



7/24/2014
by email

PRIVILEGED & CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

LEGAL HOLD NOTICE

This memorandum is being distributed in connection with a lawsuit filed recently by a former University employee, Mary C. Willingham, against the University. The lawsuit claims that the University retaliated against Ms. Willingham for exposing alleged academic misconduct related to student athletes.

The University believes the lawsuit is without merit and will defend itself vigorously against Ms. Willingham's allegations. Nonetheless, as a result of the lawsuit, the University is taking immediate steps to preserve all documents, electronically stored information, and other materials that may be related to Ms. Willingham's claims.

This notice is confidential. Please do not discuss the litigation with anyone other than the University's legal counsel. This memorandum and the information contained in it should be treated as attorney-client privileged and confidential and should not be shared with others.

You have received this notice because you may have possession or control of documents or other materials that are relevant to the lawsuit. Therefore, effective immediately and until further notice, **it is essential that you retain and preserve all documents in your possession or control related in any way to Ms. Willingham or her allegations of academic misconduct related to student athletes.** Those records include, but are not limited to, documents that contain information related in any way to the following topics mentioned in Ms. Willingham's lawsuit:

1. Ms. Willingham, including but not limited to:

- a. The terms and conditions of Ms. Willingham's employment, such as Ms. Willingham's positions, responsibilities, privileges, performance, publications, promotions, demotions, reassignments, hiring, discharge, schedule, benefits, hours, leave, office space, complaints, and grievances.
- b. Ms. Willingham's research, including but not limited to the University's consideration of her research, meetings or communications with Ms. Willingham regarding her research findings, statements

by University representatives characterizing her research, and the conclusions of any reviewers hired by the University to evaluate her research.

c. Ms. Willingham's allegations of academic misconduct, including but not limited to internal reports by Ms. Willingham of misconduct, interviews of Ms. Willingham by University employees or agents, characterizations of Ms. Willingham or her allegations by University employees, Ms. Willingham's relationship with the media, and Ms. Willingham's blog.

d. Any possible violations by Ms. Willingham of the Family Educational Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act ("HIPAA").

2. Tutoring programs or academic assistance offered to University student athletes, including programs and initiatives by the Center for Student Success and Academic Counseling.

3. Knowledge, awareness, tolerance, or discussion of "no show" classes, plagiarism, unsupervised (or under-supervised) independent studies, or grade changes for University student athletes.

4. Any University investigation of allegations of academic misconduct related to student athletes, including but not limited to documents related to:

a. A report issued by the faculty in or around May 2012;

b. A report issued by former Governor Jim Martin in or around December 2012;

c. A report issued by the University Board of Governors on or around February 7, 2013;

d. Responses to any such reports, including by former Chief Justice Burley Mitchell.

5. Any investigation by the North Carolina State Bureau of Investigation into the University's Department of African, African-American, And Diaspora Studies.

6. A lawsuit filed by former University football player, Michael McAdoo against the University and the National Collegiate Athletic Association ("NCAA") in or around July 2011 concerning academic assistance from a University tutor.

7. A lawsuit filed by the News and Observer against the University on or around January 23, 2014 seeking records of athletic enrollments.

8. NCAA investigations into allegations of academic misconduct related to student athletes, including but not limited to an investigation about the University's football program.

9. A letter to the News and Observer signed by retired University professors regarding allegations of academic misconduct.

10. Classes taught by Julius Nyang'oro, former chair of the University's Department of African, African-American, And Diaspora Studies.
11. The academic records of, or allegations of academic misconduct related to, former University athletes Michael McAdoo, Marvin Austin, Julius Peppers, and Rashad McCants.
12. Any employment of Tami Hansbrough, mother to former University athlete Tyler Hansbrough.
13. Media coverage regarding Ms. Willingham's allegations, the NCAA's investigations, or allegations of academic misconduct related to student athletes generally, including but not limited to coverage by the News & Observer, the New York Times, ESPN, CNN, and NPR.

The above list is a broad, but non-exhaustive list of relevant topics. Please consider whether there are additional categories of documents, information, and materials that may be relevant to the issues described above. The fact that a topic appears on this list does not mean that documents related to that topic will be deemed relevant to Ms. Willingham's claims. Ultimately, however, the rule to follow is this: **if you have any questions about whether something should be preserved, err on the side of caution and preserve it.**

Compliance with this Legal Hold is imperative. **The University could be subject to penalties, sanctions, and other adverse consequences if you do not comply with the requirements of this Notice.**

Action to Take Now. After reading this Notice in its entirety, please click on the link at the bottom of this email that says "Active Holds." (Note: for security reasons, this secure website is ONLY available to on-campus computers or computers connected to the UNC network using a VPN client.) When prompted, login using "ad\youronyen" and select "View Hold Notification." For example, if your onyen is JaneDoe, you should enter "ad\JaneDoe." For technical assistance, call the Office of University Counsel's Litigation Technical Support Specialist, Lori Mahaney, at (919) 843-7880.

Preservation. The University's duty to preserve information related to Ms. Willingham's lawsuit is ongoing and supersedes University or departmental document retention policies. With this in mind, please safeguard both hard copy materials and electronically-stored information ("ESI") that may otherwise be routinely deleted, overwritten, or destroyed in the ordinary course of business. If you create or receive additional information pertaining to Ms. Willingham's lawsuit after today, please retain those materials as well.

Definition. The definition of "documents" includes, for example, paper documents, faxes, calendars, drawings, charts, logbooks, photographs, and informal files or handwritten notes. These terms also apply to ESI such as word processing documents, spreadsheets, databases, e-mails, voice mail and text messages, calendar entries,

video and audio recordings, and information stored or posted online. ESI should be preserved in its original electronic format. **Please do not access, open, convert, or otherwise alter any ESI related to Ms. Willingham's lawsuit.** If you need to access ESI subject to this notice for business purposes, please first call Lori Mahaney at (919) 843-7880.

Locations. This notice also applies to materials stored or saved in locations other than your office: central departmental files; offsite storage; shared servers and networks; thumb drives, disks and other digital media storage devices; and your personal electronic devices such as desktop and laptop computers, personal data assistants (PDAs), smart phones, and tablets such as iPads.

Data Custodians. Please let us know if you are aware of other University employees who may have custody of materials related to Ms. Willingham's lawsuit. Please also communicate these preservation obligations to anyone who manages your documents or ESI, such as assistants. Otherwise, please do not forward this notice or share its contents with anyone.

Data Collection. If it becomes necessary to collect materials from data custodians, the Office of University Counsel may contact you and/or your IT support staff. You will be notified when the legal hold has ended.

Thank you for your careful attention to this matter. Please do not hesitate to contact either of the following members of OUC if you have questions about your obligations under this legal hold:

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