

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

ORANGE COUNTY

2025 CVS \_\_\_\_\_

**CHRIS CLEMENS,**

Plaintiff

v.

**UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**, *a constituent member of the University of North Carolina System*; **JOHN PREYER**, Chair Emeritus and member of the UNC-CH Board of Trustees, *in his official capacity*; **WILLIAM B.C. ALLEN**, member of the UNC-CH Board of Trustees, *in his official capacity*; **RICHARD ALLISON**, member of the UNC-CH Board of Trustees, *in his official capacity*; **PATRICK BALLANTINE**, member of the UNC-CH Board of Trustees, *in his official capacity*; **JAMES BLAINE**, member of the UNC-CH Board of Trustees, *in his official capacity*; **ROBERT BRYAN**, member of the UNC-CH Board of Trustees, *in his official capacity*; **PERRIN JONES**, member of the UNC-CH Board of Trustees, *in his official capacity*; **VIMAL KOLAPPA**, member of the UNC-CH Board of Trustees, *in his official capacity*; **WILLIAM (“MARTY”) KOTIS**, member of the UNC-CH Board of Trustees, *in his official capacity*; **JENNIFER LLOYD**, member of the UNC-CH Board of Trustees, *in her official capacity*; **RALPH MEEKINS**, member of the UNC-CH Board of Trustees, *in his official capacity*; **VINAY PATEL**, member of the UNC-CH Board of Trustees, *in his official capacity*; **MALCOM TURNER**, member of the UNC-CH Board of Trustees, *in his official capacity*; and, **RAMSEY WHITE**, member of the UNC-CH Board of Trustees, *in her official capacity*.

Defendants

**COMPLAINT**

## **INTRODUCTION**

Every trustee of the University of North Carolina at Chapel Hill takes an oath to “solemnly and sincerely” be faithful and bear true allegiance to the State of North Carolina. That oath is more than ceremony. It binds the Board of Trustees to the State’s transparency laws—the Open Meetings Law and the Public Records Law—and to the basic premise that the public’s business must be done in public. Yet this UNC Board treats that oath as a suggestion.

This Complaint will show a pattern and practice by the UNC Board of Trustees by systematically hiding matters of grave public concern behind closed doors: invoking closed session for reasons not authorized by statute; conducting deliberations electronically without proper notice or public access; and deliberately communicating about public business on auto-deleting platforms such as Signal to evade records retention and public inspection. The result is the same each time—less transparency, less accountability, erratic governance, and a steady erosion of public trust in the nation’s first public university.

The core episode here is straightforward. The Board entered closed session under the “personnel” exemption ostensibly to consider tenure candidates. Once the doors were closed, however, the discussion turned to tenure as a policy—its existential value to UNC, its financial implications, and whether to defer an entire slate. North Carolina law draws that line with clarity: specific personnel matters may be closed; general policy must be public. By debating tenure policy in secret and acting on that secret debate, the Board crossed the statutory boundary and violated the Open Meetings Law.

This is not a case about whether tenure is good or bad. It is a case about process and fidelity to North Carolina law. The State’s transparency statutes are strictly construed, and exemptions are narrow. Public bodies must state precise grounds for closure, keep a meaningful “general account” of what occurred, and conduct policy deliberations in the open. The Board repeatedly does the opposite.

Plaintiff Chris Clemens’s role underscores the point. As Executive Vice Chancellor and Provost, he briefed deans and vice chancellors internally about the Board’s tenure policy posture after a closed session so they could manage faculty expectations. The Board’s subsequent effort to punish him for “leaking” closed-session information only highlights the culture of secrecy at odds with the Open Meetings Law and the Public Records Law. Those statutes authorize closing a meeting—not gagging lawful discussion of policy that belongs in public.

The relief sought is narrow and practical. Plaintiff asks this Court to declare that the Board’s use of the personnel exemption to shield discussion of tenure policy was unlawful; to enjoin the Board from using closed session to conduct general policy or budget debates; to require precise, statute-tracking closure motions and compliant minutes and general accounts; to prohibit the use of auto-deleting applications for public business; to order training; and to award attorneys’ fees as permitted by law. Narrow story. Narrow claims. Durable compliance.

### **JURISDICTION AND VENUE**

1. This court has personal jurisdiction over the defendants as they are residents of North Carolina or perform their official duties within North Carolina.
2. This court has subject matter jurisdiction over this matter pursuant to N.C. Gen. Stat. §§ 132-9 and 143-318.16.
3. Venue lies in Orange County pursuant to N.C. Gen. Stat. § 1-77(2).

### **PARTIES**

4. Plaintiff Chris Clemens (“Clemens” or “Plaintiff”) is a resident of Chatham County, North Carolina. He qualifies as “any person” and has standing to bring this action. N.C. Gen. Stat. § 143-318.16A. Plaintiff believes that, absent court intervention, Defendants will continue to violate the provisions of this statute.
5. The University of North Carolina at Chapel Hill (UNC-CH) is a constituent institution of the University of North Carolina system. Established in 1789, it is located in Orange County, North Carolina.
6. Defendant John Preyer is a resident of Orange County, North Carolina. He is Chair Emeritus of the UNC-CH Board of Trustees. He is sued in his official capacity.
7. Defendant William Allen is a resident of Wake County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
8. Defendant Richard Allison is a resident of Orange County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
9. Defendant Patrick Ballantine is a resident of New Hanover County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
10. Defendant James Blaine is a resident of Wake County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
11. Defendant Robert Bryan is a resident of Mecklenburg County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
12. Defendant Perrin Jones is a resident of Mecklenburg County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
13. Defendant Vimal Kolappa is, upon information and belief, a resident of Beaufort County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.

14. Defendant Jennifer Lloyd is a resident of Orange County, North Carolina. She is a member of the UNC-CH Board of Trustees. She is sued in her official capacity.
15. Defendant William (“Marty”) Kotis is a resident of Guilford County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
16. Defendant Ralph Meekins is a resident of Cleveland County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
17. Defendant Vinay Patel is, upon information and belief, a resident of Mecklenburg County, North Carolina. He is a member of the UNC-CH Board of Trustees. He is sued in his official capacity.
18. Defendant Malcom Turner is, upon information and belief, a resident of Las Vegas, Nevada. He is the current Chair of the UNC-CH Board of Trustees. He is sued in his official capacity.
19. Defendant Ramsey White is, upon information and belief, a resident of District of Columbia. She is a member and Secretary of the UNC-CH Board of Trustees. She is sued in her official capacity.
20. All individually named defendants are sued only in their official capacities. Plaintiff seeks prospective declaratory and injunctive relief; no compensatory or punitive damages are sought from them. Plaintiff does seek attorneys’ fees and costs as permitted by law (including G.S. 143-318.16B and G.S. 132-9), and reserves any statutory personal assessment of fees against members who knowingly violate the Open Meetings Law.

## **FACTS**

### **The Provost and His Duties**

21. Plaintiff Chris Clemens is a respected astrophysicist and the Jaroslav Folda Distinguished Professor of Physics and Astronomy at the University of North Carolina at Chapel Hill. He served as the University’s Executive Vice Chancellor and Provost from February 1, 2022, until May 19, 2025.
22. As Provost, Clemens served as UNC’s chief academic officer, responsible for presenting tenure recommendations to the Board of Trustees and communicating Board decisions to academic leadership. His duties included briefing deans and vice provosts on Board actions affecting faculty employment, as these administrators relied on his reports to manage their schools and departments to comply with contractual notification deadlines.

## **The Board's Legal Obligations**

23. The Board of Trustees of the University of North Carolina at Chapel Hill is a public body within the meaning of North Carolina's Open Meetings Law, N.C. Gen. Stat. § 143-318.9 *et seq.* The Board exercises policy-making, administrative, and advisory authority over academic programs, tenure, budgets, and University operations.
24. Under the Open Meetings Law, the Board must conduct public business in public. It may enter closed session only for specific purposes enumerated in G.S. 143-318.11(a), and must state the statutory basis for closure with precision. The personnel exemption under subsection (a)(6) permits closed discussion only of "the qualifications, competence, performance, character, fitness, [or] conditions of appointment or employment of a public employee"—not general personnel policies. Indeed, there is an "exemption to the personnel exemption": "general personnel policy issues may not be considered in a closed session." N.C. Gen. Stat. § 143-318.11(a)(6).
25. As a public body, the Board must: (a) provide proper notice and conduct its meetings openly; (b) enter closed session only for narrowly defined purposes authorized by statute; (c) adopt any closure motion with specificity, including citation to the precise statutory ground and, where applicable, the particular confidentiality statute relied upon; and (d) minutes and a "general account" sufficient for the public to understand what occurred in closed session when disclosure becomes lawful.
26. The Board must also create, retain, and produce public records—regardless of format or platform—including emails, text messages, and other electronic communications concerning public business; it may not conduct deliberations by electronic means or use auto-deleting applications in a manner that evades these obligations.
27. Every trustee "solemnly and sincerely" swears to be faithful and bear true allegiance to the State of North Carolina as a condition of service, which includes fidelity to State transparency laws and regulations governing public business.
28. The trustees also have a duty to the faculty of the university to follow their own personnel policy. As stewards of the public good they should hew to the highest standards of conduct in their governance, remembering that their reputation and that of the university are intertwined, and that the institution is diminished when their behavior is not impeccable.

## **The March 2025 Tenure Meeting**

29. In March 2025, Plaintiff Clemens prepared to present a slate of faculty tenure recommendations to the Board. These faculty members had been evaluated by their departments, reviewed by external experts, recommended by their deans, approved by the UNC Committee on Appointments, Promotions and Tenure, and endorsed by the Provost for promotion.

30. On March 20, 2025, the Board convened with tenure approvals on its agenda. Trustee Ramsey White moved to enter closed session, invoking, *inter alia*, the personnel exemption under G.S. § 143-318.11(a)(6). The purported reason was to discuss individual tenure candidates. The motion passed and the public was excluded.
31. Once in closed session, the discussion immediately departed from individual tenure candidates. Instead, the Board debated the financial impact and existential value of tenure as an institution, with some members voicing opposition to its very premise. What began as routine personnel review morphed into a closed-door policy referendum on whether tenure should exist at UNC-Chapel Hill and whether the Board should even vote on the pending recommendations.
32. During the same closed session, a trustee asked Clemens how delaying tenure votes would appear and whether it would affect UNC-Chapel Hill's ability to recruit and retain high-caliber faculty. Clemens responded that delay would seem drastic compared to the hiring freezes and retirement incentives peer institutions were implementing, and that abandoning tenure would prove calamitous—severely impairing the university's ability to make competitive offers, recruit and retain faculty, and maintain its status as a top-five public research university. This exchange further confirms the Board was debating tenure's existential value to the institution, not evaluating specific candidates.
33. The Board eventually recast the closed-session debate as a fiscal matter—asserting that the “net present cost” of the tenure commitments, calculated over a thirty-year horizon, approached approximately \$80 million, and citing the “current budget climate” as a reason to defer action. The shift to long-horizon cost framing did not convert the discussion into a permissible personnel matter; it remained a policy debate that belonged in open session.
34. Ironically, just four months earlier in December 2024, the Board convened an “emergency” meeting and—after entering closed session—approved the hire of Bill Belichick under multi-year, multi-million-dollar commitments reported at approximately \$10 million per year, together with additional compensation obligations for Belichick’s sons and expanded staff, placing the total exposure well into the tens of millions over five years. The Board did not present any comparable thirty-year “net present cost” analysis, nor did it invoke long-horizon fiscal restraint to defer that decision for a single UNC employee.
35. Following this policy debate about tenure’s institutional value and systemic costs, Trustee Perrin Jones proposed deferring the entire slate of tenure recommendations until a future meeting. The Board adopted this proposal without evaluating any individual candidate’s qualifications, competence, performance, character, or fitness.
36. The Board’s deferral meant several faculty members would miss their contractual notification deadlines—the date by which they must be informed whether they would receive tenure or face termination at the end of their probationary contracts.

37. Ultimately, following that secret policy debate, the Board determined to defer an entire slate of tenure recommendations—or took action that effectively accomplished such a deferral—premised on the closed-session policy considerations rather than any individualized assessment. This constitutes “action” taken in violation of the Open Meetings Law because it flowed from an impermissible policy discussion conducted in closed session.
38. The closed session at issue was unlawful because the Board used the personnel exemption to conduct a policy debate on the existential value and global costs of tenure— subjects that must be addressed in open session. Because the session was not lawfully closed, no lawful confidentiality attached to that policy discussion, and nothing Plaintiff communicated to deans about the Board’s policy posture could constitute disclosure of confidential closed-session information.
39. The Open Meetings Law requires a public body that meets in closed session to keep minutes and a “general account” and to withhold those records until release is lawful; it does not impose a freestanding confidentiality obligation on attendees or otherwise prohibit discussion of matters that were unlawfully placed in closed session. See N.C. Gen. Stat. § 143-318.10(e). Courts likewise recognize there is no general law prohibiting members from disclosing closed-session information; any across-the-board “do-not-speak” rule would operate as an impermissible prior restraint on speech. See *Near v. Minnesota*, 283 U.S. 697 (1931) (prior restraints are presumptively unconstitutional).

### **The Provost’s Internal Briefing**

40. Tenure decisions are career-defining and time-sensitive for affected faculty and the schools that employ them. Deans were fielding urgent inquiries because the Board’s March 20, 2025 public agenda listed tenure; timely guidance affects recruiting and retention, compensation planning, course assignments, grant and lab commitments, and — for some candidates — immigration and visa timelines. As Provost, Clemens had a duty to inform academic leadership of the Board’s posture so they could manage operations and communicate accurately; withholding that information would have been a dereliction of those duties.
41. That afternoon, Clemens met with the Deans and Vice Provosts at their regularly scheduled meeting. The meeting was standard and had an agenda that allowed for discussion of “matters arising.” The fifteen deans who attend regularly comprise the senior academic administrators responsible for schools that are directly affected by tenure timing and implementation of tenure decisions. They were an appropriate audience for operational updates within the scope of Clemens’ official authority and responsibility.
42. In that meeting, Clemens reported three points to his fellow faculty members: (1) no tenure decisions were made; (2) the Board did not take up individual candidates; and (3) instead, the Board engaged in a sweeping policy discussion about tenure’s institutional value and global costs. Clemens conveyed only this policy-level posture and process status so leadership had

the necessary context to plan accordingly; he did not disclose confidential personnel files, evaluative materials, or individually identifying information.

### **The Retaliation Campaign**

43. On information and belief, following Clemens' internal briefing, Director and Dean Jed Atkins of the School for Civic Life and Leadership relayed Plaintiff's briefing to Board Chair John Preyer through the Signal messaging application. Atkins used Signal's ephemeral message feature, which automatically deletes messages after viewing.
44. On information and belief, following Dean Atkins' Signal message, Chair Preyer contacted a sufficient number of trustees through text messages and/or Signal to constitute a majority of the Board for purposes of deliberating about and building consensus for a vote of no confidence in the Provost, without providing any public notice, public access, or minutes of these electronic deliberations as required by the Open Meetings Law.
45. Based on Atkins' hearsay report, Chair Preyer sent text messages to multiple Board members calling for a vote of no confidence in Clemens. Preyer claimed Clemens had "betrayed" the Board by inappropriately disclosing closed session discussions to faculty and had "denigrated" trustees.
46. These electronic exchanges among Board members about removing the Provost constituted deliberation about public business. No public notice was provided, no public access permitted, and no minutes were kept of these electronic deliberations.
47. Consequently, on March 31, 2025, UNC leadership asked Clemens to resign as Provost, citing Clemens' purported "inappropriate disclosure of the closed session discussion" as the principal reason. Clemens resigned effective May 19, 2025.

### **Pattern of Closed Session Violations**

48. The March 2025 tenure deferral exemplifies the Board's systematic misuse of closed sessions to hide policy debates from public view. At least three other instances within two years demonstrate this pattern:
  - A. November 2023 Athletics Finance: The Board entered closed session to discuss UNC's Atlantic Coast Conference alignment and compare potential financial outcomes with SEC or Big Ten membership. These conference affiliation and departmental budget discussions are policy matters that belong in open session.
  - B. May 2024 Conference Realignment: The Board again used closed session to debate conference realignment strategy and athletics department finances. There is no statutory exemption that permits closing discussion of institutional affiliations and budget planning.



- C. December 12, 2024 Emergency Hiring: The Board called an “emergency meeting” with minimal notice, then immediately entered closed session to approve hiring a high-profile football coach whose compensation package and entire hiring was already public. The Board’s perfunctory return to open session for a rubber-stamp vote demonstrates that substantive deliberation occurred in secret.
49. Each episode follows the same pattern: the Board invokes a statutory exemption, enters closed session, then discusses broad policy or budget matters that must be debated publicly. The Board compounds these violations by maintaining inadequate general accounts that prevent public understanding of what transpired.

### **Electronic Deliberations and Records Destruction**

50. Trustees have conducted public business by text and other messaging applications outside properly noticed, accessible meetings. These electronic exchanges—undertaken to discuss, coordinate, or advance Board matters—constitute public records based on their content and are subject to the Open Meetings Law’s requirements for notice, public access, and minutes, as well as the Public Records Law’s requirements for retention and access.
51. The Board’s use of Signal and similar applications with auto-delete/ephemeral settings to transact public business frustrates the creation and management of public records. North Carolina law requires public bodies to maintain and manage records and prohibits destruction except in accordance with approved retention schedules; using disappearing messages to conduct official business is inconsistent with those duties and impedes prompt public inspection.
52. On information and belief, trustees and senior staff have repeatedly relied on off-channel, auto-deleting communications to discuss controversial or consequential Board matters, while simultaneously routing policy debates into closed session. This combined practice—policy in secret, decisions orchestrated through unnoticed electronic exchanges, and failure to capture/retain related records—constitutes ongoing, systemic, and purposeful evasion of North Carolina law. Plaintiff is informed and believes that such violations will continue absent declaratory and injunctive relief and remedial training.
53. On information and belief, UNC Director and Dean Jed Atkins requires that his leadership team subscribe to a Signal group and conducts a substantial portion of official communications via Signal with auto-delete enabled—not only in exchanges with trustees but as a routine practice. That method of transacting public business, adopted as a matter of course rather than exception, is inconsistent with the University’s obligations to capture, retain, and make accessible public records and exemplifies the broader records-management failures alleged herein.

## **FIRST CLAIM FOR RELIEF**

### **Violation of Open Meetings Law - Unlawful Use of Personnel Exemption**

54. Plaintiff realleges and incorporates by reference paragraphs 1 through 53 as if fully set forth herein.
55. The Open Meetings Law requires that all official meetings of public bodies be open to the public unless a specific statutory exemption applies. G.S. 143-318.11(a).
56. The personnel exemption under G.S. 143-318.11(a)(6) permits closed session only to consider “the qualifications, competence, performance, character, fitness, [or] conditions of appointment or employment of a public employee or public officer.” The statute explicitly provides that “general personnel policy issues may not be considered in a closed session.”
57. On March 20, 2025, the Board entered closed session purportedly under the personnel exemption to consider individual faculty tenure candidates.
58. Once in closed session, the Board immediately departed from any consideration of individual candidates and instead engaged in a policy debate regarding:
  - a. The institutional value and merit of tenure at UNC-Chapel Hill;
  - b. The systemic financial implications of tenure commitments;
  - c. The “net present cost” of tenure decisions calculated at \$80 million over thirty years; and,
  - d. Whether to defer all tenure decisions as a matter of fiscal policy.
59. These discussions constituted “general personnel policy issues” that must be conducted in open session, not individualized assessments of specific employees’ qualifications, competence, performance, character, or fitness.
60. Based on this unlawful policy discussion, the Board deferred all tenure recommendations without evaluating any individual candidate, thereby taking action premised on deliberations that violated the Open Meetings Law.
61. The Board’s use of the personnel exemption to shield policy deliberations from public view violated G.S. 143-318.11(a)(6) and the fundamental principle that public business must be conducted in public.
62. As a direct result of this violation, the public was denied its statutory right to observe policy deliberations of significant public interest regarding the future of academic tenure at North Carolina’s flagship university.

**SECOND CLAIM FOR RELIEF**  
**Pattern and Practice of Open Meetings Law Violations**

63. Plaintiff realleges and incorporates by reference paragraphs 1 through 62 as if fully set forth herein.
64. The Open Meetings Law requires all public bodies to conduct public business in open session unless a specific, narrowly construed statutory exemption applies.
65. Over the past four years, the Board has engaged in a pattern and practice of systematically violating the Open Meetings Law by improperly invoking closed session exemptions to shield policy and budget deliberations from public scrutiny.
66. In November 2023, the Board entered closed session to discuss UNC's conference alignment with the Atlantic Coast Conference and the financial implications of potential moves to the SEC or Big Ten. These discussions of institutional affiliation and departmental budget strategy are policy matters that must be conducted in open session.
67. In May 2024, the Board again entered closed session to discuss conference realignment strategy and athletics department finances. Neither the personnel exemption nor any other statutory basis permits closing discussion of institutional affiliations and budget planning.
68. On December 12, 2024, the Board convened an "emergency meeting" with minimal notice, immediately entered closed session, then returned to open session only to rubber-stamp the hiring of a high-profile football coach whose compensation terms were already public. The perfunctory nature of the open session demonstrates that substantive deliberation occurred unlawfully in secret.
69. In March 2025, as detailed in the First Claim, the Board used closed session to debate tenure as an institutional policy and its systemic financial implications.
70. Each of these episodes shares common characteristics: (1) invocation of statutory exemptions that do not apply to the matters discussed; (2) discussion of policy, budget, or strategic matters that belong in public view; (3) inadequate or boilerplate closure motions that fail to specify the actual statutory basis; and (4) deficient general accounts that prevent public understanding of what transpired.
71. This pattern demonstrates that the Board's violations are not isolated incidents but rather reflect a systematic practice of conducting public business in secret, treating transparency as optional rather than mandatory.
72. Unless enjoined, the Board will continue this pattern of violations, as evidenced by its repeated use of improper closed sessions over multiple years despite clear statutory requirements.

### **THIRD CLAIM FOR RELIEF**

#### **Violation of Public Records Law - Deliberate Destruction of Public Records**

73. Plaintiff realleges and incorporates by reference paragraphs 1 through 72 as if fully set forth herein.
74. North Carolina's Public Records Law requires that records made or received "in connection with the transaction of public business" be retained and made accessible to the public unless a specific exemption applies. G.S. 132-1 et seq.
75. Electronic communications about public business constitute public records regardless of the platform or device used to create them. The status of a record is determined by its content, not its location or medium.
76. G.S. 132-3 prohibits any public official from destroying public records except in accordance with approved retention schedules established by the Department of Cultural Resources.
77. Following the March 20, 2025 closed session, Dean Jed Atkins communicated with Board Chair John Preyer through the Signal messaging application, using its ephemeral/auto-delete feature to relay information about Board business and prompt Board action regarding the Provost.
78. Chair Preyer subsequently used text messages and/or Signal to communicate with multiple Board members about Board business, specifically soliciting support for a vote of no confidence in the Provost.
79. The use of Signal's auto-delete function and similar ephemeral messaging features for these communications about Board business constitutes deliberate destruction of public records in violation of G.S. 132-3.
80. Upon information and belief, Board members have adopted the use of disappearing message platforms specifically to prevent the creation, retention, and public inspection of records documenting their deliberations on controversial matters.
81. This deliberate use of ephemeral messaging to conduct public business: (a) Violates the statutory prohibition on destroying public records; (b) Circumvents the Public Records Law's retention requirements; (c) Denies the public its right to inspect records of public business; and, (d) Demonstrates intentional evasion of transparency obligations.
82. The Board's practice of conducting public business through auto-deleting messages represents an ongoing violation that will continue absent judicial intervention.

## FOURTH CLAIM FOR RELIEF

### Violation of Open Meetings Law - Unlawful Electronic Meeting Without Notice

83. Plaintiff realleges and incorporates by reference paragraphs 1 through 82 as if fully set forth herein.
84. Under G.S. 143-318.10(d), an “official meeting” occurs whenever a majority of members of a public body gather together, including by “simultaneous communication by conference telephone or other electronic means,” to conduct hearings, deliberate, or otherwise transact public business.
85. A quorum of the Board of Trustees constitutes a majority of its membership. Electronic communications among a majority of members about Board business trigger the notice and access requirements of the Open Meetings Law.
86. Following the March 20, 2025 closed session, Chair Preyer engaged in text message and/or Signal communications with multiple Board members sufficient to constitute a majority, deliberating about and soliciting support for a vote of no confidence in the Provost.
87. Unlike the email exchanges in *NC Citizens for Transparent Gov’t v. Village of Pinehurst*, 910 S.E.2d 288 (N.C. App. 2024), which occurred hours and days apart, modern text and Signal messaging enables near-instantaneous exchanges that function as real-time conversations, satisfying the “simultaneity” requirement for electronic meetings under G.S. 143-318.10(d).
88. The *Pinehurst* court emphasized that emails sent with gaps of “four hours,” “twenty-four hours,” and “two days” lacked the “virtually simultaneous interaction” required to constitute a meeting. *Id.* at 292. By contrast, text and Signal messaging platforms are designed for and commonly used to conduct rapid, back-and-forth exchanges that occur within seconds or minutes of each other.
89. These text/Signal exchanges among Board members: a. Constituted simultaneous communication as that term is understood in the era of instant messaging; b. Involved a majority of Board members deliberating on Board business; c. Occurred without any public notice required by G.S. 143-318.12; d. Denied public access in violation of G.S. 143-318.9; e. Generated no minutes as required by G.S. 143-318.10(e).
90. Alternatively, if these communications are characterized as serial exchanges designed to avoid technical “simultaneity,” they constitute deliberate circumvention of the Open Meetings Law through a scheme to evade its requirements while achieving the same prohibited result.
91. The Board’s conduct of official business through unnoticed electronic meetings violates the fundamental principle that public business must be conducted with transparency and public access.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Chris Clemens respectfully prays that this Court:

### **As to the First Claim (Unlawful Use of Personnel Exemption):**

1. Enter a declaratory judgment that the Board's use of the personnel exemption under G.S. 143-318.11(a)(6) to discuss general tenure policy on March 20, 2025, violated the North Carolina Open Meetings Law;
2. Permanently enjoin the Board from invoking the personnel exemption to discuss general personnel policies, institutional budget considerations, or other matters beyond the qualifications, competence, performance, character, fitness, or conditions of appointment of specific, identified public employees;
3. Produce or file for in-camera review the March 20 closed-session general account/minutes or transcript, with only lawful redactions;

### **As to the Second Claim (Pattern and Practice):**

3. Enter a declaratory judgment that the Board has engaged in a pattern and practice of violating the Open Meetings Law through improper use of closed session exemptions;
4. Permanently enjoin the Board from using closed sessions to conduct policy, budget, strategic planning, or other deliberations not specifically authorized by G.S. 143-318.11(a);
5. Order the Board to adopt written procedures requiring: (a) Specific statutory citations in all motions to enter closed session; (b) clear identification of the confidentiality statute when invoking G.S. 143-318.11(a)(1); and (c) detailed general accounts sufficient for public understanding per G.S. 143-318.10(e);

### **As to the Third Claim (Destruction of Public Records):**

6. Enter a declaratory judgment that the use of ephemeral messaging applications to conduct Board business violates the North Carolina Public Records Law;
7. Permanently enjoin the Board and its members from using auto-deleting, ephemeral, or disappearing message features when conducting any public business;
8. Order the Board to implement and enforce policies requiring all electronic communications regarding public business be captured and retained in accordance with applicable retention schedules;

**As to the Fourth Claim (Unlawful Electronic Meetings):**

9. Enter a declaratory judgment that conducting Board deliberations through text messages or instant messaging platforms without notice violates the Open Meetings Law;
10. Permanently enjoin the Board from conducting official meetings through electronic communications without providing proper notice and public access;

**General Relief:**

11. Order mandatory training for all Board members and relevant staff on Open Meetings Law and Public Records Law requirements within sixty (60) days of this Court's order;
12. Award Plaintiff reasonable attorneys' fees and costs pursuant to G.S. 143-318.16B and G.S. 132-9(c);
13. Retain jurisdiction to monitor and enforce compliance with this Court's orders; and,
14. Grant such other and further relief as the Court deems just, proper, and equitable.

Respectfully submitted this the 22<sup>nd</sup> day of September 2025 at Raleigh, North Carolina.

/s/ David McKenzie

**David L. McKenzie**

NC State Bar No. 36376

Attorney for the Plaintiff

621 Transylvania Ave

Raleigh, North Carolina 27609

919-597-9290

david@mckenzielaw.net

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

ORANGE COUNTY

2025 CVS \_\_\_\_\_

**CHRIS CLEMENS,**

Plaintiff

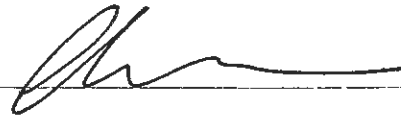
v.

**UNIVERSITY OF NORTH CAROLINA AT  
CHAPEL HILL, a constituent member of the  
University of North Carolina System, et al.**  
Defendants

**VERIFICATION**

I, Chris Clemens, being first duly sworn, depose and say: I am the Plaintiff in this action.  
I have read the foregoing Verified Complaint, and the facts stated therein are true to my personal  
knowledge except as to those matters stated upon information and belief, and as to those matters  
I believe them to be true.

This the 19<sup>th</sup> day of September, 2025.



Chris Clemens, Plaintiff

SWORN TO (or affirmed) AND SUBSCRIBED before me this the 19<sup>th</sup> day of  
September, 2025.

Notary Public

Printed Name:

My Commission Expires:



Iris Marin Recinos

Feb 13<sup>th</sup> 2030

