

13 September 2017

Chancellor Carol L. Folt and the UNC-CH Board of Trustees  
University of North Carolina at Chapel Hill  
103 South Building  
Chapel Hill, NC 27599

UNC President Margaret Spellings and the UNC Board of Governors  
UNC General Administration  
910 Raleigh Road  
Chapel Hill, NC 27514

***Re: Removal of Silent Sam in Order to Bring UNC into Compliance with  
Federal Anti-Discrimination Laws and Avoid Litigation***

Dear UNC Officials:

We write on behalf of UNC Chapel Hill students to request that you immediately remove the monument of an armed Confederate soldier, known as Silent Sam, from the middle of campus. Silent Sam should go for many reasons including its incompatibility with the “inclusive and welcoming environment” promised by UNC’s non-discrimination [policy](#). We are providing legal notice of an additional reason why Silent Sam must come down now: the statue violates federal anti-discrimination laws by fostering a racially hostile learning environment.

As UNC’s Equal Opportunity and Compliance Office [acknowledges](#), federal laws guarantee a series of rights to members of the UNC campus community. Among the applicable laws are Title IV and Title VI of the Civil Rights Act of 1964 which forbid racial discrimination at UNC as an institution of higher learning and a recipient of federal funds. Because Silent Sam violates the rights guaranteed by these and other federal laws, we request that you authorize its immediate removal in order to avoid needless litigation.

Any federally funded institution (such as UNC) that is deliberately indifferent to a racially hostile learning environment runs afoul of federal law. The U.S. Department of Education’s Office for Civil Rights [defines](#) a hostile environment under Title VI as “harassing conduct (e.g., physical, verbal, graphic, or written) sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient.”

Title VI can be enforced by impacted students through a private right of action. UNC’s decision to disobey federal law by allowing the racial animus perpetuated by Silent Sam to continue constitutes grounds for legal action. UNC is also subject to enforcement oversight from the Department of Education, as well as the Civil Rights Division of the U.S. Department of Justice,

if it fails to take steps to remove or stop the source of a racially hostile learning environment. [Past enforcement actions](#) by these agencies support the conclusion that a university's deliberate indifference to racially insensitive public displays can violate Titles IV and VI.

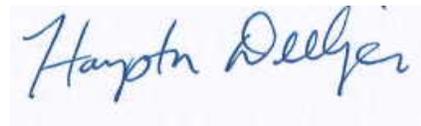
Since his unveiling in 1913, the racial hostility represented by Silent Sam, who stands with a rifle at the ready, has been unmistakable. Julian Carr's infamous dedication speech included the message to African Americans that "these University buildings" should not be considered safe ground for them—that the statue was erected to side with the Confederacy, not the "garrison of ... Federal soldiers" on campus protecting African Americans. As the Chapel Hill-Carrboro Chamber of Commerce has [noted](#), the statue honors those "who fought ... for the right to enslave human beings." And as your own website [admits](#): "many view it as a glorification of the Confederacy and thus a tacit defense of slavery." It is no wonder that Silent Sam remains a rallying cry, and a gathering place, for white supremacists today. More than a century later, Silent Sam still speaks loudly.

As you know, UNC students have repeatedly and vigorously pled for its removal. Just last month, several student groups again [demanded](#) Silent Sam come down, noting that they have asked University officials "over and over again" for its removal and that its presence makes "[m]inority students walk on this Campus in fear." Students, they explained, see Silent Sam as it was originally intended, as a "method of white supremacist intimidation." Or as another student coalition put it in [explaining](#) the call for Silent Sam's removal: we "do not want to see racism celebrated." Silent Sam's message of racism and white supremacy is compounded by the failure of current campus leaders to remove the messenger.

Some argue that Silent Sam must remain as a result of the General Assembly's 2015 law prohibiting the removal of military monuments. But that position is wrong as it ignores UNC's overriding obligation to comply with federal anti-discrimination laws. UNC is not only free to remove Silent Sam in order to adhere to federal law, it is legally obligated to do so. A [core principle](#) of the United States Constitution which you have [sworn](#) to uphold is that state laws cannot justify trampling federally protected rights. (And we know from [Summum](#) and [other](#) U.S. Supreme Court decisions that public monuments such as Silent Sam are considered government speech, so the First Amendment is not implicated by its removal even while the Supremacy Clause is offended by its presence.) Simply put: UNC's state law excuse is an insufficient response to a breach of federal law. As a result, you must stop violating federal civil rights laws and remove Silent Sam.

UNC students have offered productive suggestions for dealing with Silent Sam and we urge you to act on them. Should UNC fail to act, we reserve all rights to seek appropriate and immediate relief in federal court at the direction of students identified below and others.

Respectfully,



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Hampton Dellinger, NC Bar No. 19903  
Stacey Grigsby  
Samuel Hall  
***Boies Schiller Flexner LLP***

*On behalf of:*

Michelle Rolanda Brown

Christian Correa

Lauren Eaves

Aaron Epps

Briana N. Kelly

Kristen Marion

La-Deidre D. Matthews

Rimel N. Mwamba

Alexander Peeples

Joscelyn T. Solomon

Courtney Staton

Travonte Warren

UNC Black Law Students Association (BLSA) and Prof. Erika K. Wilson