



# The University Of North Carolina Umstead Review Panel

Panel Determination  
December 10, 2007

## **Re: Western Carolina University Request for N.C.G.S. 66-58 (b)(8)o Determination on Proposed Engineering Services Outreach**

### **A. Request for Determination**

On July 23, 2007, Western Carolina University submitted a public request for a determination that engineering services outreach is permissible under N.C.G.S. 66-58 (b)(8)o of the Umstead Act. The request includes services that would be provided by the Kimmel School of Construction Management and Technology, and, as originally requested, would include construction management, electrical and computer engineering technology, electrical engineering, and engineering technology.

Specifically, Western Carolina University's request stated:

The Center desires to improve the access of the Western North Carolina community and the people of the State to the Kimmel School's facilities, equipment and expertise as contemplated by N.C.G.S. 66-58 (b)(8)o. To that end, the Center proposes to offer a suite of services (1) to stimulate economic transformation, (2) facilitate the development of new product, processes and services for the Western North Carolina region, and (3) to develop Western North Carolina as an attractive region to create and locate businesses, particularly advanced technology companies.

### **B. Notice and Proceedings**

A hearing was set for November 28, 2007 in Conference Room C, at the General Administration Building in Chapel Hill, North Carolina. The Umstead Review Panel staff gave notice of the Request for Determination hearing to those on its registry on November 19, 2007. Notice of the hearing was given to the press and public, pursuant to the North Carolina Public Records Act, on November 12, 2007.

No affected individual or entity gave notice of objection to the request and no affected individual or entity appeared at the hearing to oppose the request, as is allowed under Board of Governors Policy 100.4 VIII (D).

Western Carolina University was represented at the hearing by Rich Kucharski, Western Carolina University General Counsel, and Professor Phillip Sanger. The presentation emphasized the unique regional location of Western Carolina University and the mission of the Kimmel School to transform the region's economy and improve the quality of life of the region's people. In addition, Western Carolina University presented evidence that it has adopted the Boyer Model of Scholarship, which gives promotion and tenure scholarship status to engagement of faculty in the community. Western Carolina University presented evidence that all revenues from the requested outreach services will return to the Kimmel School – primarily to maintain and upgrade its prototype equipment.

After the presentation, the Panel questioned the presenters as to potential unfair competition for the anticipated services. Western Carolina University responded that there is virtually no competition for the specialized prototype and engineering services. However, the Panel expressed serious concerns about whether the construction management services, which are part of the Kimmel School, would be unfair competition in the community, as described in N.C.G.S. 66-58 (b)(8)o. After consideration, Western Carolina University withdrew construction management services from its request, with the understanding that it may submit a separate Request for Determination if Western Carolina University desires to offer construction management services as part of their outreach.

Western Carolina University and the Panel clearly differentiated the construction management services at issue in the request from student learning engagement activities of the Construction Management Department, which are performed in the wider community as part of the mission of the Kimmel School. Neither the original Request for Determination nor the withdrawal of construction management services from the request includes or affects student learning engagement activities, which are an essential and necessary function of the Construction Management Department, for the education and training of its students.

### **C. Determination**

The panel deliberated on the evidence and arguments presented and voted unanimously to approve Western Carolina University's amended request. It is the determination of the Umstead Review Panel that Western Carolina University's requested activities are authorized under N.C.G.S. 66-58 (b)(8)o and are not unfair competition.

/s/\_\_\_\_\_  
William Warden  
Chair