



**East Carolina University | Board of Trustees
University Affairs Committee Meeting
February 16, 2017 | Agenda**

- | | | |
|------|---|-------------|
| I. | Approval of November 10, 2016 Minutes | Action |
| II. | Academic Affairs | |
| | A. Lab School Update | Information |
| | B. Degree Completion Update | Information |
| III. | Student Affairs | |
| | A. Impact of Experiential Activities | Information |
| | B. Update on the Health Sciences Student Center | Information |
| IV. | Research, Economic Development and Engagement | |
| | A. Q2 Sponsored Programs Activities | Information |
| | B. Temporary Variable Incentive Plan | Information |
| | C. 3MT Student Presentation | Information |
| V. | Other | |
| | A. Title IX Article | Information |
| VI. | Closed Session | |

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Kieran Shanahan, Chair
Agenda Item	I.
Item Description	Approval of minutes – November 11, 2016
Comments	
Action Requested	Approval
Disposition	
Notes	

Minutes of the Meeting of the
University Affairs Committee
East Carolina University Board of Trustees
November 10, 2016 at 9:30am
East Carolina Heart Institute

Board Members Attending: Kieran Shanahan (chair), Ryan Beeson, Danny Scott, Deborah Davis, Max Joyner, and Leigh Fanning

Other Board Members Present: Edwin Clark, Bob Plybon

Others in Attendance: Cecil Staton, Ron Mitchelson, Virginia Hardy, Michael Van Scott, and John Stiller

Mr. Shanahan opened the meeting at 9:35am and the full Board participated in Title IX Training tailored to the Board members.

The training session ended at 10:50am

Academic Affairs – Conferral of Degrees

- **MOTION - SGA President Ryan Beeson made a motion for the conferral of degrees for Fall 2016 and it was seconded by Mr. Joyner and was approved without dissent.**

The University Affairs Committee moved into Closed Session at 10:52am

The University Affairs Committee returned from Closed Session at 11:13am

Meeting ended at 11:13am

Respectfully submitted by Christopher Stansbury

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Grant Hayes, Dean of the College of Education
Agenda Item	II. A.
Item Description	Lab School Update
Comments	
Action Requested	Information
Disposition	
Notes	

East Carolina University Laboratory School

A Partnership Between ECU and Pitt County Schools



East Carolina University has a long standing tradition of preparing educators and engaging in partnership with Pitt County Schools. In 1914, East Carolina Teacher Training School (which later was renamed East Carolina University) opened a laboratory school in collaboration with Greenville Graded Schools (which is now a part of Pitt County Public Schools). The model school was designed to provide an opportunity for school-age students to be exposed to innovative teaching methods from university faculty and teachers in training. The Model School was renamed Wahl-Coates Laboratory School in honor of two educators who had served the school for 30 years. The school expanded and moved to several sites to include the site where Wahl-Coates Elementary is currently located. With the expansion of East Carolina University, the laboratory school was disbanded and Wahl-Coates Elementary was absorbed into the local school system.

The ECU Lab School is a new chapter in the partnership between East Carolina University and Pitt County Schools; a venture that will maintain the strengths of the past lab school models and the long-standing relationship of the two organizations while once again coming together to create a spectrum of services for children while providing a space for innovation, practice and research.

For More Information about the East Carolina University Laboratory School:

www.ecu.edu/cs-educ/labschool

Dr. Mark L'Esperance
lesperancem@ecu.edu
252-328-1136

Dr. Elizabeth Hodge
hodgee@ecu.edu
252-328-6175

Dr. Laura Bilbro-Berry
bilbroberyl@ecu.edu
252-328-1123

Fast Facts:



- In 2016, legislation was passed by the state of North Carolina for the development of a laboratory school at each of 8 state universities with East Carolina University being one of the eight selected. (NC § G.S. 116-239.5)
- By law, schools are required to serve students who have scored Level I or II on state assessments.
- The purpose of the laboratory school is to provide students with additional resources, innovative learning opportunities, and expanded services to boost their academic achievement.
- In the fall of 2017, East Carolina University will open a laboratory school in collaboration with Pitt County Schools at South Greenville Elementary.
- Enrollment in the ECU Laboratory School is open to any student within Pitt County Schools who is considered Level I or II in academic standing.
- ECU faculty, pre-service teachers, and other support staff will be available to provide students with more individualized instruction and support.
- Faculty may submit proposals for teaching, research, and service engagement with the lab school at:

<http://bit.ly/zi9bwl>





East Carolina University

LABORATORY SCHOOL



SOCIAL- EMOTIONAL NEEDS

- Counseling
- Positive Behavior Promotion
- Social Work
- Trauma Mitigation
- Resiliency Training
- Coping Techniques



ENVIRONMENTAL NEEDS

- Safe & Welcoming Environment
- Design to Facilitate Learning
- Connects with all Needs of Students/Families



PHYSICAL/HEALTH NEEDS

- General Health & Wellness
- Medical Screenings
- Immunizations
- Dental Screenings
- Speech/Language Services



ACADEMIC NEEDS

- Innovative Curriculum/ Instruction
- Teacher/Principal Preparation
- Acceleration of Learning
- Mentoring

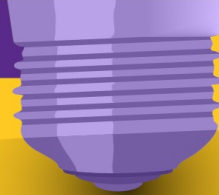


FAMILY/COMMUNITY NEEDS

- Parent Education
- Health/Wellness
- Nutrition
- Home Literacy Support



**AN INTEGRATED NETWORK OF PARTNERS
PROVIDING SUPPORT AND SERVICE**



Below is a sample of services that may be available to ECU Lab School and South Greenville Elementary Families:

Services for Students/Families:

- Health, Dental, & Speech/Language Screenings
- General Health/Wellness & Exercise activities
- Immunizations
- Extended Day
- Counseling services for students and families
- Innovative Learning Environment

Proposed Plan for ECU Lab School:

Year One

- Establish a single classroom in these grades:
 - 2nd Grade
 - 3rd Grade
 - 4th Grade

Year Two

- Add one single classroom per grade level to Year One classrooms to include these grades:
 - Pre-Kindergarten
 - Kindergarten
 - 1st Grade
 - 2nd Grade
 - 3rd Grade
 - 4th Grade
 - 5th Grade

Years Three-Five

- Maintain one classrooms per grade level to include these grades:
 - Pre-Kindergarten
 - Kindergarten
 - 1st Grade
 - 2nd Grade
 - 3rd Grade
 - 4th Grade
 - 5th Grade



EAST CAROLINA UNIVERSITY LABORATORY SCHOOL

A Partnership Between East Carolina University
and Pitt County Schools

Why is ECU involved?

G.S. 116-239.5 – University of North Carolina Laboratory Schools (Article 29A)

- UNC General Administration shall designate eight constituent institutions to establish laboratory schools to serve public school students.
- Purpose:
 - To improve student performance in local administrative units with 25% or more low-performing schools
 - To provide exposure and training for teachers and principals on successfully addressing challenges of working with high-needs schools
 - To provide an opportunity for research, demonstration, student support, and expansion of the teaching experience

Who will be served?

- Students in the district attending a low performing school
- Students in the district at achievement levels I and II on required state assessments
- Students in need of additional academic support to boost their achievement, including exceptional children



What is our school focus?

- Focused on math and reading literacy embedded within a purposeful school design that addresses the development of the whole child
- Providing an extended day and year for additional time for learning and development
- Advancing innovative learning and teaching methods
- Affiliated with the university and college of education
- Collaborative partnership with Pitt County Schools in six classrooms within a Pitt County elementary school
- Leveraging university and community resources and expertise to foster student achievement and development

What is our school model?

Year One

ECU will establish a single classroom per grade at:

2nd grade
3rd grade
4th grade

Year Two

ECU will add one single classroom per grade at:

Pre-Kindergarten
Kindergarten
1st grade
5th grade

Opportunities: Research

Opportunities exist for interdisciplinary research aligned to the mission of the ECU Lab School

- Student Achievement
- Instructional Practice
- Cultural Competency
- Teacher Preparation
- Teacher Retention
- Instructional Environment



Opportunities: Learning and Teaching



Opportunities exist for instructional advance:

- Field experiences for pre-service teacher education candidates
- Coaching/Mentoring experiences for administrator candidates
- Professional development offerings for the community and Pitt County Schools

Opportunities: Service

Unique opportunities exist to serve the students, family, and community:

- Medical and Dental Screenings
- Extended Day Programs
- Extended Year Program
- Community Garden
- Physical and Recreation Programs
- Parent Education



Connections Across Campus

College of Allied Health Sciences

- Communication Sciences and Disorders

College of Fine Arts and Communication

- Art, Dance, Music and Theatre Education

Thomas Harriot College of Arts & Sciences

- Psychology

College of Health and Human Performance

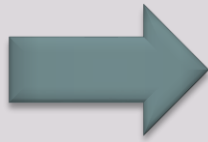
- Kinesiology, Recreation and Leisure Studies, Health Education, Human Development & Family Services, Social Work, Health Fairs/Biomechanics Day

School of Dental Medicine

School of Medicine

College of Nursing

Then and Now



Wahl-Coates was built on East Carolina's campus in 1914.

Served as a laboratory school(model school) for the university through providing student teaching experiences for university students.

A second building (what is now Messick) was opened later. In the late 1960s, Wahl-Coates was relocated to where it is today.

East Carolina University Lab School 2016 Partnership with Pitt County Schools to create an Integrated Support Network to increase student achievement and family engagement.

- Innovation
- Exploration
- Cultural Competence
- Technology
- Community

Benefits

Children and Families

- Innovative instruction to increase achievement
- Wrap around services, including extended day/year, health/wellness screenings, counseling, and other auxiliary services to support development

East Carolina University

- Venue to explore innovative initiatives involving research, teaching, leadership, and service
- Opportunity for educator candidates to support students in high needs schools

Pitt County Schools

- Support educating high needs students
- Opportunities to learn strategies and methods that could be used in other schools within the district

East Carolina University Lab School Contacts

Mark L'Esperance, PhD

Project Leader & Chair,
Department of Elementary &
Middle Grades Education

Speight 230

Phone: 252-329-1126

Email: lesperancem@ecu.edu

Laura Bilbro-Berry, EdD

Director of Partnerships and
Enrollment Management,
Office of Educator Preparation

Speight 108

Phone: 252-328-1123

Email: bilbroberryl@ecu.edu

Elizabeth Hodge, PhD

Professor & Assistant Dean
of Innovations and Strategic
Initiatives

Bate 2318A

Phone: 252-328-6175

Email: hodgee@ecu.edu



East Carolina University.

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Ron Mitchelson, Provost
Agenda Item	II. B.
Item Description	Degree Completion Update
Comments	
Action Requested	Information
Disposition	
Notes	

Part-Way Home Data Partnership: Findings & Recommendations

Institutional Planning,
Assessment, and
Research

January 26, 2017



Background

- Voluntary data partnership with UNC GA
- IR staff gathered and analyzed common data elements to answer common set of questions
- Will be used by GA
 - To design additional initiatives
 - To better understand student success
 - To inform a large-scale market research effort



Who is a Part-Way Home student?

- For the purposes of this partnership, PWH students were those who
 - Were new first-time or transfer undergraduate students
 - Began in Fall 2008
 - Subsequently left ECU for at least one semester (fall or spring)
 - Had earned 72 or more credit hours
 - Had a cumulative GPA of at least 2.0



Population at ECU

- Fall 2008
 - 4,538 new first-time students
 - 1,667 new transfer students
- 854 met criteria for PWH
- Three groups analyzed
 - All PWH (854)
 - PWH who re-enrolled but did not graduate (95)
 - PWH who re-enrolled and did graduate (240)

Major findings: *Financial*

- Pell recipients no more likely to be PWH than non-Pell recipients.
- Few had exceeded Pell eligibility or loan amounts;
- Few PWH students have a current account balance; for those who do, the average is less than \$700.
- Most common “hold” was for not completing the Financial Aid Exit Interview upon leaving.



Major findings: *Race/ethnicity & Gender*

- Minority students over-represented in PWH population compared to overall student body.
- Of those who re-enroll, African American and Asian students more likely to graduate than White or Hispanic students.
- Similar proportions of men & women compared to overall student body.
- Among those who re-enroll, women more likely to graduate.

Major findings: *Drop/Stop-out & Re-enrollment*

- Almost half of students eventually re-enrolled.
- Of those who re-enrolled & eventually graduated, ~10% had stopped out more than once.
- About 14% transferred to another school
 - ~80% of these to a school within NC
 - ~50% to a community college
 - Most common: PCC (18), NCSU (9), WTCC (7), UNCW (6), UNCG (5)

Major findings: *Majors & Grades*

- About 1/3rd of PWH students had not declared a major either at the time of exit or the time of re-entry.
- Most common majors (>5%): Management & Industrial Technology
- Average GPA at initial drop/stop-out=2.73
 - For those who re-enrolled & graduated, average GPA at graduation=3.11
- Majority who re-enroll do graduate.

Major findings: *Time out of school*

- Indications in the data that
 - the longer a student stays out of school, the less likely s/he is to re-enroll; and
 - the longer the time period between stop-out and re-enrollment, the less likely s/he is to graduate.



Recommendations: *Further work*

- Analyze first-time and transfer students separately.
- Investigate overlap between students who leave ECU to attend another school & those who eventually re-enroll at ECU.
- Investigate whether students who did not re-enroll eventually obtained degrees & where.
- Survey successful PWH students to identify effective strategies.
- Survey non-returning PWH students to identify needs.



Recommendations: *Actions*

- Take a team approach with faculty & staff, e.g., include faculty advisors in institutional initiatives to improve degree completion.
- Identify roadblocks to degree completion.
- Investigate alternative degree pathways, esp. online options.
- Review barriers to declaring major in timely fashion & encourage early declaration of major.
- Identify effective interventions to scale up or strengthen (e.g., advising) & identify new interventions.

East Carolina University.

Tomorrow starts here.

Part-Way Home Data Partnership: Questions & Discussion

For more information:

kingb14@ecu.edu



East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Virginia Hardy, Vice Chancellor for Student Affairs
Agenda Item	III. A.
Item Description	Impact of Experiential Activities
Comments	
Action Requested	Information
Disposition	
Notes	

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Virginia Hardy, Vice Chancellor for Student Affairs
Agenda Item	III. B.
Item Description	Update on the Health Sciences Student Center
Comments	
Action Requested	Information
Disposition	
Notes	

East Carolina University

STUDENT AFFAIRS

Student Affairs is dedicated to serving students and the University as we contribute to the mission, goals, and values of the University. Each department within Student Affairs provides programs and services to promote growth and development for students.

The Office of Student Transitions hosted the 31st annual **Southern Regional Orientation Workshop (SROW) conference** in March. SROW is the largest regional conference sponsored by NODA – the Association for Orientation, Transition, and Retention in Higher Education.

- Nearly 1,800 students from nine southern states – Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee – gathered to learn to be better leaders by participating in educational sessions and competitions.
- This is the first time that ECU has hosted the SROW conference and it was a major success. Vice Chancellor Hardy and Provost Ron Mitchelson served as plenary session speakers during the 2½-day event.

Student Affairs hosted the first ever **North Carolina Civility Summit** in February to promote understanding and positive change on East Carolina University's campus and beyond. The summit featured keynote speaker Opal Tometi, executive director of the Black Alliance for Just Immigration and co-founder of the Black Lives Matter movement.

- Breakout sessions with facilitators from ECU and other institutions addressed topics such as race relations, gender, religion, social media and human trafficking.
- The idea, initiated by students, grew out of the desire to engage students and the community in dialogue that would build lasting coalitions to enact change in our society.
- 147 individuals attended the NC Civility Summit representing 20 institutions and 14 cities from within five states.
- The event was co-sponsored by the Black Student Union, Student Government Association, Student Activities Board, LGBT Resource Office and Student Involvement and Leadership

Over 12,000 events on both campuses managed through **Student Centers and the Central Reservations Office**. These events, programs and initiatives include most every large event on campus as well as a number of programs offered to the community.

Gateway Residence Hall opened in fall 2015 introducing a new level of residential comfort and convenience to the College Hill Neighborhood. Gateway East and West is the home to 14 of the 18 ECU Living Learning Communities, which accounted for 680 of the 720 students in the hall. The opening of Gateway increased campus housing capacity to above 5,500 students.

More than 2,500 students participated in the 2016 **Fall Career Fairs** held at the Greenville Convention Center. Nearly 500 companies and organizations with more than 1,000 recruiters and representatives conducted interviews, reviewed resumes, and discussed internships, CO-OP's and full time employment opportunities with current ECU students, including distance education students, as well as ECU alumni.

STRATEGIC PROGRAM AND EVENT METRICS

2,914,424

Transit passenger trips

18

Living Learning Communities

5,594

Exams offered by Disability Support Services

4,265

Job and internship opportunities provided by Career Services through ECU CareerNET

1,429

Paid student workers and graduate assistantships

\$3,363,800

in compensation

\$2,522,976

Club Sports economic impact

\$148,856

Greek Life donations to 22 organizations

STRATEGIC PROGRAMS AND EVENT METRICS

17,676

Total Student Service Hours for 2015-16

4,296

Number of Students recording hours

750

MLK Day of Service Hours (250 volunteers and 11 community partners)

2,008

Alternative Break Experience service hours; 41 students, 8 staff at six locations: Atlantic Beach/Carteret Co NC; Greenville NC; Baltimore MD; Haysi VA; Roanoke VA; Eustis FL

500

Make-A-Difference Day service hours (150 volunteers 17 community partners)

700+

IGCC Student Volunteer Hours

15,829

Number of students using Pirate Express (a nighttime route serving "The Grid")

SERVING THE PUBLIC

East Carolina University collaborated with nearly 250 local community partner organizations.

Student Affairs hosted **Alternative Break Experiences** (ABE) creates active citizens, leaders and advocates to drive lasting social change. While offered multiple times during the year, the largest group journey into the community occurs during spring break.

ECU students collaborated with campus departments to present the **S.H.O.E.S. Project**, Students Honoring Others' Everyday Struggles/Stories, to raise awareness of mental health issues and to inform students of available resources. Nearly 200 pairs of donated shoes displayed with anonymous stories about the challenges faced by others and themselves attached to each pair.

ECU Student Veteran Services, in the Office of Student Transitions, hosted the inaugural Storm the Stadium Challenge in April 2016. Participants traversed the 3,200 steps of Dowdy-Ficklen Stadium to raise funds to support student veteran scholarships and support veteran programs. More than 100 participants took the challenge as individuals or teamed up as a group.

DIVERSITY

- **Campus Recreation and Wellness** offered men's wellness programs with male instructors, employed bilingual staff and offered gender-neutral facilities and bathrooms.
- Student Involvement and Leadership launched the **Office of Intercultural Affairs**, to impact ECU by encouraging students, staff, faculty and other stakeholders to understand the synergistic potential of bringing together the Ledonia Wright Cultural Center and the LGBT Resource Office.

SUSTAINABILITY AND RESOURCE STEWARDSHIP

- Campus Recreation and Wellness' installation of **LED lighting** reduced energy consumption and improved sustainability efforts (irrigation systems, installation of new recycle/trash containers and small trash containers in offices).
- The Office of Student Transitions (OST) **donated extra food** from Orientation sessions to Greenville children's summer programs. In 2015, 700 pounds of food delivered to agencies such as the Little Willie Center, Building Hope, Operation Sunshine, and the Boys & Girls Club.
- ECU Transit received the inaugural **Clean Future Award** from the Greenville Utilities Commission in June. The award recognized ECU for the addition of the university's first compressed natural gas powered buses, which will start December 2016. The buses highlight ECU's commitment to clean fuels, clean air, community partnerships and reducing petroleum consumption.

COLLABORATIONS / SCHOLARLY ACTIVITY

- More than **200 collaborations** created or strengthened with Student Affairs educators and partners across the division, across campus and in the community.
- **48 Student Affairs staff** participated in scholarly presentations and publications with external professional organizations at the state, regional and national levels. In addition, six grants were awarded to the division.

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Mike Van Scott, Interim Vice Chancellor Research, Economic Development and Engagement
Agenda Item	IV. A.
Item Description	Q2 Sponsored Programs Activity
Comments	
Action Requested	Information
Disposition	
Notes	

Fiscal Year 2016-2017 October - December Quarter 2 Report

(Thousands of Dollars)

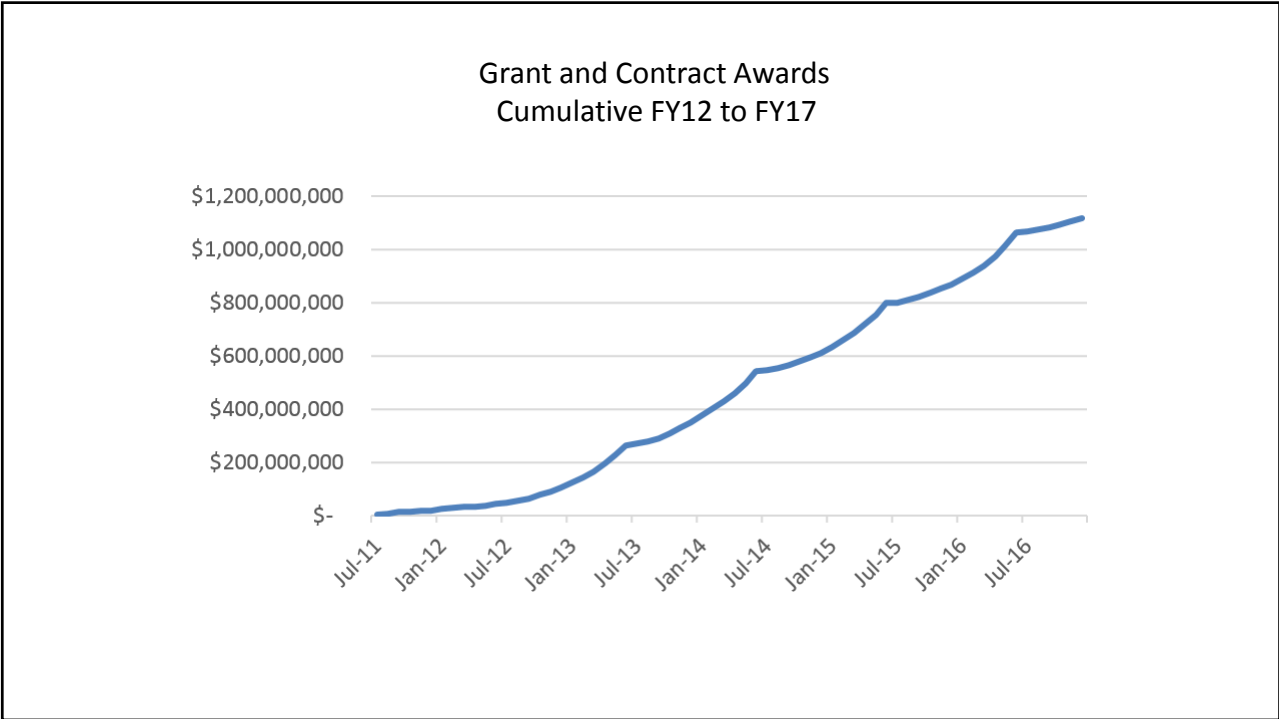
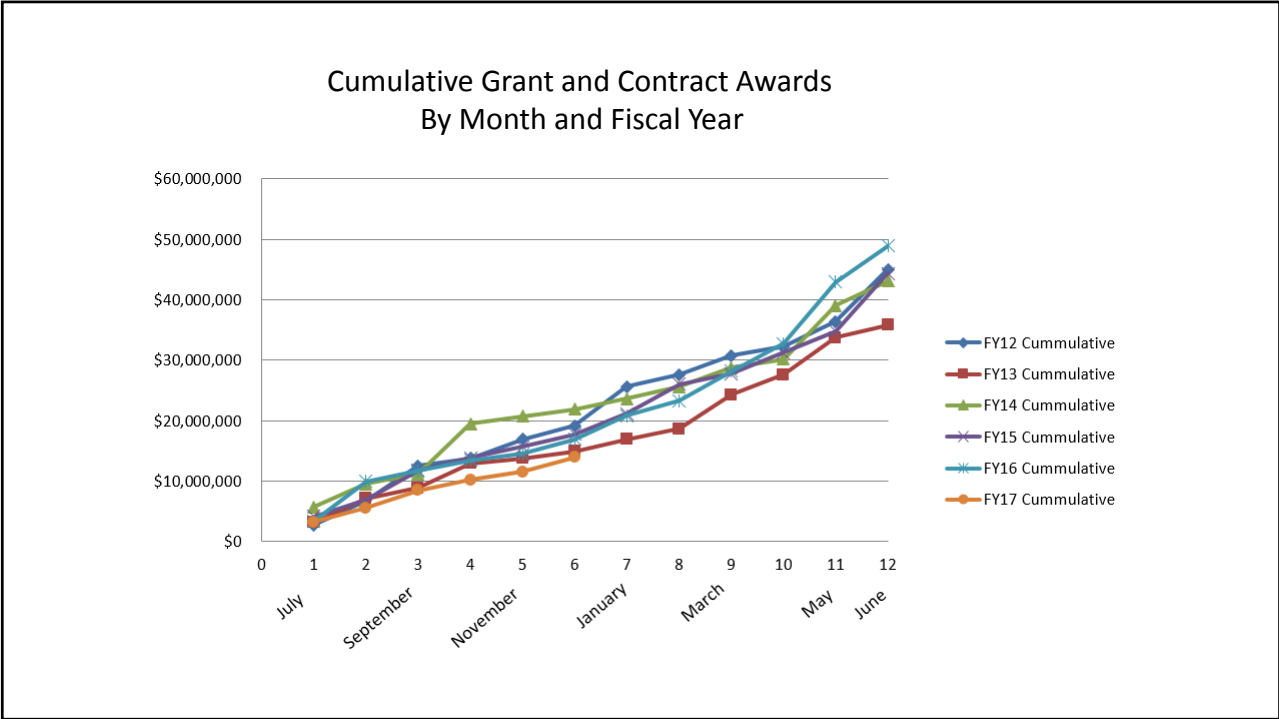
Expenditures				
	FY 13-14	FY 14-15	FY 15-16	FY 16-17 to Date
Total	\$34,687	\$35,165	\$38,431	\$20,753

Awards								
	FY 13-14		FY 14-15		FY 15-16		FY 16-17 to Date	
	Awards	Amount	Awards	Amount	Awards	Amount	Awards	Amount
Quarter 1	117	\$11,215	113	\$11,740	115	\$12,649	99	\$8,477
Quarter 2	113	10,750	99	6,011	84	5,168	68	5,488
Quarter 3	86	6,667	109	10,052	126	11,330		
Quarter 4	114	14,392	127	16,547	145	20,702		
Total	430	\$43,024	448	\$44,350	470	\$49,849	167	\$13,965

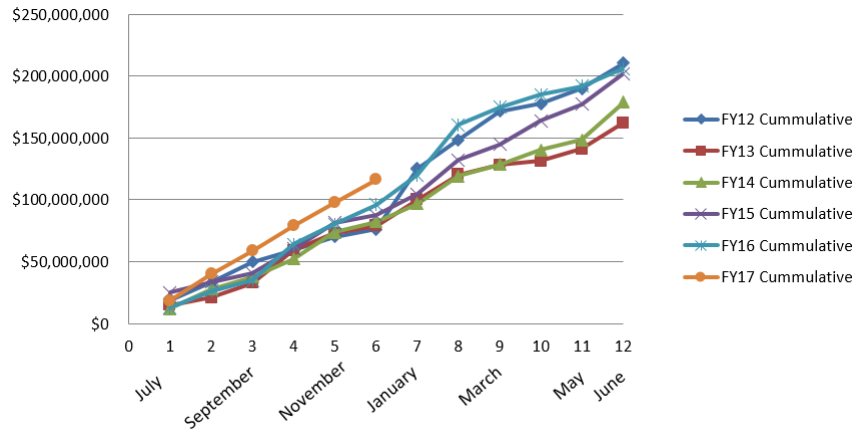
Proposals								
	FY 13-14		FY 14-15		FY 15-16		FY 16-17 to Date	
	Proposals	Requested	Proposals	Requested	Proposals	Requested	Proposals	Requested
Quarter 1	163	\$37,623	141	\$39,341	158	\$34,907	176*	\$58,793*
Quarter 2	145	45,265	178	46,642	153	61,254	146	57,782
Quarter 3	176	46,109	192	59,509	247	78,560		
Quarter 4	179	50,573	202	56,229	165	31,213		
Total	663	\$179,570	713	\$201,721	723	\$205,935	322	\$116,575

ECU Physicians/Brody Service Contracts				
	FY 13-14	FY 14-15	FY 15-16	FY 16-17 to Date
Total	\$43,373	\$45,625	\$53,134	\$55,917

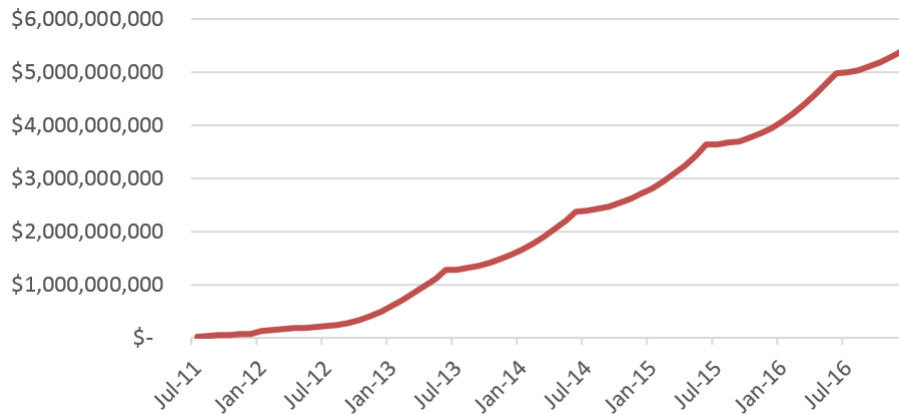
*Revised Data



Cumulative Grant and Contract Proposals
By Month and Fiscal Year



Grant and Contract Proposals
Cumulative FY12 to FY17



East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Mike Van Scott, Interim Vice Chancellor Research, Economic Development and Engagement
Agenda Item	IV. B.
Item Description	Temporary Variable Incentive Plan
Comments	
Action Requested	Information
Disposition	
Notes	

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Dr. Mike Van Scott, Interim Vice Chancellor Research, Economic Development and Engagement
Agenda Item	IV. C.
Item Description	3MT Student Presentation
Comments	
Action Requested	Information
Disposition	
Notes	

East Carolina University
Board of Trustees
University Affairs
February 16, 2017

Session	University Affairs
Responsible Person	Kieran Shanahan, Committee Chair
Agenda Item	V. A.
Item Description	Title IX Article
Comments	
Action Requested	Information
Disposition	
Notes	

Washington Post Article

The path to Obama's 'Dear Colleague' letter

By KC Johnson and Stuart Taylor January 31

On April 4, 2011, the same day that President Obama formally announced his reelection bid, his Education Department, with no advance notice, reinterpreted Title IX as giving the federal government authority to dictate the specific procedures that colleges must use to adjudicate student-on-student sexual assault allegations.

This [“Dear Colleague” letter](#), issued by the Office for Civil Rights (OCR), told all of the more than 7,000 colleges that receive federal money to use the lowest possible standard of proof, a preponderance of evidence, in sexual assault cases (though not in less serious matters such as cheating and noise violations). The letter required universities to allow accusers to appeal not-guilty findings, a form of double jeopardy. It further told schools to accelerate their adjudications, with a recommended 60-day limit. And, perhaps most important, OCR strongly discouraged cross-examination of accusers, given the procedures that most universities employed.

The Obama administration never explained the timing of this document's release. Nor did it explain how a plainly worded, 40-year-old anti-discrimination law had become a fount of such highly controversial mandates.

In early 2016, Oklahoma senator James Lankford, who has emerged as an important defender of campus due process, [requested that the Education Department provide the legal basis for the Dear Colleague letter](#).

The response was less than convincing, even though the Obama administration had nearly five years to come up with a rationale. In a single paragraph, [then-OCR head Catherine Lhamon maintained](#) that the 2011 letter merely “reminded” colleges and universities of a requirement to use the preponderance of evidence standard, which, she asserted, OCR had previously established in two unpublished letters with individual universities. (In [one of these cases](#), the alleged perpetrator was a professor, rendering it of little use to analyzing student-on-student allegations.) Lhamon said nothing about the source of OCR’s claimed authority to require that colleges allow accusers to appeal not-guilty findings, that they discourage cross-examination of accusers or that they accelerate adjudications. She implied that these provisions were so obvious that OCR correctly issued them without seeking public comment.

The key section of [Title IX](#), enacted in 1972, states that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Congressional debate gave no hint of an intent to extend federal authority to the point of dictating procedures that colleges must use to adjudicate sexual assault allegations. Nor, for 20 years, did OCR take any steps in that direction.

While the passage of the Clery Act in 1990 highlighted the issue of campus crime, two years later, the Higher Education Amendments [required all colleges and universities](#) to “develop and distribute a statement of policy regarding [both] campus sexual assault programs, which shall be aimed at prevention of sex offenses; and procedures followed once a sex offense has occurred.” Congress thus distinguished between sexual assaults and other student-on-

student felony allegations, for which universities have never been required to develop policy statements.

In 1994, OCR's California regional office issued a resolution letter claiming Title IX gave it jurisdiction to investigate a university's response to student-on-student sexual assault allegations. Bill Clinton's OCR [applied this principle nationally in 1997](#), after notice and comment rulemaking. And in *Davis v. Monroe County Board of Education* (1999), the Supreme Court held that educational institutions could be held liable, under Title IX, for alleged student-on-student sexual harassment — but only in unusually aggravated circumstances: where the schools “are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.” It's true, as Lhamon would later maintain, that in a single resolution agreement, Georgetown's in 2003, an OCR regional office took from these developments a belief that it could order a university to use the preponderance of evidence standard. (It buried this finding in a single sentence, on the [third page of a 17-page letter](#), suggesting it conferred on the decision far less significance than would Lhamon 13 years later in her letter to Lankford.) Yet other resolution letters from this same period envisioned sexual assault as a crime for which police, rather than universities, would have responsibility to investigate. That was the thrust of a [2004 resolution agreement with Oklahoma State University](#) involving incidents that occurred off-campus and a 2005 agreement with Buffalo State University ([first identified by Jacob Gersen and Jeannie Suk Gersen](#)) involving incidents that had been reported to police. An important [article by Stephen Henrick](#) analyzes the pre-2011 sweep of these resolution letters.

Lhamon never explained why the Georgetown resolution letter could serve as the basis for nationwide guidance, even as her OCR issued other guidance explicitly repudiating the terms of the Oklahoma State and Buffalo State resolution letters.

In her letter to Lankford, Lhamon cited no pre-2011 court decisions to bolster the authority claimed by the “Dear Colleague” letter. With the exception of an [outlying decision](#) in the District Court of Connecticut, decisions between 2001 and 2011 detected Title IX liability only in limited circumstances, usually when universities recruited star athletes with records of sexual misconduct at their previous institutions. The 11th Circuit, for instance, [explained its justification](#) for invoking Title IX: The University of Georgia’s basketball coach knew that the accused student had “had disciplinary and criminal problems, particularly those involving harassment of women, while attending other colleges,” and had still worked hard to get him admitted. So what changed between 2001 and 2011? Not the percentage of sexual assaults on campus — according to Joe Biden, that percentage was [the “same”](#) in 1995 as in 2017. Rather, the election of Barack Obama had two critical effects.

First, as with any modern Democratic administration, strong advocates of identity politics occupied key bureaucratic positions, which they could use to implement regulatory policies outside of rigorous congressional oversight. In a 2010 interview, OCR’s new head, Russlynn Ali, [all but begged](#) sexual assault accusers to file Title IX complaints against their colleges, promising that “we will use all of the tools at our disposal including referring to Justice or withholding federal funds or going to adjudication to ensure that women are free from sexual violence.”

Second, the Democratic defeat in the 2010 midterm elections focused Obama’s attention on how identity politics could rally his base. This model had worked well in one of the few major Democratic victories that year, the Colorado Senate race. So the administration took high-profile positions in favor of marriage for same-sex couples, permitting “dreamers” to remain in the United States and mandating contraceptive coverage in Obamacare. The “Dear Colleague” letter, which appealed to feminists and campus activists, reflected this broader campaign agenda — except that, unlike these other Obama initiatives, it [initially encountered no legislative criticism](#).

In the end, OCR’s selective interpretation of Title IX combined elements of a few past resolution letters that would increase the chances of guilty findings with unrelated items (such as discouraging cross-examination) that accomplished the same purpose. The effects have been disastrous, leaving the courts as the most reliable protector of accused students’ rights. Tomorrow, we’ll look at some of the recent key court decisions on this issue.

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East Carolina University
Board of Trustees
University Affairs
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Session	University Affairs
Responsible Person	Kieran Shanahan, Committee Chair
Agenda Item	VI.
Item Description	Closed Session
Comments	
Action Requested	
Disposition	
Notes	