, he said consideration needed to be given to states revising their desegregation plans. Changes would need to

include: “enhancement and qualitative improvement of HBI’s,” “[i]ncreased admission and retention of black students in HWI’s,” and “[e]mployment practices must change to enhance the role of blacks in institutional ‘governance’” [“prestige management and faculty positions in the HWI’s”]. Gerry had discussed settlement with the LDF. He offered OCR as a mediator between the states and LDF in establishing standards (measurable “achievable objectives”) for these plans and OCR would seek Congressional matching fund appropriations that would diminish over a 5 year period to assist in paying the costs of this program. With a US 4th Circuit Court of Appeals decision expected in 3 to 4 months, Gerry thought that the LDF was more reasonable in settlement expectations at that time. With Ford having lost the presidential election to Carter and the inauguration approximately a month away, Gerry’s timing seems strange. He was a political appointee and not likely to last long past early January. Would Carter’s officials approve whatever “agreement” he worked out?

E. Upon receiving the above information, President Friday took the initiative in a letter of December 17, 1976. He wrote Gerry, saying that UNC would not voluntarily submit a new desegregation plan with different standards and objectives. He furthermore asked when OCR would be pursuing desegregation enforcement against other states and private colleges/ universities receiving federal funds. It should be noted that the private colleges had not been operating a dual system of desegregated colleges/universities, as had the southern (and some other) states. So Friday’s outrage that the privates were not being pursued was a bit misplaced. They needed to comply with Title VI if they were receiving federal funds, but I can see why OCR was more focused on pursuing state public university systems first.

The day before Friday sent Gerry this sharp note, he learned that Gerry had provided one of the GA staff with insightful information. Associate Vice President Ray Coble, while at a meeting, had asked about talking to a LDF field representative concerning UNC data to “clear up a lot of apparent misunderstanding.” Gerry had told him “If you want to talk to someone, talk to that black member [Julius Chambers] on your own Board. I [Gerry] spend more time dealing with him on these issues than any other single person I know.”

(When I first saw the above referenced memo, and the memo President Friday wrote about confronting Chambers over his apparent conflict of interest serving on the UNC BOG, and thus hearing about its plans, negotiations and possible litigation strategy, while also serving as President of the LDF, I did not copy those documents. I was able to go back later and find Coble’s memo, but was unable to find Friday’s.) Friday was apparently livid with Chambers continuing on the BOG, but the latter refused to resign, arguing there was no conflict. He resigned from the BOG about 8 months later, in August 1977, still maintaining there was no conflict. He said he notified Friday in

writing in 1974 about going on the LDF board and explaining then why he did not believe that posed a conflict of interest. He stressed in 1977 his resignation was voluntary. But he resigned only after his dual role apparently received media attention. He may not have wanted to discuss the issue with the State Bar.

F. UNC head attorney, Dick Robinson, reported to President Friday on February 11, 1977, that again Senator Jesse Helms' office had contacted him offering help in the *Adams* case. They were proposing to sponsor legislation to block extreme enforcement of civil rights. Robinson did not favor the legislative route.

G. The National Association for Equal Opportunity in Higher Education (NAFEO) sent a 23 page position statement in the *Adams* case to Judge Pratt on March 3, 1977. It sought, in part, more racial integration at PWIs for their "governing boards, administrative staffs, as well as their student bodies." They stressed more graduate and professional school students and more students graduating. It wanted HBCUs strengthened and "financial support [including capital expenditures] for the institutions must take into account the historic underfunding of them since the time they became public institutions." (p13) They also wanted new academic programs. They sought "equal opportunity, equal attainment and equal productivity" for African Americans. (p16) They sought to increase the pool of PhDs for HBCUs.

H. UNC was put out of its suspense about the future shortly after April 22. On that date Albert T. Hamlin, the new Acting Director of the Office for Civil Rights in the Carter Administration, wrote that an April 1, 1977 court order required OCR to notify North Carolina (and the five other remaining *Adams* states) that its formerly approved desegregation plan did not comply with Title VI and it was required to submit a new one. OCR would send guidelines by June 30 and North Carolina would have 60 days in which to submit its new plan.

I. Facing a new presidential administration and a newly aggressive OCR pursuant to the court order, UNC head attorney Dick Robinson did some soul searching, as set out in 2 highly revealing memos during this stressful period.

His first, of January 27, 1977, to his now colleague and former OCR attorney, Jeff Orleans, considered possibly making "common cause" with OCR to help develop standards that would suit higher ed entities.

Up through this fall, our histories might be summarized as follows. We have slowly but clearly moved from a position of at least partial legal segregation, through "tokenism," to a meaningful commitment to equal opportunity for blacks

and whites. HEW has responded to that movement with inertia, being judicially coerced into seeking any Title VI commitment from us, then accepting a plan *which could have gone further*, [emphasis added] and then failing to monitor that plan in any significant way. The court, under mandate of its Court of Appeals, has relied on HEW to define and monitor our obligations, and has been let down by HEW's inaction. Thus HEW's passivity has caused the three actors to operate in isolation from one another.

Robinson believed the LDF-proposed standards were “educationally unsound.” Since OCR had floundered with what guidelines to use in the past, working with the new OCR leadership team now would help them provide educationally defensible standards that would comply with the Court of Appeal’s mandate, and thus get Judge Pratt out of the middle of the case.

Apparently Robinson and UNC never acted on this proposal.

His second memo, of May 24, a position paper to President Friday, in preparation for an upcoming meeting with an OCR official, is more telling. As before, the problem for UNC and other universities was the lack of clear policy or guidelines from OCR (and the courts) as to what constituted compliance with Title VI. Robinson took a realistic view of what the future might entail: “[I]n response to the previous relegation of black students to educationally inferior experiences at black institutions, it may be necessary to enhance the quality of the educational opportunities available at such now predominantly black institutions.” (p7)

He then offered his perspective on why many African American students received “[a] relatively less satisfactory educational experience” at HBCUs: inadequate resources, admitting many students unprepared for college work, having inadequate remedial help for them, and there were “(4) Unacceptably low standards of achievement required of enrolled students for continuation, credentialing, and graduation.” (p9-10)

He continued,

First, the program offered at predominantly black institutions must be educationally valid, as measured by traditional indices. It must be predicated on certain agreed upon minimum norms of performance and achievement. Too frequently today the students of predominantly black institutions are the victims of a cruel hoax: They are awarded ‘credentials’ which purport to signify achievement of a certain level of ‘proficiency’ which equips them to compete effectively for positions in the larger society. They find after graduation that they were deluded in that belief. The implications of this essential observation include: More rigorous admission standards, in recognition of the fact that we

have ‘oversold’ the promise of higher education and that we cannot and should not try to accommodate the many people whose educability is below certain established limits; more rigorous employment standards, in recognition of the special talents which may be essential to the education of disadvantageously prepared students [for remediation]; more rigorous academic requirements; more rigorous expectations of administrations and of administrators. (p11-12)

Second, . . . Special programs for the marginal student must be a prominent part of the program of any institution which accepts marginal students. (p 12-13)

Thlrd, . . . it will be expensive to attract and hire fully qualified personnel, to maintain specialized programs of education for marginal students. . . . (p12)

Then he called for 2 extraordinary items UNC had not done or done well:

One example of a ‘positive’ initiative would be programmatic in nature: the development of a distinctive program at one or more of the predominantly black institutions which is not duplicated at a predominantly white institution (or at least not at a predominantly white institution which is physically proximate to the host predominantly black institution). (p14)

Another example of a ‘positive’ initiative would be the employment of blacks in more key administrative positions within predominantly white institutions. *Our record on this, to date, is utterly miserable.* [emphasis added] (p14)

Robinson, whether or not correct in his analysis about HBCU education at the time, was clearly warning about likely major changes ahead, and the resulting costs. He was careful never to point a finger at the under-resourced public schools which produced the ill prepared African American students who made their way to the HBCUs.

J. The UNC officials’ meeting with OCR officials on June 6 and 7, 1977, was not encouraging. The latter said UNC’s prior plan was comprehensive and should be built upon. But, they said the problem was not so much the plan but the “fairly unchanging institutional racial percentages.” According to UNC’s notes, OCR was only focused on results—substantially increasing the numbers of African American students at PWIs, without it affecting the HBCUs. As UNC pointed out, that was not possible. UNC said more African American students in the system meant less well prepared students. OCR was not concerned about the academic preparedness for admission. It was UNC’s obligation to get the admitted students up to speed for college work. African American admission rates were to match with graduation rates 4 years later. OCR was minimally

concerned over the quality of the education the students received. OCR also wanted more African American members on governing boards.

OCR set out their areas of concern:

1. Are the black and white rates of ‘matriculation’ to college comparable?
2. Is there a sufficient increase in black ‘participation’ at historically white institutions?
3. What is the future of the black institutions?
4. What graduate and professional school opportunities exist for black students?
5. Further faculty desegregation.
6. Governing boards.

K. OCR sent out its new guidelines on July 2, 1977. UNC had 60 days to submit a new plan. Among the key changes as set out in the press release by Secretary of HEW, Joe Califano, were:

[A]t the end of five years . . . equal percentages of black and white students who graduate from high school should enroll in public undergraduate institutions.

* * *

At the [sic] end of five years, there shall be increased black enrollment at four year white colleges.

* * *

[T]he states will take actions to reduce the disparity between college graduation rates of whites and blacks. Black dropout rates are currently 8-20 percent higher for blacks than whites. The criteria do not set the goal of equal graduation rates but rather require that the states take all reasonable steps—such as compensatory education and financial aid—to reduce the disparity in drop-out rates.

For African American and White public university graduates, the criteria also called for the same percentage pursuing graduate and professional education. The document called for equal resources for universities, but went on to state that “Nothing in the criteria prevents consolidation of educational institutions, as appropriate, where the purpose is to increase educational opportunity and efficiency and to further the desegregation process.” That statement was bound to have sent chills through many African Americans who read it. The criteria also set goals for increased African American employment in faculties and staff positions.

L. The BOG approved its 137 page “The Revised North Carolina State Plan for the Further Elimination of Racial Duality in Public Higher Education Systems: Phase II, 1978-1983” on August 22, 1977. Now, it had had time to meld as a system and take stock of its situation. It had made progress in desegregation over the past 3 years. In its

plan, UNC touted its accomplishments in desegregating the university system, and freely unleashed barbs at OCR, especially when it could not meet the new guidelines. UNC made clear that its prior plan still had a year to operate, and since OCR had 120 days to evaluate the new plan, UNC had been instructed to continue compliance with the 1974 plan until receiving a response from OCR. (p1,4)

“[M]ore than six years after the commencement of the *Adams* litigation, neither HEW nor the Court has told North Carolina why it is deemed to maintain racially ‘segregated’ systems of higher education, beyond the fact that constituent institutions of The University have ‘racially identifiable’ enrollment profiles. Furthermore, neither the Court nor HEW has explained wherein the formerly acceptable and approved *State Plan* is inadequate to meet the requirements of Title VI of the Civil Rights Act of 1964.” (p4)

“[T]his *State Plan, Phase II*, accepts some of the *Criteria*, and demonstrates that, in fact, North Carolina has already met some of the *Criteria*. However, some of the *Criteria* are not and cannot be accepted because they are legally unnecessary or educationally impracticable or defective, and because alternatives legally and educationally sounder exist and are adopted.” (p16)

African American students constituted 25% of the enrollment in UNC PWIs in the fall of 1976; for HBCUs, 8.5% of the students were minorities (likely including foreigners). (p10) UNC had challenges meeting OCR’s criteria—NC high school students were not academically oriented. They did not attend college at as high a rate as those students in other states (but this was not true of African Americans), its high school drop-out rate was very high, and its students routinely performed poorly on the SAT tests. (p30) Nor had the General Assembly assisted the University. The legislature had raised in-state tuition and increased state aid to private higher education, both actions potentially interfering with UNC’s ability to meet OCR’s criteria due to UNC’s limited financial aid. (p31) Improving HBCUs academically could make them more desirable to African American students, thus counteracting UNC’s efforts to get more African American students into PWIs. (p32)

Under the criteria, “[T]here would be required by 1982-83 an additional 4,576 black 1976 North Carolina Freshmen and transfer students to enter those institutions [PWIs] each year. . . . That would be a gain of 481.9 per cent over the comparable 1976 figure of 950 entering black Freshmen and transfer students.” (p97) But the next page said OCR only asked for ½ that number in 5 years in its criteria. Then it seemed to drop the requirement to 150%. UNC labeled the formulas as arbitrary and lacking any “relationship to any apparent principle.” (p98-99) UNC felt boxed in. These numbers were not attainable: PWIs would have to raid HBCUs and thus reduce HBCU enrollments; due to better

financial aid packages, many NC African American students attended private colleges/universities in- and out-of-state; and of the remaining in-state African American high school grads, large numbers were “less well prepared for college work,” necessitating remedial services—which were limited by UNC’s finances. (p100-101) The BOG was only willing to estimate an increase in African American enrollment at its PWIs by 1982 up from 25% to 33%. (p107)

In fall 1976, the Whites going on to college from high school were 42.5% of the graduates; for African American, that figure was only 31.5%. (p72) In its plan, UNC challenged why it should be responsible for getting the African American percentage equal to the White.

Aptitude, preparation, motivation, and finances must be counted among the salient determinants of going rates for all high school graduates, without regard to race. Achieving the comprehensive objective of the State to increase the rate and extent of citizen participation in education will be constrained for both whites and blacks by many factors and circumstances, including some which far transcend the responsibilities and capacities of the State's formal education programs. (p74-75)

UNC bragged about its success in increasing African American student enrollment so far and that it planned to continue that success. (p75-86)

White graduates of the undergraduate program attended grad school in approximately the same percentage as African American graduates. UNC refused to limit consideration of only its own graduates for graduate and professional schools. (p117, 119) The plan pointed out successes in minority hiring. (p124-126) As to governing boards, African Americans comprised 16% of the BOG members, BOT members at PWIs were 8-15% African American, while White BOTs members at HBCUs were down to 23-62%. (p126)

“[P]hysical facilities at the traditionally black institutions are generally older than those at the counterpart traditionally white Institutions. . . .” UNC agreed to evaluate those facilities at HBCUs. (p55) After defining UNC-CH and NCSU as major research universities, the plan said there was no intention or need for additional such campuses. (p38-39, 41)

A&T received attention in the plan, both positive and negative. “Special attention has been given also to developing a unique program in transportation studies and to extending program offerings in engineering at North Carolina A&T State University. . . .” (p57) After discussing legislative funding increases for faculty salaries, the plan went on,

“Of new faculty appointments made by North Carolina A & T State University in 1976, 87 per cent had the doctorate. . . .” (p59) When a master’s program in nursing was to be established in the Greensboro area, because of A&T’s (and the other 2 HBCUs’) poor record in their nursing programs (only 34% cumulative first time pass rate on Nursing Board licensure exam from 1970-1976), the grad program went to UNCG. (p63, 66) The HBCUs were also scoring so much lower on national teacher exams from 1971-1976 than PWI students that UNC was working to strengthen the existing programs. (p64)

In summary, UNC did not make any specific commitment on the new key criteria, as HEW had called for.

M. On November 7, 1977, OCR responded to President Friday, inevitably pointing out the above flaws and others in the UNC plan with a 17 page analysis. One shortcoming, not clear from UNC’s above response, which OCR pointed out was:

(2) As you know, HEW and UNC engaged in extensive discussions with regard to placing the new School of Veterinary Medicine (SVM) at NCS-Raleigh. It is our understanding that, in conjunction with the SVM project, new preparatory programs related to veterinary medical studies would be placed at NCA&T. We would appreciate it if you would advise us on the status of the SVM project and provide specific information with regard to UNC's plans to develop related programs at NCA&T. (p7)

N. UNC responded in a document dated December 5 concerning the 3 major issues of dispute:

1. It discussed the many ways it had upgraded the HBCUs.
2. UNC again balked at the rigid insistence of increasing African American enrollment at PWIs by 150%.
3. It rejected prior notice of intended program actions to OCR.

It did not respond about the vet preparatory program at A&T.

O. NC’s Congressional delegation met with OCR officials in early December about the criteria issues. Director Tatel’s letter of December 5 said the notification of program changes could be given “the same time they are made public” and did not require OCR approval; “priority consideration” should be given to creating new degree programs at HBCUs, meaning a “healthy share;” as to increasing African American student

enrollment at PWIs, he was disingenuous on that issue—it could be accomplished by “increasing the college going rate of black students, by further desegregation” of HBCUs, or both. He did not address UNC’s concerns at all.

P. On December 7, the NC Alumni sent Friday a press release issued November 13, 1977, after a 2 day conference to study the new OCR criteria and UNC’s response to that document. It stated that OCR officials, LDF members, African American chancellors, legislators, BOG members, and others were among the approximately 75 attendees. The Alumni were harsh in their criticism of UNC’s position. They were unhappy at risking the federal financial aid to higher education. The Alumni favored the criteria. They noted that “in a State with a 23% Black population, it is appalling that less than 3% of the instructional faculty at white institutions are Black; less than ½ % are tenured.” (p3)

They attacked UNC’s most defensive point:

[T]he University's response to the 150% increase in student enrollment—a minimal criterion set by the HEW guidelines to reduce the disparity of the proportion of Black and white high school graduates entering post-secondary institutions—reflects a gross misuse of statistical data. To increase freshmen enrollment for the Fall 1976 from 950 students to a goal of 1,425 freshmen to enter the University System in 1982 is a flagrant insult to Blacks. This proposed increase will net 43 Black freshmen per institution over a five-year period, yielding an average of less than nine Black students per year per traditionally white institution. (p3-4)

By my math, it appears to come out to 47.5 new freshmen students per campus for 5 years, or 9.5 extra African American students per PWI a year (assuming the Alumni group’s base number is correct). I agree with the Alumni, that certainly does not seem an unattainable figure.

Q. The Alumni followed up on December 22 with a written analysis of UNC’s Plan II. They were concerned at UNC’s lack of specifics on upgrading HBCUs under the plan since UNC appeared to see no discrimination currently in budget support. The Alumni pointed out that most of the African American grad/professional students were at the HBCUs; only 4.6% were at UNC-CH and NCSU, contrary to what UNC implied. The Alumni pointed out the terrible employment rate of African American faculty at PWIs, and the even worse record on administrative employment. UNC made no commitment in these areas.

R. UNC and OCR continued to negotiate during December and January, without success. UNC felt OCR's demands for "transfers, terminations and reassignment of academic programs as the principal means of changing student attendance patterns" "would impose major changes on all our institutions." (Friday Jan 31, 1978 memo) On February 2, 1978, Secretary Califano announced acceptance of 3 states' plans and the rejection of UNC's plan. The formal letter was sent the next day, announcing administrative enforcement (withholding money) would begin within 45 days.

S. In early March 1978, UNC officials met with OCR to negotiate further. At that time, the major issues were: program duplication and new program priority at HBCUs, increased African American enrollment on PWI campuses, greater grad/professional student enrollment, and greater African American employment. The parties were nowhere near agreement. There had been some shift in "major" issues.

Apparently about that same time, a perception arose among some African Americans that UNC was manipulating the HBCUs' chancellors into positions with which they did not agree (against the LDF). So a draft statement was prepared, possibly at NCCU, to try to avoid that perception:

Arrangements have been made for a group representing the Governor's office and The University of North Carolina [sic] including the five black chancellors, the State Budget Officer, and representatives from the General Administration to meet with officials of the Office of Civil Rights in the Department of Health, Education and Welfare, for the purpose of clarifying the details of the State Plan presented to HEW, particularly with reference to the historically black institutions and to project the enhancement impact of this Plan over the next couple of biennia. This group will also stress opposition to mergers, cosmetic realignments, and emphasis on duplication, and state the case for a strategic placement of new programs as a means of accomplishing what is desired by HEW.

If the chancellors feared Friday, this arrangement did not seem to provide them any real protection. It appeared as only window dressing, at best.

T. Finally, on May 12, 1978, Secretary Califano announced that OCR was accepting UNC's changed Plan, Phase II, Supplemental Statement II. The language had been "wordsmithed" to satisfy OCR. This was followed on June 12 with a carefully worded letter by Director Tatel stating the acceptance was conditional until UNC had submitted seven listed documents and reports, including a study of "educationally unnecessary program duplication." President Friday had understood the conditional nature of the

approval, even though Califano had not stated the limitation in his press statement. Friday had told the faculty and staff in a letter of May 23, 1978:

We recognize that HEW may not approve or accept the findings made by the Board as a result of these studies or the actions taken by the Board of Governors consistent with those findings; we could then again find ourselves in the position of facing enforcement proceedings. In that event, it is our considered judgment, and the strong advice of counsel to the Board of Governors, that we will have improved our ability to defend our position by doing so on the issue of whether The University has complied with the specific items of a State Plan that has been approved by HEW, and on the judgments we will make in implementing our commitments in that Plan.

Thus, Friday seemed to concede publicly that the settlement with OCR had an element of gamesmanship and legal maneuvering to it.

U. The August 10, 1978, study of the buildings on the HBCU campuses was one of the reports UNC was required to submit under its conditional desegregation plan. The part of the report concerning A&T was both positive and grim.

49 buildings in use or under construction on the A&T campus were evaluated by an architect and an engineer. A sheet was prepared for each building. 5 had been built in the 1920s, 6 in the 1930s, only 1 in the 1940s, 18 in the 1950s (8 in 1954 or later, the year of the *Brown v. Bd. of Education* decision), 13 in the 1960s, 3 in the 1970s, and 3 were then under construction (gym, natural science, social science). For a 1978 survey to find so many of A&T's buildings to be of a vintage of the 1950s forward was very encouraging. (37 of 49, or 75.5%) However, on a scale of A to E, with "A" the highest, the survey rated 8 buildings as Ds or Es, 4 of which were built in the 1950s, 2 in the 1960s, and 2 in the 1920s. A rating of "C" was considered only in fair condition; 16 received that grade, of which 10 were built in the 1950s, 1 in the 1960s, and the other 5 were built in the 1920s and 1930s. So 17 of the buildings constructed in the 1950s and '60s were in only fair condition or worse! (17 of 49, or 34.7%)

What was the problem with so many newly constructed buildings? On the "C" buildings, as a non-contractor, to me the descriptions of the problems suggest either poor construction, building settlement, leakage of steam and/or water damage. Clearly roof leakage and need for new roofs was documented on several buildings. The Ds and Es had much the same damage, only worse. 5 of the Ds and Es were so damaged the recommendation was to replace them rather than repair them.

Was A&T doing a poor job of maintenance on its buildings, or was this the typical situation of the state putting up new buildings then not providing the funds for new roofs and other required maintenance? The below report seemed to provide the answer.

L. Felix Joyner, the Vice President for Finance at GA, in his transmittal memo distributing this report, wrote:

(2) A more comprehensive approach to preventive maintenance needs to be established on all campuses.

(3) The steam distribution system and the storm sewer system at North Carolina A & T State University are in very poor condition and require immediate attention.

* * *

The allocation of resources for correction of specific physical plant deficiencies should be addressed either in the context of the established capital improvements budget process or within the maintenance and operations budgets of the institutions. . . . This is a resource allocation/operations problem that is University-wide and increased attention should be directed toward this aspect of budget-making and execution, both at the campus level and by General Administration.

* * *

(3) Immediate attention should be given to correcting the steam distribution system deficiencies on the North Carolina A&T State University campus. It is proposed that the Board of Governors allocate \$1,200,000, from funds currently available, to meet the estimated cost of this project. The University Property Officer should work with officials on the A & T campus and the City of Greensboro to correct the storm sewer problem, which is a mutually shared responsibility.

V. By September 5, 1978, UNC had completed its study of program duplication at UNCG, A&T, and WSSU (along with a separate one of UNC-CH and NCCU). The final report was ready for BOG vote at its December 1 meeting. According to that report, the purpose of the exercise was “strengthening the traditionally black colleges.” UNC found that the programs offered at the campuses studied were consistent with national and private NC colleges/universities. The service areas of the campuses were determined to be the entire state (not local, as the case of public school districts). No unnecessary program duplication was found. The BOG conclusions were that rather than close programs at PWIs in an attempt to force White students to HBCUs, their past foci of improving HBCUs and increasing African American attendance at PWIs were the best approaches. In his November 30 letter to Governor Hunt, Friday was strongly opposed to

closing any of the HBCUs, as demanded by OCR. (The December 8 draft transmittal letter by UNC for Governor Hunt, to send the program duplication report to Tatal, makes this point much more clearly.)

Director Tatal responded on January 18, 1979. He pointed out that he needed settlement with UNC by mid-March for a report to the DC court pursuant to the *Adams* order. As to the duplicate program report, the analysis he included said UNC's data did not indicate the counties providing A&T and UNCG the most students. But, it went on to say OCR had no objection to the concept of the campuses being state wide in their service areas. The analysis argued that comparing UNC campuses' courses with national campuses not having a dual race educational system was irrelevant. It concluded:

While the study identifies extensive duplication among non-core degree programs particularly at the undergraduate level, no proposals to eliminate any of this duplication are presented. Thus, the study does not satisfy UNC's commitment to insure the 'enrollment of a significant proportion of students in unduplicated programs.' It should be noted that this commitment does not require the elimination of all educationally unnecessary program duplication. Rather, it can be satisfied through a combination of the elimination of some programs at some institutions and the addition of new, unduplicated programs at the TBIs. Also, the elimination of program duplication does not necessarily require that major programs be closed or transferred; rather, under certain circumstances it can be accomplished through program specialization.

The analysis also suggested ending duplication in the 3 campuses' engineering programs or creating campus specializations. It then complained about the annual report not showing enough new programs being approved for HBCUs and the lack of projected information about these programs, including planned enrollment and staff. As for the buildings survey sent in, the analysis observed that there was no indication about what UNC planned to do concerning the problems found with the HBCUs' buildings and there was no comparative study done of the PWIs' structures. It then criticized the method of projecting African American student enrollment set out in the December 1979 goal. Tatal sent a chart of problems with the PWI's affirmative action plans.

In a later internal memo of October 1, 1979, Tatal said UNC "renewed on its promise to eliminate educationally unnecessary program duplication." To me, the use of "renewed" showed hard feelings toward how UNC handled the program duplication study--that it was seen as another slick maneuver, like the vet school placement, to defeat OCR.

On January 25, 1979, President Friday blasted Tatel. He reminded him that the UNC Plan required the submission of documents (he listed them), which he said had been sent. Friday noted angrily that no reaction to any of those documents had been received until a week prior to this letter. Now, to achieve compliance, UNC was called upon to resolve the problems OCR pointed out in little more than a month. He accused OCR of a “summary rejection” of UNC’s plan. He challenged the obligation to end or move duplicate programs. He then returned Tatel’s staff analysis paper to him since it was not worthy of conversation.

On February 6, GA lead attorney, Dick Robinson, received a phone call from Shelby attorney Max Gardner, reporting a call from an anonymous source inside HEW (whose identity Robinson speculated upon), in which the source reported that if UNC wanted to settle, offering “some new graduate degree programs at NCCU and at A & T . . . would resolve” the matter.

Tatel replied to Friday on February 16, resending the analysis which Friday had returned, and arguing with Friday point by point. He contended the program duplication issue was the only major outstanding matter.

W. Two OCR officials, Director Tatel and Dr. Mary Berry (who by training is an historian and attorney), toured UNC campuses in February 1979. It appeared they deliberately sought press coverage of the tour, which resulted in the media highlighting the poor campus conditions of the HBCUs. This caused justifiable embarrassment for, and anger by, UNC. The resulting OCR scathing report was written comparing the poor quality circumstances of the HBCUs to those of the PWIs. The report about A&T was generally positive, especially in contrast to its peers.

X. UNC representatives met in Washington with OCR officials on March 8, 1979, to discuss the impasse over program duplication. OCR submitted a proposal which consisted of new programs at HBCUs and ending programs at PWIs. As an example, for A&T it was proposed that the following new programs be added:

- Master's: Public affairs and services
- Master's: Special education
- Doctorate: Engineering - solid state electronics
- Doctorate: Mechanical engineering
- Specializations: Health and Physical Education (graduate)
 - Education - student personnel (graduate)
 - Commerce and distributive education (undergraduate)
- Home Economics - foods and nutrition (undergraduate and graduate)

Business and management - accounting (undergraduate)

Relationship to other universities

1. Withdraw MS in Engineering at UNC-C
2. Withdraw Master's in Special Education at UNC-C
3. Withdraw Master's in Special Education at UNC-G
4. Phase out BS in Nursing at UNC-G over 4-year period
5. Withdraw Art Education from A & T and move to UNC-G
6. Withdraw Home Economics - clothing and textiles from A & T and move to UNC-G
7. Withdraw Home Economics - foods and nutrition from UNC-G and move to A & T
8. Withdraw Commerce and Distributive Education from UNC-G and move to A & T

UNC-G and NCA&T would offer graduate degrees in education on WSSU campus

[The below financial proposals came from OCR on March 8 but the cost estimates were added by UNC General Administration later that day.]

Budgets [UNC Estimates]

Capital Improvements

Renovation and Major Maintenance	(\$10,147,000)
Projects with Approved Advance Planning (Pre-vet School Laboratory)	(\$ 6,873,000)

New Facilities

Nursing School	(\$ 2,834,000)
Engineering School Building	(\$ 7,328,000)
Art, Music and Humanities Building	(\$ 9,683,000)
Addition to Bluford Library	(\$ 4,100,000)

Change Budget

Instruction-Academic Support	(\$1,370,925 - 1,307,189)
Libraries	(\$ 263,884 - 243,948)
Physical Plant Operations	(\$ 514,732 - 514,498)
Student Services-Institutional Support	(\$ 736,552 - 717,684)
Equipment	(no documentation)*

(Total Capital Improvements - \$40,965,000)
 (Total Current Operations- * \$2,886,093 – 2,783,319)

The total proposal for the 5 campuses came to a staggering \$109,602,968.00 by UNC’s estimate.

This “suggestion” was far different than UNC’s plan and from what had been discussed previously.

Y. After continued negotiations through March, at one point on March 13, in frustration, UNC asked if any other state was required to create a new professional school as part of their desegregation plan. OCR said “no.” The struggle between the 2 entities ended March 26, 1979 when Sec. Califano announced he was not accepting UNC’s desegregation plan. Enforcement proceedings were to begin, with limited fund withholdings (but not financial aid) to start 30 days thereafter. HEW filed its administrative hearing lawsuit April 24, 1979.

Z. In response, UNC hired the law firm of noted Washington, DC civil rights attorney Charles Morgan to represent it. He filed suit on its behalf April 24 against HEW in federal court in the Eastern District of NC. Judge Franklin Dupree was assigned the matter. He refused to transfer the case to DC (change of venue) and on June 8, 1979, blocked the withholding of funds to UNC until the administrative hearing was ended. (Judge Pratt concurred with Judge Dupree’s decision on venue. The DC federal Circuit Court agreed on June 10, 1983 since the state was not a party in the *Adams* suit and the *Adams* plaintiffs never sought to intervene as parties in the North Carolina case.)

AA. By June 8, 1979, UNC thought it had a good enough proposal such that it drafted an amendment to its plan document. An example of what it was willing to agree to is the A&T portion:

<u>1978-1979</u>	
Natural Science Building	\$2,755,000 (1)
Social Science Building	2,200,000 (1)
Grounds Improvements	100,000 (1)
Design - Administration Building	300,000 (1)
Design - Steam Line Replacement	140,000 (1)
OSHA and Barrier Removal projects	55,000 (1)
Land acquisition	205,000 (1)
Equipment	150,000 (1)
	<hr/>
	\$5,905,000

1979-1980

Award construction contracts - Administration	
Building	\$2,700,000 (1)
Award construction contracts – Steam Line	
Replacement	1,276,000 (1)
OSHA and Barrier Removal projects	46,000 (2)
Campus-wide Renovations – Phase 1	2,090,000 (3)
Equipment	450,000 (3)
	<hr/>
	\$6,562,000
<u>1980-81</u>	
OSHA and Barrier Removal projects	\$ 46,000 (2)
Campus-wide Renovations - Phase 2	3,256,000 (3)
Equipment	450,000 (3)
	<hr/>
	\$3,752,000
<u>1981-82</u>	
OSHA and Barrier Removal projects	\$ 55,000 (2)
Campus-wide Renovations – Phase 3	860,000 (3)
Design - Animal Science Facilities	600,000 (3)
	<hr/>
	\$1,515,000
<u>1982-83</u>	
OSHA and Barrier Removal projects	\$ 55,000 (2)
Campus-wide Renovations – Phase 4	1,360,000 (3)
Award construction contracts – Animal Science Facilities	6,400,000 (3)
	<hr/>
	\$7,815,000
 Total	 \$25,549,000

- (1) funds previously made available
- (2) funds anticipated in response to Board’s biennial budget requests
- (3) funds appropriated in response to Board requests of the 1979 General Assembly for special appropriations

UNC further agreed to a campus “study of the organization and administration . . . in consultation with the Chancellor” and a “study of the effectiveness and strength of academic programs.” [The above campus renovations to respond to the buildings survey totaled \$7,566,000.]

The total cost of this amended plan, including the funds previously made available was approximately \$67M.

BB. But on July 23, the Department of Justice responded that UNC's proposal was not acceptable because it still refused to remove "unnecessary program duplication" and the feds perceived UNC was backpedaling on prior commitments it had made in its plan. OCR was determined it would proceed in its method of desegregation and no other approach would be considered.

CC. VP Ray Dawson, on August 24, 1979, set down an analysis of current academic programs at the HBCUs and possible "unique programs" that could be offered to OCR in settlement. As to A&T's present situation, he wrote: "there has been extensive new program development, particularly in engineering, in agriculture, and in the sciences; and the School of Business at that institution was accredited this year. The institution is under a mandate also to improve its nursing school." (p3) He went on to mention that all 5 HBCUs needed to upgrade their teacher training programs.

As to possible new, unique programs, he mentioned computer science, apparently in reference to A&T. "What are the possibilities for developing 'unique' or distinctive programs then in these five institutions? At best, one must conclude that they are limited. The University of North Carolina, and the State of North Carolina, have already brought these institutions to a level of development such that this approach offers few opportunities." (p5) He mentioned the lack of need of health science schools, a law school, engineering or vet school. He mentioned possibly a program in optometry or podiatry on one of the campuses. "The possibilities are limited, and the experience of the law school at Central or the engineering school at A & T suggests that unique or distinctive programs, even where they exist, do not in a short time markedly change the overall racial mix of the institution's enrollment." (p7) [This was the goal of OCR in wanting such programs. It had indicated its goal was White students on HBCUs of 25-30% of the student body.]

DD. Sometime in 1979 (On p4 is a reference to the duplicate program study of "this December [1978]," so document is incorrectly dated by the Archives to September 9, 1980), a searing memo was prepared, probably by the US Department of Justice or OCR for the administrative hearing, titled "The University of North Carolina: Separate and Still Unequal." It noted that UNC was "continuing to develop and expand its white institutions at the expense of the black colleges." (p1)

The State resorted to these same reasons [as it did in denying masters' degrees in education to FSU] in refusing to locate a new multi-million dollar school of

veterinary medicine at the black land grant school, North Carolina A&T, choosing [sic] instead NC State. However, a lack of preparedness did not not [sic] deter the State from opening a costly and prestigious medical school at Eastern [sic] Carolina University this year. The development of the medical school then served to justify awarding ECU new undergraduate feeder disciplines, and 5 health-related doctoral programs. Other program decisions by UNC continue to curtail the TBIs' ability to offer specialized and attractive programs. For example, *after* [emphasis added] a master's level program in special education was awarded to NCA&T, the identical program was authorized for UNC- Greensboro. The growth of the engineering program at NCA&T is being paralleled by an expansion of the same curricula at UNC-Charlotte. (p13)

OCR had referred to the ECU med school at times in conjunction with the vet school, as had UNC, but this is the clearest linkage of the problem that I have seen. The hypocrisy cries out about the stated reason for denying A&T the vet school in light of the above information about building the ECU medical school. Also, the deliberate program duplication of programs given to A&T is disturbing. No wonder A&T could not grow like UNCG and UNCC.

The paper cites UNC's history of building up PWIs, but

In the entire history of higher education in North Carolina, however, there is not a single example of similar development at the schools built to educate blacks. By relying on the inadequate development of black institutions as an excuse for denying them attractive and specialized programs, North Carolina is penalizing these schools for weaknesses which were state-inflicted and thus assuring the perpetuation of their inequality. (p14)

This is the best justification I have seen for OCR's theory of program closure and relocation:

Separate black institutions with limited programs that were weak reflections of those offered at white institutions were established as part of North Carolina's system of higher education for the express purpose of containing black students and educating them for the limited roles permitted in a segregated society. Even today, almost every program available at one of the five black public institutions is also available at a white college. The University administration has absolute control over the curriculum offerings of its institutions. So long as black and white schools are permitted to offer identical programs, and are awarded new programs which merely duplicate those at white institutions, white and black

students, conditioned by years of segregated education, have no reason to alter patterns of attendance at the college level. Educationally unnecessary duplication thus causes the miseducation of all students. (p21-22)

This information seemed to make a compelling argument for virtually ceasing to allow new program development at PWIs unless there was no competition with any degree program at an HBCU. UNC was not following this principle.

EE. On December 18, 1979, OCR rejected UNC's latest settlement attempt of October. It was still demanding program consolidation: "When identical programs at neighboring schools are consolidated into a single school, the result should be a larger, stronger program; teachers and students from both campuses should be embraced within the single, consolidated program." (p3) This assumed professors and students would be transferred as if public school students—not a reasonable assumption. It wanted HBCUs to have "facilities, programs, degree offerings, and faculties which are at least comparable to traditionally white colleges with similar missions." (p1) OCR did not perceive UNC was willing to upgrade the HBCUs to make them comparable to the PWIs, especially in their programs. "*For many reasons, grave doubts persist about the adequacy of UNC's efforts to date to strengthen its black colleges.*" [emphasis added] (p2) "The further enhancement which appears necessary for the TBIs includes: additional new and high demand degree programs, including added appropriate masters and Ph.D. programs; additional buildings, improvements in facilities and equipment, and other capital improvements; increased instructional, student services, and other institutional support; and added funds for maintenance and renovation." (p2) Among other items, OCR wanted the campus affirmative action plans revised.

UNC perceived this letter as an indication OCR had no interest in settling the pending litigation. (Robinson memo of January 2, 1980)

FF. In a memo of February 18, 1980, VP Ray Dawson noted that from 1978 through the FY 1982-83, UNC had secured capital improvement funding for its 5 HBCUs in total for \$70,154,025, including the \$40M special appropriation discussed below. This was \$27,309,146 less than OCR's demand of March 8, 1979. As a former litigator, when a party makes a settlement demand, he/she/it rarely expects to get all sought in the demand—he/she usually wants approximately ½. Yet, here, UNC had provided considerable funds to upgrade the HBCUs' physical facilities, and could not get a settlement. Dawson said in his memo that questions were likely to be raised by both the BOG and General Assembly about why, after appropriating \$40M to resolve the matter, UNC was unable to settle the case. For OCR, what was done was never enough.

GG. As OCR had geared up for trial approximately 2 years earlier when it appeared the parties would not settle, an attorney for OCR prepared a 29 page litigation memo on January 25, 1978, assessing the case against UNC. He noted that “In 1976, only 3.4% of full-time TWI undergraduates were black, and only 2.9% of full-time TBI undergraduates were white.” (p6) This painted a different picture than did UNC’s reported numbers. In the “comprehensive” TWIs, the African American faculty was only 1.9%.

Looking at existing buildings, plus all buildings financed or under construction as of 1976, five schools have 60% or more of their buildings less than nine years old (as of 1976). Four are TWIs, with 62.4%, 72.4%, and 78.5% and 84.3% new or recently financed buildings. One is a TBI, with 63.9% new or recently financed buildings. The majority of the traditionally white campuses have less than 7% of their campus buildings older than 25 years. Of the comprehensive and baccalaureate universities with more than 20% of their buildings more than 25 years old, all are TBIs. . . . Of the five campuses reporting that less than 90% of the buildings were in satisfactory condition, three are TBIs. (p13-14)

The memo analyzed the vet school placement situation at length:

The development of a School of Veterinary Medicine (SVM) created an almost unique opportunity to place a prestige magnet program to not only foster the desegregation of a black faculty and student body, but also to provide the impetus for creating undergraduate feeder programs and for developing a superior academic community at a black campus. . . . (p16-17)

The Department has previously opposed the SVM decision, but in 1974 acquiesced to the State, on condition that the State look into placing at NCA&T related programs which would complement the SVM at NCSU-R. . . . At OCR’s insistence, the State did conduct a racial impact study. The study, however, proved glaringly deficient in design and scope. The study examined only the question of whether different locations would make a difference as to student body and faculty composition of the SVM program itself, and found that there would be no significant difference. (p17)

The study avoided the real issue: the effect the placement of the SVM would have on the racial configuration of each of the two applicant institutions as a whole. UNC ignored the fact, for example, that while placing the SVM at the white campus would have a minimal effect on desegregating the predominantly white faculty, placing the SVM at the black campus would have the effect of transforming NCA&T’s faculty from 73.5% black and 16.3% white to 49.3%

black and 43.7% white. The predictably similar effect of desegregating the student body at NCA&T was similarly ignored, as was the prestige which would accrue to an institution housing the only veterinary school in the State. (p17)

The UNC Board of Governors based its decision on ‘educational’ grounds. That is, it proved to itself that the infrastructure of the TBI, especially when compared with that of the competing TWI, would not effectively support the veterinary medicine program. To say this is simply to admit the history of discriminatorily low investment by the State of North Carolina in traditionally black NCA&T. In placing the SVM at NCSU-Raleigh, the State goes as far as it could in any single step to reinforce and perpetuate the effects of its past discrimination. (p18)

In sum, UNC has avoided the opportunity to enhance one of the stronger TBIs, and embarked on a program which will leave the black institution increasingly at a disadvantage in attracting investment capital and quality people. (p18)

The memo also compares the historical treatment of NCSU to A&T:

6. The State has continued to develop its black and white land grant colleges (NCA&T and NCSU-Raleigh) on the separate and unequal paths established in the nineteenth century. NCSU-Raleigh is one of the State’s two major research institutions, offering doctorates in 44 fields. NCA&T, only four years younger, remains two rungs lower than NCSU-Raleigh in the State’s categories and is not authorized to grant doctorates. Moreover, the State’s deliberations on the Veterinary Medical School led to the conclusion that this TBI is ill-equipped to support a new professional degree program. (p18)

The causes of this disparity are not hard to determine. The following table shows the degree to which the distribution of state aid, and federal aid for which the State has applied, has disadvantaged the traditionally black land grant institution.

	1968		1968		1969-70	
	<u>Enrollment</u>	<u>Ratio</u>	<u>Fed. Aid</u>	<u>Ratio</u>	<u>State Aid</u>	<u>Ratio</u>
NCSU-R	12,758	3.4: 1	\$13,919	8.9:1	\$32,183	7.9:1
NCA&T	3,781		1,569		4,087	

The State has attempted in more recent years to be more even-handed in its budget. Whatever progress the system has made has been insufficient to

overcome the identification of each campus as black or white, and of the white campus as the better of the two. (p19)

The document called for “structural changes” within UNC if the current system could not desegregate the campuses. It called for the solutions discussed above, as well as possible merger of institutions.

HH. Back on February 13, 1979, around the time Tatel and Berry were roaming NC’s HBCUs with the media, the Rev. Joseph Lowery, of the Southern Christian Leadership Conference, wrote Secretary Califano. He complained about Director Tatel’s forced closure of a major program at HBCU Savannah State, mandating that HBCU Albany State achieve the “impossible task” by increasing its White enrollment to a total of 25-30% (which he feared would lead to both of their closures), and forcing most African American students in Georgia “into non-credit programs.”

II. UNC was not the only educational entity concerned about OCR at this time. In a report sent to the Director of the Office for Civil Rights on January 9, 1980, NAFEO wrote about concerns in the *Adams* litigation. It wanted more African American graduates with undergraduate, graduate and professional degrees. It pointed out their low representation in professional, scientific and academic areas. It believed the federal government was so focused on ending program duplication that it was not focusing on increasing “the numbers of Blacks being prepared to enter the mainstream of American professional life.” (p2) It feared the results of OCR’s efforts would have on HBCUs.

A requirement that a professional school be established or transferred to a black college which results in a white Dean, a predominantly white faculty and a predominantly white student body cannot by any reasonable person be construed as meeting the basic purposes of *Adams* or the constitutional [sic] mandate for racial equality or the HEW guidelines. It does nothing to produce more Black professionals, faculty, or administrators in higher education. In all probability, it exacerbates the disparity between white and black professionals. It does not contribute to the goal of an integrated society at the highest levels. (p3)

Their goal was to strengthen the HBCUs, which they saw as having a “special and historic mission.” (p4) Particularly, they wanted “to strengthen [sic] the existing graduate and professional capabilities of black universities and develop new graduate and professional centers at other selected black colleges as a most effective and economic means of producing more Blacks at high professional levels.” (p7)

[T]he desegregation process must take into account the unequal status of the formerly black colleges and the danger that desegregation will diminish higher education opportunities [sic] for Blacks. Preventing that result is achievable by an orchestration of major remedial elements in a desegregation plan, which will assure a full partnership [sic] role for historically black institutions and preserve and enhance the opportunities [sic] of black students, through general enhancement of the black colleges; significant enlargement in the proportion of black high school graduates who enter the public college system; and rapid enlargement in the enrollment of blacks at the formerly white institutions.” (p8)

JJ. During the period of the administrative hearing, on April 18, 1980, UNC’s private, Washington attorney described their key issue. Witnesses for the federal government argued UNC should move programs from one institution to another so as to combine them together, create “unduplicated” programs on some campuses, and have some campuses specialize in certain programs. (This is the “unnecessary program duplication” argument. It is somewhat similar to the magnet school approach in K -12.) These solutions would provide a “non-racial” reason for students to attend the campus, and hopefully build up HBCUs in particular. UNC differed from OCR, not over goals but over means. UNC fought these proposals on the grounds of academic freedom under the Constitution’s 1st Amendment, and argued the government did not consider the effect some of the changes would make and had no proof the proposals would lead to further desegregation. He needed expert witnesses to support UNC’s position.

KK. As the country was focusing on the upcoming presidential election and the hostage crisis in Iran, President Friday wrote his White House contact, Stuart Eizenstat, on June 23, 1980, complaining that the Secretary of Education would not permit negotiation with UNC over the Title VI issues because “the matter ‘is too political’”. . . . His letter was bitter at UNC’s treatment. Apparently President Carter got involved, because on July 12, Secretary Hufstедler requested Friday to meet with “her personal representative” about a settlement. Eight meetings were held through November that seemed leading toward a resolution. But at the December 2 meeting the DoE negotiator brought 4 new terms not previously discussed that UNC perceived were designed to kill the settlement discussions. (December 4, 1980 memo) The Secretary’s explanation of January 2, 1981, for that development was that DoE was responding to Friday’s statement about UNC’s time limitations under the “budget process.” In his follow-up letter to Eizenstat of January 8, 1981, Friday blamed OCR: “More important, however, is that each time we approached a rational consensus with personnel reporting to the Secretaries, the Office for Civil Rights would intervene and overturn any basis for agreement. No other explanation can account for the drastic changes in position presented to us on December 2.”

LL. Friday had two HBCU issues in 1980. The first arose when the State Auditor announced that A&T's financial records were in such disarray that his staff could not conduct an audit of the school. The *Raleigh News and Observer*, in a May 2, 1980, editorial, blamed Chancellor Dowdy, but went on to say that the "failure" of President Friday "to step in more forcefully than he has is inexcusable." Apparently in 1975 and 1976 the campus' records were in such chaos that the State Auditor had suggested that GA "begin supervising A&T's bookkeeping." The editorial cited this as "one more example of the malignant neglect by the state and the UNC General Administration that still afflicts UNC's five predominantly black campuses." In a memo to Friday of May 5, critical of the editorial, attorney Robinson stated, "We all know that administrative incompetence is rampant at the five institutions. . . . [W]e all believe that the best approach is a patient, sensitive, and careful effort to gradually improve the situation, as circumstances permit." (p2) Ever thin skinned, on May 8, Friday responded with an 11 page letter to the editor. He described how the BOG and his office had worked deliberately and patiently with campuses, Black and White, to solve problems rather than GA rushing in to take over. He revealed that a study of the "administrative strength" of the 5 HBCUs was being conducted, with the report expected that year.

MM. Friday had another reason to be angry with OCR besides not settling. During his September 1980 testimony in the administrative hearing, former director David Tatel testified "that Friday had said the black Chancellors had not shown adequate 'initiative' in pursuing and implementing needed changes at the PBI's." It was also reported in the media, though Tatel did not so testify but apparently spoke during a coffee break, that Friday had also said the HBCU chancellors were "weak" or "administratively weak" and that "he 'did not have complete control' to address the problems" at the HBCUs, though that last remark was later clarified to refer to Friday's testimony about the situation prior to 1972. The out-of-hearing comments about what Friday allegedly said concerning the chancellors was clearly a cheap shot for revenge, whether or not true. With widespread media coverage, the comments created a furor for Friday.

Very shortly thereafter, someone (probably Dawson or Robinson) prepared a draft response for Friday, which I would characterize as weak and mostly directed at other issues. The press release Friday issued on September 24 is shorter and more to the point, including,

Second, the Board of Governors' position and my position since 1972 has been to support the Chancellors of the five traditionally black institutions and the campuses they head, to defend their integrity, and to work in cooperation with

these institutions for their improvement. Any suggestion that we have engaged in abusive criticism of any of these institutions or of their Chancellors is untrue.

Note the pronoun “we,” not “I,” in the next to last line denying engaging in abusive criticism. No one was accusing the BOG of such criticism. Since Friday had separately discussed the BOG and himself in line one of the quote, it would be illogical for him to be speaking in the royal “we” in the next to last line. So, he did not come out and say “I did not engage in abusive criticism.”

On October 1, 1980, the chairs of 3 of the HBCUs’ boards of trustees met with President Friday, along with VP Thompson and Assoc. VP Hackley, to address the alleged statements that Tatel had accused him of making. Friday generally denied making the statements, and reminded those present that at a press conference Tatel had said the HBCU chancellors “should be fired,” that some of the HBCUs ‘should be closed,” and that degree programs in others ‘should be discontinued or moved.” In reviewing the transcript, no mention was found of Tatel testifying that Friday had said the chancellors “lacked initiative” or were “weak.” Any comments were apparently “overheard during a coffee break.” Friday reminded the group of him standing behind the 5 HBCUs when there were demands to close some and for discharging their leaders. During the meeting, Friday stated

there was no question that certain deficiencies have long existed in the traditionally black institutions, many of which were directly attributable to the consequences [sic] of a dual system. However, while there was general consensus that corrections were required, studies were necessary to specify the problem areas and to make specific corrective action. The President stated further that he had pointed out to the Board of Governors and to the Legislature the State's responsibilities in making much needed improvements in these institutions. While the effort was positive, the studies were bound to find some administrative and management problems not, as the President said, to cast aspersions toward the leadership but rather to indicate what needed to be done to make a concerted broad based effort toward improvement.

The Board chairs wanted Friday to give a “point by point denial,” which he refused to do, pointing instead to the press release he had given (which seemed evasive). Friday’s response was not satisfying to the board members present, since the chancellors and their staffs were upset. The chancellors had previously given a statement in support of Friday and felt he should do the same for them. To me, Friday’s refusal to do so seemed insensitive, unless some of Tatel’s allegations were true.

CHAPTER VII CONSENT DECREE

A. The administrative enforcement hearing between UNC and HEW/OCR began July 22, 1980. All parties (including *Adams* plaintiffs, who had intervened) had completed presenting their affirmative cases by June 1981 (approximately 15,000 pages of testimony and over 500 exhibits). At that point, everyone still had their rebuttal witnesses to present to the administrative law judge (ALJ). But Ronald Reagan was elected president in November 1980, and sworn in January 1981. Shortly thereafter there was a new attitude in HEW, if not OCR, about Title VI.

Dick Robinson, on December 12, 1980, wrote the Attorney General-designate, William French Smith, with whom he had previously worked as a law associate, both to congratulate him and to vent in a general way about what UNC had been through in the last decade. He was clearly positioning the matter for a later request for assistance, if needed.

On January 19, 1981, the day before Ronald Reagan was inaugurated, NC's Senator John East quizzed the Secretary of Education-designate, Dr. Terrel Bell, from Utah, during his confirmation hearings, about whether or not UNC could expect a change of attitude from the Dept. of Education under his leadership. Dr. Bell answer positively, without making any firm commitment on details. East was satisfied.

B. Around January 22, Dick Robinson circulated a memo discussing his thoughts on how UNC could settle the case with OCR.

To have a fair chance of succeeding, that 'settlement' must be a substantial substantive arrangement, along the lines of the settlement we were pursuing with the previous administration. Stated otherwise, it cannot be a pro forma, superficial assertion that North Carolina is not in violation of Title VI or that we have done everything that is required and we therefore are immediately relieved of any further responsibility. In short, the settlement cannot consist of or reflect the type of ideological line that we should expect Helms and his confederates to espouse (e. g., states rights, none of the business of the federal government, etc.). Although styled a 'settlement,' in essence thus must be a desegregation plan that is to be superintended by the court.

He proposed a consent decree in Judge Dupree's court that would be acceptable to that judge and also to Judge Pratt, which would also withstand review by an appellate court, under attack by the LDF. He suggested reaching out to high level Dept, of Education

officials quickly to begin the process. Robinson wanted Helms to gain the access to officials, but noted

it would disserve our ultimate interests to have him involved with the substance, in ways that are reflective of his underlying philosophical approach. Similarly, it would be a waste of our opportunity to rely exclusively on the type of ‘mass meeting’ with the Secretary by representatives of several affected states that Helms is trying to organize. We need separate access to the Secretary, as soon as possible.

C. Bell was reasonably prompt in follow-up. On February 10, 1981, he met first with President Friday, Vice President Dawson, and NC’s two senators, Helms and East. Then he met separately for approximately an hour with the chancellors of UNC’s HBCUs and at least one African American administrator, Vic Hackley, to discuss how they “felt about the University’s plan.” He stressed he did not want to be perceived as reversing “the gains made in civil rights.” Chancellor Lyons of FSU served as the group’s spokesman since he was also president of NAFEO. According to Hackley’s memo, Lyons stated the chancellors supported UNC’s plan to deal with the OCR controversy, especially because it did not include forcing students and faculty changing campuses over academic programs; “no mergers and no closings” were planned, it involved “increasing access for all students;” and of efforts “to enhance . . . [the HBCUs] and to diversity their curricula to make them more attractive to all students.”

“[T]he Chancellors admitted that there were improvements that were needed, but all of them recognized the positive changes that had been made since 1972 and those which are about to be made.” Sec. Bell interrupted with questions, such as about the placement of the med school at ECU and the vet school at NC State. He inquired “whether the chancellors wished they had gotten the med school or the vet school. Each said, of course; but nobody belabored that point.” Bell was surprised at the number of White students at the HBCUs. Hackley pointed out “that the greatest amount of change in this latter regard occurred in the last few years and is directly related to the new programs which have been established at these institutions, such as computer science, business administration and industrial technology, and graduate center activity, a movement that is likely to continue as we establish more such programs.” Bell knew about the number of African American students at PWIs. He asked about the numbers of White faculty at HBCUs and African American faculty at PWIs. Hackley pointed out the smaller pool of African American faculty from which to choose.

Chancellor Thompson of A&T observed at the end of the meeting

that a number of things were in place which had not had sufficient time to show the kind of results we strongly believed they would show. That much of the debate between the University the [sic] the government had moved away from the human factor, that these are not numbers and statistics we are discussing, but people and that the university is trying to come to grips with conditions over which it has little direct control.

Hackley, I suppose for the benefit of people like us looking back, noted at the end of his memo, that “In no way can it be interpreted that we had been intimidated or that we were being self serving.” Of course, when someone feels the need to make such a note, it raises questions about why he/she did so.

D. As the administrative hearing continued, confidential drafts of consent decrees were exchanged between UNC’s private Washington, DC attorneys and a private attorney hired by Secretary Bell to act on behalf of OCR. The LDF, though participating in the hearing, was not advised of the negotiations. Finally, on June 20, 1981, the Reagan Administration’s attorney and UNC reached a settlement. UNC’s BOG met that Saturday in executive (closed) session to confirm the consent decree (court approved settlement). It was unanimously approved, subject to possible necessary changes for clarity and accuracy. Approximately an hour later on June 20, Sec. Bell announced the settlement between the parties. He set out high level details and said the Department of Education would monitor progress but UNC would retain control of its academic affairs. On June 22, a copy of the proposed consent decree was delivered to the office of the plaintiff’s attorney in the *Adams* case/LDF attorney. It should be noted that it was only a group of White men who negotiated this settlement on behalf of UNC and HEW/OCR. The LDF and OCR staff, who would be advocating for African American interests, were precluded from the negotiations.

It turned out the US Attorney General wanted two minor changes to the consent decree on June 29. Apparently a BOG Committee objected to that language the next day. On July 1, the Committee approved the resulting compromise language. The attorneys for the US Dept. of Justice and UNC signed the consent decree the next day and presented it to Judge Dupree’s office for his review and approval.

E. The LDF attorney, representing the *Adams* plaintiffs, was livid on June 25, 1981, when he filed a motion for a temporary restraining order and injunction in DC federal court to block Judge Dupree in North Carolina federal court from approving the consent decree settlement between OCR and UNC. He argued that the settlement was a “total abandonment” of Judge Pratt’s criteria for desegregation and violated (“complete defiance”) the court order of April 1977. The settlement would be a “total repudiation”

of that order by Judge Pratt. (A consent decree is a settlement by the parties that a judge approves.)

The LDF attorney was critical of how minimal the goals were for increased White attendance at HBCUs and African American attendance at PWIs compared to past OCR demands and how minimal were the promise of new programs. Among other deficiencies, there was no commitment on African American student retention, and no numerical commitment on faculty and administrative hirings of African Americans or board appointments. Program duplication was ignored.

Probably most galling of all was this:

It even waives DE's right to commence another administrative proceeding under Title VI against North Carolina during the 7-year life of the proposed Decree. . . . Reciting that the North Carolina Court is to retain jurisdiction over all matters relating to the Decree until 1988, the proposed agreement attempts to exclude this Court or any other court from considering whether DE is properly enforcing Title VI vis-à-vis North Carolina.

Judge Pratt and the LDF were stripped of any involvement in the matter.

Jean Fairfax, a LDF field representative, did an evaluation of the consent decree and found it lacking. It permitted good faith compliance. UNC set out its contentions in the decree without OCR or the LDF telling its version of the background and facts. When the decree ended in 1988, OCR was obligated to start over with a new investigation if it wanted to pursue UNC for violating Title VI—all of its past work was rendered worthless. She set out the same failings noted by the LDF attorney above. In addition, she noted no commitment on new construction at HBCUs.

F. Judge Dupree conducted a hearing July 13, 1981, allowing the *Adams* parties an opportunity to appear as an amicus (friend of the court) since they never sought to become a party in the case. He approved the consent decree July 17, finding it substantially complied with the HEW criteria and did not violate the DC court orders.

G. In the decree, UNC did not admit any liability or violation of law and the court found none. The consent decree allowed UNC to challenge, among other things, OCR's criteria if OCR should ever seek to enforce them against UNC in the future. OCR dismissed the administrative hearing against UNC and agreed not to pursue such a hearing against UNC during the life of the consent decree—which ended Dec. 31, 1988. After the consent

decree ended, OCR agreed it would have to begin a new investigation of UNC's violation of Title VI, with resulting findings, in order to initiate new proceedings against UNC.

Two provisions of the decree ended December 31, 1986. One dealt with obligations concerning students: brochures and videos making students aware of UNC offerings and opportunities, workshops for guidance counselors, recruitment of minority students (including for grad and professional schools), and financial aid. The other obligation terminating at the end of 1986 concerned the development of the HBCUs: continued enhanced funding for operations, continued faculty development funding, work on administrative improvements, and a specific percentage of more new degree programs for HBCUs.

As to A&T, the provisions set out were:

- North Carolina Agricultural and Technical State University shall continue as a comprehensive university.
- Five new baccalaureate degree programs are authorized for planning. They are Special Education, Reading Education, Chemical Engineering, Civil Engineering, and Occupational Safety. Four new master's degree programs are authorized for planning. They are Mechanical Engineering, Architectural Engineering, Applied Mathematics, and Transportation. In addition, a sixth-year certificate of advanced study is authorized in Education Media.
- Continued emphasis shall be placed on strengthening programs in engineering, science, and technology. The School of Engineering shall remain a principal element in the process of institutional development. North Carolina Agricultural and Technical State University shall participate in the Microelectronics Center of North Carolina and, through its program in animal science, shall have a major role in the training of pre-veterinary medicine students.

One interesting decree item was the mandate for all new HBCU full-time faculty members. They were now required to hold a PhD or terminal degree, both to be hired and for tenure; but in "exceptional circumstances" a waiver could be approved by the president for hire and the president and BOG for tenure. (p27)

Each year from December 1981 through Dec. 1986, UNC was to file a report on certain compliance items with the court, with the attorney for the US, and with a civil rights official in the Department of Education. Other reports of compliance were to be filed with the court and these individuals through December 1988. The measure of compliance was to be "good faith," realizing that factors beyond UNC's control were possible and did not constitute noncompliance. One of the few goals set by the decree

was that of minority student enrollment: 15.0% on HBCU campuses and 10.6% on the PWIs.

Two appendices were attached to the consent decree. Appendix I, “Basic Commitments and Major Accomplishments of the University, 1972-1980,” was UNC patting itself on the back publicly and also laying the foundation for why the US District Court in DC and any appellate court should take the consent decree seriously and accept it. In nearly 13 ½ pages it dealt with the extent UNC had increased African American attendance in the system during that period, the extent it had improved integration on all the campuses, and the extent it had improved educational opportunities with a focus on its improvements at the HBCUs. While the increase in African American students was only approximately 7,300 in that period, it constituted a 50.9% growth, compared to 26.8% for White students. Growth of African American students at PWIs went from 3.1% to 7.4% during the period; Whites on HBCUs from 5.0 to 11.2%. The appendix also boasted about increases in graduate and professional enrollments of African American students. It discussed the modest improvement in faculty hires of African Americans. Charts showed capital expenditures and new degree programs at HBCUs. Appendix II consisted of various numerical charts to support statements in the text.

H. In addition to signing the Consent Decree, Judge Dupree also prepared and signed on the same day, July 17, a “Memorandum of Decision.” In it, he noted that the LDF had not sought to join the NC case as a party, but had filed an opposition to the consent decree, which the court had “thoroughly considered.” Judge Dupree noted the vigorous disagreement of the parties (US and UNC) over the program duplication issue, the testimony of UNC’s experts that such a practice was “unsound” and would not result in further desegregation, and that results in other states seemed to support that conclusion. He went on to say that UNC contended OCR’s attempt “to dictate the form, content and location of its academic programs raises serious constitutional questions grounded in the First and Fourteenth Amendments. . . .” The judge noted “veiled suggestions of collusion between the parties” by the LDF, but concluded that only arms-length bargaining had occurred and that it was “not surprising that counsel for non-parties to this litigation were not invited to sit in on the negotiations.” He pointed out that the quotas sought by the LDF were usually imposed after a finding of discrimination in school desegregation cases, but that no such finding had ever been made against UNC. Judge Dupree seemed to feel that both sides, having fully presented their (affirmative) cases in the administrative hearing, had been able to assess their legal position and entered into the settlement knowing their situation before a decision was rendered.

Since beauty (and sometimes truth) is in the eyes of the beholder, whether the improvements that UNC touted were genuinely worthy of praise, or were more lies,

damned lies, and statistics, only the reader can determine for him/herself. And whether or not its agreement for the future was worthy of approval, is certainly open to debate. As a former litigator in both court and countless administrative hearings, I doubt the ALJ would have given one side all it sought in such a case as this, as I understand the evidence presented and the novel issues involved. And, whatever the ALJ did, courts above him would have reviewed that decision and made new law in the field of higher education law in this case. Both sides would have taken considerable risks if they had thrown the dice and gone for a complete win in the hearing and appeals. So, realistically, a settlement of some sort was wise for the two parties.

I. President Friday sent out a copy of the finalized consent decree on July 13 to the BOG and to the Chancellors. After Judge Dupree approved it, Friday released a memo (along with a copy of the decree) in which he pointed out “the substance of the commitments made by the University of North Carolina in this Decree both with reference to the further racial integration of all its campuses and to the further development of its five historically black campuses.” He further noted that “we voluntarily accepted the jurisdiction of a United States Court to which we regularly report on each commitment and goal set forth in the Decree.” He made the point that program closure and shifting demanded by OCR was “the proxy for pupil assignment” in public schools. UNC, in resisting that outcome, retained the ability to operate its academic matters.

J. But, not everyone was celebrating. On July 24, 1981, the NC Alumni, who had eased up writing Friday recently, wrote again. They expressed their displeasure with the results from the termination of the OCR-UNC dispute, and especially with the consent decree’s contents. From their perspective, all vestiges of segregation in the system had not ended (or been committed to end) and full equality for African Americans within the system had not been achieved. Specifically, they were unhappy that OCR’s established criteria had been abandoned and believed the settlement did not comply with either the Constitution or the Civil Rights Act of 1964. “The commitments outlined in the Decree would provide some enhancement to the Traditionally Black Institutions (TBIs), if fully implemented. There is concern, at this time, with the vagueness in which commitments have been defined and the lack of specific time frames for achieving desired results.” The group then set out nine specific areas of concern for which they sought additional information, primarily related to various HBCUs being allowed to develop graduate programs; continuing to plan new programs; possible closure of nursing programs; fear that the duplication of program issue might arise later, to the detriment of HBCUs; and concerns about programs for student retention. Near the end, the letter says:

This Decree places the full weight of implementation on the ‘Good Faith of the University’ and you as a prudent administrator. Though we have confidence in the university system and you, we feel this sets a bad precedent for establishing a

Standard of Compliance with Title VI and the Fourteenth Amendment. Further, we strongly believe that citizens should be involved in the monitoring process and Black citizens in particular, for they are most affected.

Friday responded on July 29:

In response to the inquiries and the allegations made in your letter, I believe the text of the Decree and the Court's memorandum of opinion speak for themselves.

The support of the Coalition and its affirmation of the goals and commitments in the Degree would have been welcome. I regret that the Coalition has instead chosen a negative role.

While the Alumni group's letter was somewhat critical of the case's ending, it appeared that Friday and Dawson sitting down with members of the group to answer their questions would have gone a long way to relieve concerns and gotten many of Alumni members on board with supporting the consent decree. Instead, Friday's short, sharp response was different than the past. I do not know if he was tired of the whole mess or if he felt he no longer need worry about the group's support and he could ignore them. Whatever his reason, I strongly suspect his tart response did not go over well with the NC Alumni and resulted in ill will for quite some time thereafter.

K. The US Circuit Court of Appeals for DC decided the *Adams'* plaintiffs (LDF) appeal on August 24, 1982 about the consent decree settlement. Judge Pratt had denied the temporary restraining order and preliminary injunction to block the settlement in North Carolina, as did the DC Court of Appeals. This appellate decision found that since Judge Dupree was not within the DC Circuit, it had no authority over him. Furthermore, since the consent decree had been entered, the issue was moot.

Plaintiffs then appealed to the full DC Circuit Court of Appeals, and lost again, because they had not intervened as a party in the NC case. *Adams* was over as to UNC. The consent decree had resolved matters for it.

CHAPTER VIII

CONCLUSION

In a statement of April 20, 1979, defending UNC, President Friday pointed out that OCR originally proceeded against 10 states under Title VI. Louisiana and Mississippi completely ignored the process and were sued by HEW very early on. HEW began administrative enforcement against Maryland, but a federal court injunction in 1976 barred further action, so that the state proceeded under its desegregation plan. Pennsylvania apparently settled with OCR, but the status of that settlement was unclear as of 1979. Certainly OCR settled with Arkansas, Georgia, Oklahoma, Virginia, and Florida in approximately 1978. Only North Carolina was unable to settle directly with OCR when it attempted to do so.

That fact raised the question of why UNC (NC) was the only system/state that could not resolve its desegregation efforts with OCR. President Friday believed OCR was making an example of UNC. From the proposals set out above, it appears that OCR's financial demands of UNC were quite high. Its insistence to move academic programs and close programs, without any proof those actions would lead to more African American students moving to PWI campuses and White students moving to HBCUs, was the apparent sticking point with UNC. But, program duplication was on OCR's settlement agenda with every state.

Throughout the years of settlement discussions with UNC, placement of the vet school kept arising, at least through 1979. To recapitulate concerning that issue: UNC's objective consultant used an inherently biased survey instrument that awarded NC State points based on legislative and veterinarian support, support most likely based primarily on racism. Many other points awarded to NC State were related to its vastly superior funding over the years compared to A&T's. The consultant awarded most of the ag school points to NC State because of the veterinary science department it had established 2 years earlier, which A&T could not establish since it was not a doctoral granting institution and did not have the legislative support NC State did. In the analysis, A&T was apparently not given credit for being close enough to UNC-CH to collaborate with it on the vet school, as NC State was given. Nor was A&T given credit for its ag extension service, as NC State was.

In making its decision, the BOG said it would be too costly to place the vet school at A&T and would take too long to get it fully functional because it did not have the supporting programs that NC State had. OCR pointed out this analysis was based on the discriminatory past funding of NC State compared to A&T and would further perpetuate the racial duality of the UNC system. It urged that UNC, pursuant to its newly filed

desegregation plan, take the opportunity to build up the A&T campus and place the vet school there. Most shocking of all, it turned out that UNC built a new medical school at ECU, where there was apparently no pre-existing supporting programs, then, according to either the Department of Justice or OCR in a 1979 document, used that new medical school to justify “new undergraduate feeder disciplines” and “health-related doctoral programs.” But UNC was unmoved; the lack of such a foundation barred A&T from being eligible for getting the vet school.

Part of the BOG’s stated denial was that it did not want A&T to have duplicate programs “in order to enable it to compete on more equal terms with” NC State during this period of integration. Time and again, UNC and Friday made clear they were not willing to redress past funding inequities.

The other big issue, program duplication, can be illustrated as to A&T this way: after it was awarded the program of a master’s in special education, that program was later given to UNC-G as well. A&T’s engineering program grew, with UNC-C then given the same courses correspondingly. So A&T duplicating programs at NC State was not allowable initially, but PWIs duplicating programs at A&T was fine. Growth of these programs at the PWIs thwarted A&T’s ability to attract White students and to grow and flourish as it could have. This was why OCR was so angry when Friday piously reported these was no unnecessary program duplication between A&T and UNCG/UNCC. And this was why Tatel said UNC “releged on its promise to eliminate educationally program duplication.”

In one of the last negotiating efforts, December 18, 1979, OCR wrote, “For many reasons, grave doubts *persist* [emphasis added] about the adequacy of UNC's efforts to date to strengthen its black colleges.” In his September 1980 testimony in the administrative hearing, David Tatel said “he and the Department at that point doubted the ‘good faith’ of UNC . . . because they fundamentally distrusted UNC and felt that the negotiations in 1978 were not conducted in ‘good faith.’”

William Link, in his biography of William Friday, said, “The conclusion of the vet school controversy began a longer and considerably more intensified conflict. The experience opened wounds among UNC administrators, OCR officials, TBI leaders, and civil rights advocacy groups, and after late 1975 an atmosphere of mutual suspicion prevailed.” (p 273) Again, quoting from William Link’s biography of William Friday: “By 1975 many OCR officials viewed the vet school battle as exemplifying UNC's lack of candor and good faith. Although UNC officials always appeared well prepared and ‘very much in charge,’ OCR harbored suspicions that university administrators, including Friday, were obstructing meaningful desegregation. (p 274)

Before I became aware of Link’s conclusion, I had reached the same one. I, too, believe that UNC’s handling of the placement of the vet school in 1974, when President Friday

was so arrogant toward OCR and never gave A&T serious consideration for that facility, despite its more than 8 decades of discriminatory underfunding, while giving such a facility to ECU, was the cause of the distrust between OCR and UNC, and UNC never overcame that distrust. The handling of the program duplication issue later rubbed salt in that wound. Certainly the LDF had its eye on UNC as well, as indicated in its motion of August 1, 1975. If OCR had believed in UNC and fought for UNC's plan, I believe there would have been a good chance of Judge Pratt accepting it to allow time for it to be proven successful. He had done so for the plans of the other states. The lack of faith by OCR in UNC was the "kiss of death" of its desegregation plans and proposals.

While I suspect UNC officials would vehemently deny my conclusion, I see no other reasonable explanation. OCR was anxious to settle, but they wanted assurance that the settlement would bring a genuine, significant improvement for the education of African Americans in North Carolina, not something producing minimal change. UNC had proven unwilling to think big about expanding HBCU quality, programs, and prestige in a major way. Florida, for example, had placed a pharmacy program and an architecture program at FAMU. UNC never thought this boldly about its HBCUs. Most, if not all of the campuses (except the School of the Arts), had Schools of Education. UNC could have tapped into those educators for bold ideas about what to offer to attract and educate young African Americans. As I write this, I am thinking of the A&T Four Middle College as an innovative example. Something like that could have been proposed decades earlier, both for poor urban areas and rural eastern counties of NC with significant African American populations, in an effort to seek to better educate public school students and prepare/funnel them to UNC campuses in large numbers to boost African American attendance on PWIs. But UNC's leaders were still too rooted in the past. Like southern leaders confronting the Freedmen's Bureau during Reconstruction, UNC's leaders were determined to do things as they had been done and were not willing to realize that desegregation demanded major changes in practice/procedures. UNC failed to offer any alternative to the despised program transfer/closure demands; indeed, it instead continued to create programs at PWIs to compete with those at HBCUs. It offered no innovative programs on HBCU campuses; no bold ideas were put forward—that was UNC's downfall. So Bill Friday being too slick in his handling of the vet school placement and the program duplication study, and too narrow minded in how to broaden desegregation efforts, bought him a world of trouble until Reagan's HEW/OCR bailed him out with a sweetheart settlement to his liking. The period of 1972-81 can rightly be labeled a needless tragedy in UNC's history since the leadership did not work productively with OCR on desegregation. But, like Reconstruction, it was a time in which African Americans secured at least some gains, thanks to pressure on UNC from OCR and the African American community.

CHAPTER IX WHAT A&T HAD/RECEIVED UNDER UNC

Since the OCR was pressing UNC to build up the HBCUs, the period between when UNC began developing a desegregation plan and it entered into the consent decree on its desegregation plan seems an ideal time period to see what UNC provided NC A&T. Below sets out what UNC reported providing A&T, both especially in programs and capital projects. Often reports are duplicative, but will have some variation. Where there is duplication, I will try not to repeat it.

UNC reported spending on student initiatives, such as outreach, financial aid, and remedial programs; on graduate and professional student initiatives, including scholarships and financial aid; and on faculty for completion of degrees and salary improvements. But these figures are not consistently reported in a way that can be tracked easily in the documents I was using.

In academic programs, emphasis was placed on new engineering, agriculture, sciences, and business programs.

Among other capital projects, UNC secured funding to build a natural science building, renovate Murphy Hall from a cafeteria to offices, do badly needed roofing repairs, build a social science building (Gibbs Hall?), do badly needed repairs to the steam system, build the Dowdy Administration building, and secured funding for an animal sciences facility (Webb Hall?).

Programs

NC A&T December 1977 Academic Inventory

	BA/BS	MA/MS
Agriculture and Natural Resources	6	1
Architecture and Environmental Design	1	0
Biological Sciences	1	1
Business and Management	5	0
Education	7	10
Engineering	7	1
Fine and Applied Arts	4	0
Foreign Languages	1	1
Health Professions	1	0
Home Economics	4	1
Letters	2	1
Mathematics	1	1

Key: R = requested programs
 E = established since 1972
 P = currently authorized for planning

PROGRAM ACTIVITY ANALYSIS

Comprehensive	Baccalaureate			Master's			Intermediate			Doctorate		
	R	E	P	R	E	P	R	E	P	R	E	P
NCA&T	30	5	4	24	1	2	6	0	0	7	0	0

December 1977

NC A&T Programs Currently Authorized for Planning
 Baccalaureate:
 Computer and information sciences, general

August 29, 1978 GA Program Planning Document

A&T:

Request for Authorization to Plan New Degree Programs:

- 0199 B Agricultural science
- 0593 M Industrial management
- 0601 B Communications, general
- 0806 M Junior & Community College
- 0839 D Industrial arts, vocational & technical education
- 0904 M Architectural engineering
- 0906 B Chemical engineering
- 0909 D Electrical, electronics & communications engineering
- 0910 M Mechanical engineering
- 0910 D Mechanical engineering
- 0913 M Industrial & management engineering
- 1703 M Applied mathematics

2102 B Public admin.
2208 M Sociology
4901 B General liberal arts I & sciences
4905 M Rural development

Request to Establish New Degree Program Tracks:

0839 B.S. Industrial Safety

January 1, 1979 List of Degree Programs 1972- 1979

A&T:

Discontinued:

Education, general	M
Educational administrative	M
Educational supervision	M
Science education	M

January 31, 1979 Report on Enhancements of HBCUs

NORTH CAROLINA A & T STATE UNIVERSITY

New Degree Programs Established Since 1972

Driver and Safety Education	B
Food Science and Technology	B
Transportation	B
Landscape Architecture	B
Industrial Engineering	B
Adult Education	M

Authorized for Planning

Computer and Information Science	B
Reading Education	B
Special Education	B

Animal Science	B
Chemical Engineering	B
Electrical Engineering	M
Industrial Engineering	M
Applied Mathematics	M
Agricultural Economics	M
Mechanical Engineering	M

Mostly Capital Expenditures

July 31, 1978 letter and August Annual Report:

A&T General Fund Appropriations

The Last Year Under Board of Higher Education:

1972-73: \$5,299,683

Under UNC:

1978-79: \$11,845,585

An April 10, 1979 letter to UNC's outside litigation counsel put these figures as this:

A&T's General Fund Appropriations for Current Operations:

1972-73: \$4,585,395

Under UNC:

1978-79: \$12,716,003]

[I cannot explain the different figures.]

January 31, 1979 Report on Enhancements to HBCUs

During the 1973-78 period the total allocations by campus for capital improvements were:

North Carolina A & T State University	\$9,335,000
1973	
Natural Science Building (under construction now)	\$2,830,000
Murphy Hall Renovation (complete)	422,000
Home Management House Renovation (complete)	31,000
Tennis Courts (complete)	77,000
1974	
Roofing and Exterior Repairs to Buildings (complete)	200,000
Campus Grounds Improvements (in progress)	100,000
Supplement to Electrical Distribution System Project (complete)	60,000
Social Science Building (planning)	73,000
Pre-School Laboratory Building (planning)	30,000
1975	
Utilities Survey (complete)	20,000
Renovate Computer Center Air Conditioning (complete)	45,000
Social Science Building (under construction)	2,200,000
1976	
Campus Utilities (in design)	200,000
1977	
Water Mains/Fire Hydrants	16,000
Repairs to Steam System	1,200,000
1978	
Administration Building (in design)	3,000,000
1979 Possible Funding	
Utilities, Building Repairs, Renovations	*

* Amount depends on funding by General Assembly for total University system.

March 1979 General and Capital Fund Appropriations for HBCUs

GENERAL FUND APPROPRIATIONS FOR CAPITAL IMPROVEMENTS

1972-73 through 1978-79

A&T \$10,504,000

[The April 10, 1979 letter to private litigation counsel put the above capital funds total at \$10,535,000.]

April 4, 1979 Capital Expenditures for HBCUs by Year

For 1974, added:

Occupational Safety and Health Act	\$30,000
Removal of Architectural Barriers	50,000

Social Science Building money moved from 1975 to 1976 and reduced to \$2,127,000

1977 changed to:

Water Mains/Fire Hydrants	40,000
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CAPITAL IMPROVEMENTS APPROPRIATIONS – 1973-1981 [for A&T]

1973-1979

(1) New Facilities and Major Additions	\$8,137,000
-- Natural Science Building	2,830,000
-- Tennis Courts	77,000
-- Social Science Building (planning)	73,000
-- Pre-School Laboratory Building	30,000
-- Social Science Building	2,127,000
-- Administration Building	3,000,000
(2) Renovations, Remodeling and Major Maintenance Projects	698,000
(3) Utilities, Roads, Walks and Drives	1,620,000
(4) OSHA and Barrier Removal	80,000

(5) Land Acquisition (and street assessment)	208,817
Total	\$10,743,817

1979-1980

New Facilities and Major Additions	\$600,000
-- Animal Sciences Facility (Advance Planning)	
Renovations, Remodeling, Major Maintenance, Utilities, Roads, Walks, and Drives Projects	5,700,000
Educational Equipment	300,000
OSHA and Barrier Removal Projects	46,000
Total	\$6,716,000

1980-1981

New Facilities and Major Additions	\$6,400,000
-- Animal Sciences Facility	
Renovations, Remodeling, Major Maintenance, Utilities, Roads, Walks, and Drives Projects	2,596,000
OSHA and Barrier Removal Projects	46,000
Total	\$9,042,000

CHAPTER X

NOTES ON SOURCES

Articles and Books

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Dentler, Robert A. et al. *University on Trial: The Case of the University of North Carolina*. (Cambridge, Mass.: Abt Books, 1983) Materials by expert witnesses for OCR if administrative hearing had entered rebuttal phase against UNC.

Haynes, Leonard L., III, compiler. *A Critical Examination of the Adams Case: A Source Book*. (Washington, DC: Institute for Services to Education, Desegregation Policy Studies Unit, 1978) For useful documents related to the *Adams* case over the years.

Link, William A. *William Friday: Power, Purpose, and American Higher Education*, 2d edition, with a new introduction and epilogue by the author. (University of North Carolina Press, 2013) Especially strong on the background of the merger of campuses into the UNC system and the desegregation struggle from UNC’s perspective. Based in part on interviews of participants in the OCR-UNC struggle.

Manuscripts

Chancellor Martin asked that I write this paper in outline form to shorten it and the time frame in which it was written so as to meet a deadline he sought. Thus, the different approach from conventional academic writing. I wanted to quote from sources, but did not have the time to do standard footnotes. Where I quoted from a manuscript, I have cited the author of the quote and the date of the document, so the reader knows the source. Attached is a list of the sources used, which will help the reader identify the document from which the quote came. The manuscript documents are all from the University of North Carolina Archives in Wilson Library on the UNC Chapel Hill campus.

I used materials from Legal Affairs Boxes 5-16. (The Archives’ on-line finding aid gives the date range for materials in each box.) In addition, I used a few items from the files of the Vice President for Academic Planning, Boxes 4, 16, 23, and 27. I used one box from President Friday’s files, as noted below. I also used court cases from the internet.

To organize the files by date on my computer, I had to note the month by a number. Thus, in the following list, after each year, the reader will see a number corresponding to the name of the

month which follows the number, which is then followed by the day of the month (if the Archives identified the day).

Information from the BHE of 1955-61 is from a pamphlet on legislation concerning it and is available on the internet. The BHE's Biennial Report of 1967-1969 is also available on the internet.

Gov. Scott's 1971 speeches on reorganizing the universities are from the published version of his papers.

The 1971 analysis of the new law concerning the consolidated UNC system is from the UNC Vice President for Academic Planning, Box 23 of 27.

The 1972 history of A&T legislation is from the UNC Vice President for Academic Planning, Box 27 of 27.

The December 18, 1974, BOG Special Report on Vet Medical Education is from UNC President's Office Records, William C. Friday files, Subgroup 1, Series 5, Box 22.

The January 8, 1975, Friday report to OCR on the vet school is from the UNC Vice President for Academic Planning, Box 4.

The two June 28, 1977, *Atkins v. Scott* case decisions are from the UNC Vice President for Academic Planning, Box 4.

The June 25, 1981, LDF Opposition to the Consent Decree is from the UNC Vice President for Academic Planning, Box 16 of 17.

The July 1981, US Memo Supporting the Consent Decree is from the UNC Vice President for Academic Planning, Box 16 of 17.

The July 13, 1981, UNC Memo Supporting Consent Decree is from the UNC Vice President for Academic Planning, Box 16 of 17.

The July 13, 1981, UNC Memo Supporting Consent Decree is from the UNC Vice President for Academic Planning, Box 16 of 17.

The 1981 Fairfax memo is from the UNC Vice President for Academic Planning, Box 16 of 17.

The 1981 Summary of the Ga, Va, Tn Desegregation Plans is from the UNC Vice President for Academic Planning, Box 16 of 17.

All other documents are from the Legal Department's files from the UNC General Administration (central office for the system). The citation would be something like:

UNC Archives, General Administration, Legal Affairs Division, Box 10, UNC-HEW
Negotiations on Desegregation, General, Aug 11- 31, 1978 file.

For the lengthy documents I noted the page from which the quote was taken. For shorter documents I did not do that, assuming the reader could find the quote easily enough.

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- 1979 2 Feb 13 File Memo on Chronology, probably by Legal Affairs.pdf

- 1979 2 Feb 13 File Memo on Issues, probably by Legal Affairs--Very Critical of Changes & Inconsistencies in OCR Positions.pdf
- 1979 2 Feb 13 SCLC ltr to Sec HEW Complaining about HEW Official--Complaining Over OCR Actions Toward HBCUs in GA.pdf
- 1979 2 Feb 16 HEW ltr to Friday re Refusal to Respond to Criticisms of Program Duplication Study; Says Prog Dupli Issue Only Major Pt Outstanding.pdf
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- 1979 2 Feb 26 Proposed Response to HEW Criticisms--Sees as Defaming by OCR to Undermine UNC Improvements--For Editorial.pdf
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- 1979 3 March -- General & Capital Fund Appropriations for HBCUs 1972 & 1979.pdf
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- 1979 3 March 8 HEW Settlement Proposals re HBCUs--New Programs at HBCUs, Eliminate at PWIs; & UNC Cost Est Nearly \$110M.pdf
- 1979 3 March 8 NAACP ltr w Proposal to Friday and his Response--Proposing 2 Consortia Univ of 3 Campuses.pdf
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- 1979 3 March 22 Friday Notes of Meeting w Sec of HEW--Stressed BOG Over HBCUs Only 7 Yrs; Gave History & Success of Efforts.pdf
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- 1979 3 March 26 Friday memo of TC w Sec of HEW re Rejecting UNC Plan; Start Admin Procedures; Defer Funds in 30 Days.pdf
- 1979 3 March 26 Gov NC ltr to NC Atty Gen Approving Hiring of Private Washington Atty for Litigation.pdf
- 1979 3 March 26 HEW ltrs to UNC Attys Rejecting UNC Plan.pdf
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