



The University Of North Carolina Umstead Review Panel

Panel Determination
July 27, 2007

**Re: Umstead Objection by Javad Neakta – Owner of Subway Franchise located at
122 East Franklin Street, Chapel Hill, North Carolina**

On June 14, 2007, Javad Neakta, the owner of a Subway sandwich shop on Franklin Street, in Chapel Hill, registered an objection and request for proceedings, objecting to the opening of a new Subway sandwich shop on the UNC Chapel Hill campus. Neakta's attorney requested:

“[T]hat the UNC Umstead Review Panel (the “Panel”) make a determination as to whether the proposed development of a Subway franchise on the campus of the University of North Carolina, in the Rams Head Market Food Court, Ridge Road, Chapel Hill, North Carolina is unauthorized and/or unfair competition under G.S. § 66.58(b)(8). The proposed activity about which our client, Mr. Neakta, the “affected party,” requests that the Panel make a determination, is the establishment of a Subway sandwich shop on the University Campus, selling sandwiches and other products under the Subway name and logo within a .3 mile radius of the affected party's current location.”

There is already one Subway sandwich shop operating on a different part of the UNC-CH campus, and there are numerous other food vendors on the Chapel Hill campus. Leasing space to food vendors and serving meals to students, faculty, and staff is a common occurrence on all UNC campuses, and UNC-CH has provided meal services to students, faculty, and staff since the earliest days of the University.

As is required by Section VIII of the BOG Policy 100.4, the parties attempted to resolve the objection. On July 10, 2007, UNC-CH informed the Umstead Review Panel that they were not able to resolve the objection.

The UNC-CH response stated that the lease of space to the food vendor is a permitted activity under North Carolina General Statutes sections 66-58 (b)(8)a, “services operated prior to January 1, 2005,” and 66-58 (b)(8)b, “activities that include serving meals to students, faculty, and staff.”

Jurisdiction of the Panel is limited. The Umstead Act states:

- (i) The Board of Governors of The University of North Carolina shall establish a panel to determine whether The University of North Carolina is authorized pursuant to sub-subdivisions m., n., and o. of subdivision (8) of subsection (b) of this section to undertake an activity in competition with an existing or proposed nongovernmental entity.

N.C.G.S. 66-58(i).

The Board of Governors Policy 100.4 states:

V. Jurisdiction of the Panel

- A. The Panel may make a determination under G.S. §66-58(b)(8)m. or n. as to whether a proposed or ongoing University activity is unauthorized competition.
- B. The Panel may make a determination under G.S. §66-58(b)(8)o. as to whether a proposed or ongoing University activity is unauthorized competition or is unfair competition.
- C. The Panel may not make determinations under any of the other exceptions to the Umstead Act. If the University claims that a proposed or ongoing activity is allowable under any other exception to the Umstead Act, the Panel is without jurisdiction to consider the activity.

* * *

(emphasis added).

Because UNC-CH claims that the proposed activity is allowable under subsections (b)(8)a and (b)(8)b, the Panel has no jurisdiction to hear and decide the complaint. Accordingly, the Panel Proceedings are closed.

/s/ _____
William Warden
Chair