

**Page 11, line 8:**

Reference to “campus-level boards” is broad and unsubstantiated.

**Page 11, line 16:**

Alleges “longstanding patterns of institutional racism” in which App State is broadly referenced. This is not substantiated.

**Page 12, Lines 15-23:**

Chancellor Everts was well within her legal and policy rights to install Provost Norris, who was hired as dean of the Walker College of Business after a national search.

N.C. Gen. Stat. § 116-34(a) provides that “[t]he chancellor shall be the administrative and executive head of the institution and shall exercise complete executive authority therein, subject to the direction of the President [of the UNC System].” In addition, The UNC Policy Manual 300.1.1, Policy on Senior Academic and Administrative Officers, Section II.A.1.d., expressly states “[t]he continuance in office of vice chancellors, *provosts*, deans, and directors of major educational, research and public services activities of the constituent institutions shall be determined by the chancellor of the institution (emphasis added).”

**Page 12, line 24 – Page 13, line 3:**

Dr. Kruger has not “departed” Appalachian State University. He remains on faculty. Whether faculty members question Dr. Kruger’s decision to step down from his position as Provost is irrelevant, given Dr. Kruger himself indicated it was his decision.

**Page 13, Lines 4-8:**

The timeline as presented has some glaring omissions. On March 10, 2020, one month after the news report of the university’s search intention, Governor Roy Cooper declared a state of emergency related to the global pandemic. Shortly thereafter, the entire UNC System, and indeed the entire country, pivoted to a virtual way of doing business. Provost Norris—who had previously been appointed as Dean of the Walker College of Business after a national search— ably lead the academic enterprise through the various stages of the pandemic. The permanent appointment was made while Appalachian and the System were actively managing the pandemic, to ensure that strategic planning and other strategic academic initiatives could proceed since no one knew when relief from COVID would occur.

Moreover, there is no hint that Dr. Norris is not otherwise qualified or lacks the credentials to be Provost. The reference to, “over the objections of the faculty” implies there was no faculty support for Provost Norris’ appointment to the position. This is untrue. Chancellor Everts actively sought feedback about Dr. Norris’ performance, and [reported to campus on May 7](#):

“Over the past few months, I have met with the Deans, Department Chairs, Faculty Senate, Staff Senate and Student Government Association leadership to hear how their work is going, where we are doing well, where we could do better and what we can do to assist. During these meetings, I consistently heard positive feedback about Heather. All were very supportive of her and confident in her leadership.”

**Page 13, Lines 12-18:**

Appalachian hired a female Provost. In a study by Eos Foundation's Women's Power Gap Initiative, the American Association of University Women and the WAGE project, which was reported on in Inside Higher Education in February 2021, women represent only about 34 percent of provosts around the country. (See <https://www.insidehighered.com/news/2021/02/24/women-make-just-24-percent-research-universities-top-earners>.) Promoting a woman into a role in which women are significantly underrepresented does not "[bypass] the university's stated commitment to diversity, equity, and inclusion in recruiting, hiring, promotion, and retention efforts."

The reference to "inflammatory timing" again ignores the facts that the UNC System and App State were engulfed in a global pandemic and Dr. Norris had a demonstrated history of leadership on campus and her performance was not called into question.

As stated above, the Chancellor has every right make the appointment of a Provost, and the Appalachian Board of Trustees and the UNC Board of Governors both approved the appointment.

**Page 13, Lines 19-25:**

References to "faculty objections concerning student preparation, 24 instructional quality, greater workload, and campus and community welfare" were routinely and regularly addressed with members of Faculty Senate as they came up in regards to the university's enrollment goals. The quoted "20 by 2020" is in quotation marks and attributed to Chancellor Everts, although it is unreferenced. Instead, Chancellor Everts has routinely referenced a goal of slow and steady growth, which is a trend that was in place prior to Chancellor Everts arriving at App State. There is no evidence to show that student preparation, instructional quality, campus or community welfare have suffered as a result of the university meeting its enrollment goals.

**Page 13, Lines 25-27:**

The reference to the Hickory campus is rife with falsehoods, and completely unreferenced. The Board of Governors did not create the Hickory campus, and no faculty have been assigned to the Hickory campus. Academic Affairs is currently working with the academic program leaders to determine what programs will be in Hickory, as well as plans for staffing those initiatives. Employees will be consulted about Hickory assignments at the appropriate time with the goal of having as many employees working at that location as desire to be there. Classes are not scheduled to be held in the building until 2023.

**Page 14, Lines 2-14:**

This is untrue. Chancellor Everts has met publicly and numerous times with faculty and staff throughout the pandemic. Throughout the pandemic Chancellor Everts attended 61 faculty meetings with individual academic departments (meeting with some departments more than once), shared reports at the opening and closing Faculty Senate meetings, attended two Faculty Senate Chancellor's Advisory Committee meetings each semester, met with other Faculty Senate groups/leaders to include the Council of Chairs executive committee, and hosted the annual Budget Presentations (virtually in 2021 and 2022) as well as the Enrollment Symposium in December 2021.

The account by the “chair of the academic senate” of “rebuff” has a key omission, and neglecting to include such ignores important context. On August 10, 2020 a class action complaint was filed in Wake County Superior Court against the UNC System, each of its campuses, including Appalachian State, and Governor Roy Cooper, which contested the attempt to reconvene in-person education during the pandemic. Five of the named plaintiffs in the class action were App State employees. Two of those named plaintiffs served on App State’s Faculty Senate. Moreover, the class action complaint indicated that the class could have included any number of employees from App State’s campus, and which reasonably could have been construed to include members of the Faculty Senate. App State’s General Counsel communicated to the Chair of the Faculty Senate that in order to protect his university client, he had advised executive leadership — who effectively act on behalf of App State — to refrain from direct engagement with the Faculty Senate while App State’s Office of General Counsel and the North Carolina Attorney General’s Office defended the lawsuit. This recommendation was made in order to strike a balance of allowing App State’s employees to move forward with their suit, without undermining the university’s defense by positioning the plaintiffs to engage in back-door discovery through the Faculty Senate’s processes. With academic classes pending and the urgency with which the class claimed to be acting, this legal advice was given with the presumption that the plaintiffs would immediately schedule a hearing on the temporary restraining order and injunctive relief they were seeking, and once a court ruling was received, there could be a potential return to normalcy. In the meantime, App State’s General Counsel advised the Chair of the Faculty Senate that the Senate and its committees remained free to operate and share information with the administration in accordance with their role as an advisory body, and the administration would share relevant information concerning the operation of App State with the Senate, and all faculty and staff at appropriate times. The plaintiffs chose not to act on their case after filing, and the plaintiffs ultimately dismissed their complaint voluntarily on June 28, 2021, almost a year after filing it.

Further, on Sep. 25, 2020, Dr. Behrent shared his comments via the [distribution of a YouTube video](#) to the Trustees. YouTube’s public analytics indicate his message has received more than 1,150 views.

On her report to the Faculty Senate on Sept 13, 2021, Provost Norris included an itemized list of the status of each of the ad hoc shared governance committee's recommendations.

**Page 14, Lines 19-20:**

No examples or citations are provided for the quoted reference to “...simple, performative measures,’ aimed at improving the climate ‘go nowhere.”

App State’s Board of Trustees does have the final say on all matters relating to university operations. N.C. Gen. Stat. § 116-33 provides that the board of trustees has the authority to promote the sound development of App State’s campus and that the specific powers and duties of the board of trustees is to be set by the UNC Board of Governors. The UNC Policy Manual Chapter 100.1 - The Code Appendix 1, Delegations of Duty and Authority to Boards of Trustees, expressly enumerates and delegates a number of powers to the App State Board of Trustees on essentially

everything related to the campus operations, including but not limited to, the academic program, financial oversight, real property transaction.

**Page 14, Lines 23-27:**

App State's General Counsel has written to the Chair of the Faculty Senate a warning about attempting to improperly influence Board members in a grievance matter to which he was not a part, in contravention of UNC System policy, as well as apparently inappropriately accessing confidential personnel information. The Office of General Counsel issued a cease-and-desist letter to a faculty member who communicated threats to the Chancellor and Provost, calling them "murderers," comparing them to Hitler and the Nazi's executing Jews, ultimately stating that "judgment is coming" for them. This faculty member's communications went well beyond simply "critiquing" administration, and even goes beyond being highly unprofessional. It is extremely threatening, a threat which is exacerbated by the fact that it was sent from a male to two females.

**Page 28, Lines 1-12:**

The AAUP's own whitepaper, "Academic Freedom of Individual Professors and Higher Education Institutions: The Current Legal Landscape" written by Donna R. Euben, Staff Counsel, which is on the AAUP's website, is instructive here. For example, the author expressly acknowledges that "academic institutions do not have the First Amendment academic freedom to violate Title VII. See, e.g., *Powell v. Syracuse*, 580 F.2d 1150, 1153-54 (2d Cir.), cert. denied, 439 U.S. 984 (1978) (ruling that judicial precedent, which made colleges and universities 'virtually immune to charges of employment bias . . . was never intended to indicate that academic freedom embraces the freedom to discriminate')." The author also acknowledges that a pattern and practice of allegedly offensive behavior can and should receive a different analysis than an isolated incident when it comes to conducting an analysis of whether classroom conduct is protected. Finally, in discussing teaching methods, the author states: "Are faculty members able to select and use pedagogical methods they believe will be effective in teaching the subject matter in which they are expert? On the one hand, faculty members are uniquely positioned to determine appropriate teaching methods. On the other hand, faculty members may engage in *unprotected* speech in the classroom, such as religious proselytizing or sexual harassment (emphasis added)." This conclusion presumably would extend to racial harassment. App State's Policy 110 is intended to ensure the university's compliance with, among other things, Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, et seq.). The Policy is clear that it addresses conduct, not speech. Specifically, Section 4.6 of the Policy states "As permitted by federal and state law, Appalachian supports and encourages full freedom of inquiry, discourse, teaching, research, and publication. Such opportunities are afforded in pursuit of knowledge and learning without fear of sanction, unless the manner of expression is found through the administration of this policy to substantially impair the rights of others."

App State has consistently endeavored to protect the confidentiality of the professor whose conduct is at issue, and in accordance, conducted an appropriate inquiry under its Policy 110. The investigation revealed a pattern of conduct that was violative of the Policy. It is incorrect to state that the Provost "ruled" any guilt on the part of the faculty member. That is the work of the investigator(s). It is the Provost's job to receive investigative reports, and, if the investigator(s) find a policy violation, to determine appropriate sanctions.

In this instance, as a result of the finding of a pattern of such behavior, the Provost reprimanded the professor, an employment action that is neither public nor grievable. The UNC Policy Manual 101.3.2, Policy on Grievances Filed Pursuant to Section 607 of The Code, Section II.A. provides “Any faculty member who has a grievance, as defined in Section 607(3) of The Code, may file a petition for redress in accordance with the procedure established by the constituent institution.” Section 607(3) of The Code itself indicates that the term “[g]rievances” includes “matters directly related to a faculty member’s employment status and institutional relationships within the constituent institution, including matters related to post-tenure review.” A letter of reprimand does not directly impact a faculty member’s employment status or institutional relationships. As a practical matter, such a letter is a part of a faculty member’s confidential personnel file, which no one would know about unless the faculty member shares this information. Neither is a letter of reprimand related to post-tenure review. Moreover, subsequent to the incident in question, the academic department to which this faculty member belongs developed and agreed upon revised standards for teaching racial content in a more sensitive way, in order to prevent underrepresented students from feeling targeted or excluded. This was done at the department level at the wishes of the faculty in the department.

**Page 28, Line 25 – Page 29, Line 5:**

While AAUP-supported standards may call for a reliance on the judgment of faculty peers, as related to this incident, this is not a unanimous assessment by App State faculty. In a [March 5, 2020 letter to the editor](#) of the university newspaper, The Appalachian, from “Concerned faculty members,” these faculty, who remained anonymous, stated, “While there is no reason to doubt the lack of malicious intention on the part of the faculty member named in [the student’s] complaint, it is a sad and familiar sight to see the immediate recourse to closing ranks, as opposed to a process of taking responsibility and making amends.”

**Page 64, Line 16 – Page 65, Line 27:**

Chancellor Everts’ statement [from April 2021](#), “We will continue to prioritize inclusive excellence on our campus, and we will continue our work to effect real and meaningful change so every member of our community is welcomed and valued,” is just one example of many statements regarding her commitment to institutional DEI work. Rather than these being rhetorical statements, they are supported by readily available data, which show that during Chancellor Everts’ tenure, App State committed to the fundamental task of creating and supporting a diverse campus culture, allocated significant resources to those efforts, and has demonstrated significant progress.

Since 2014, when Chancellor Everts charged the Chancellor’s Commission on Diversity, now known as the Chief Diversity Officer’s Advisory Board, with providing recommendations focused on the recruitment and retention of students, staff and faculty from underrepresented groups.

Since that time, our most recent enrollment in fall 2021 of 18.3% racially and ethnically diverse students indicates a 66% growth since 2014. App State’s retention rates for underrepresented students are nearly 83%, which is ranked 5th in the UNC System.

App State's three-year and five-year retention data show that retention rates for non-white faculty and staff at App State are comparable to the retention rates for white faculty and staff, and increasing retention rates remains a priority.

In her [October 27 message to campus](#), Interim Chief Diversity Officer Jamie Parson stated that several working groups came together during the summer of 2021 to share recommendations for how App State can better serve its underrepresented populations, and that she will share a compilation of these recommendations with campus this semester. Provost Norris pointed to this statement during her remarks during the November 2021 Faculty Senate meeting.

App State continually studies its campus climate to assess how the university values, respects and supports members of our underrepresented groups. Individual experiences matter, and the Faculty/Staff of Color Affinity Working Group revealed important perspectives from faculty. Those faculty should have the expectation that they will not be publicly identified by published survey results that might reveal their identities and prevent faculty, staff and students from sharing their experiences in future climate studies. The implication that the provost's actions were a "claim," particularly within the context of a discussion about administrative efforts to address instances of bias among faculty, is disingenuous, particularly since the report was released, once redacted to protect the identities of the survey respondents.

In addition to the working groups referenced by Interim CDO Parson, several other important research tools planned or underway will help provide empirical and anecdotal data, including the [National Survey of Student Engagement](#) (NSSSE) survey, the faculty-focused [Collaborative on Academic Careers in Higher Education \(COACHE\)](#) survey and UNC System Employee Engagement survey, as well as the Campus Climate Survey scheduled for 2023. These instruments will provide comprehensive data that will inform diversity and inclusion strategies.

Information and recommendations from the Faculty/Staff of Color Affinity Working Group, as well as data and feedback provided by other groups, surveys and interviews, will all continue to inform and guide the university's strategic diversity initiatives.

There are a number of initiatives and plans underway both in response to and that intersect with the recommendations in the report, which Interim CDO Parson has shared. These efforts include, but are not limited to the following:

- Diversity and inclusion are part of regular conversations among campus administrators, and we continue to allocate resources and develop partnerships to address these important issues.
- [The Inclusive Excellence team, part of the Center for Academic Excellence at App State, has provided resources](#) to support administrators and campus leaders at various levels of leadership in creating strategies and making decisions equitably and inclusively.
- Beginning in fall 2021, the Office of the Chief Diversity Officer has partnered with the Center for Academic Excellence to facilitate an Inclusive Excellence Lunch and Learn series for department chairs called Equity-Centered Leadership.
- In February, leaders from the University of Virginia served as diversity, equity and inclusion practitioners in residence, leading workshops on App State's campus with the Chancellor's Cabinet, department chairs and associate deans, staff from the offices of Human Resources,

Admissions, Student Affairs and University Communications, as well as other university staff, on topics such as diversity, equity and inclusion in executive leadership; engaging and communicating around student advocacy; recruitment; inclusive faculty hiring; and equity-focused leadership.

- Affinity groups provide networking opportunities for faculty and staff of color, and their benefits include attracting, recruiting and retaining employees; promoting diversity, cultural awareness and an inclusive work environment; and increasing employee job satisfaction, morale and productivity. An Asian & Pacific Islander Caucus chapter was among the new affinity groups formed at App State in 2021, and an Affinity Group Council has been established to support the success of affinity groups on campus. Additionally, a learning community for faculty and staff women of color has been established, with a semester of programming already underway, and 16 members of this group are traveling to the [Faculty Women of Color in the Academy](#) conference next month, paid for by the Office of the Chancellor.
- In 2016, [the exit interview instrument was updated](#) to capture more climate and identity-based questions and to provide inclusion insights. A group that includes Human Resources, Institutional Research, Assessment and Planning, along with the Interim CDO, is looking at ways to use the Employee Engagement Survey to assess the experiences of faculty and staff of color throughout their employment with the university.
- The university is working to promote transparency in policies and expectations by continuing to enhance its evaluative methods, disaggregating data and making data-driven decisions. A Diversity and Inclusion Accountability Team convened by Chancellor Everts — which includes students, alumni, faculty, staff, administrators and members of the Board of Trustees — helps the university remain focused and accountable. During regular team meetings, members of the Chancellor's Cabinet report on progress and challenges related to the initiatives within their areas of responsibility. The accountability team provides feedback, discusses challenges and helps celebrate successes.
- Faculty and staff search committees have access to training on increasing and monitoring applicant pools, best practices for conducting searches, training on implicit bias, and resources like the university's Diversity Hiring Toolkit, which has information about how to consider diversity and inclusion in each stage of the search process. Training on fair and equitable searches and implicit bias awareness is held regularly for search chairs. The university is expanding its ongoing efforts in hiring practices, which include reviewing existing trainings and enhancing search committee resources.
- The Office of the Chief Diversity Officer is working with the Center for Academic Excellence on a model for mentoring faculty and staff of color.
- Using a framework of inclusive excellence, the ADVANCE APPALACHIAN team — which comprises College of Arts and Sciences faculty and App State's chief diversity officer — is implementing a combination of training, professional development, mentoring and work-life resources for the university's faculty and staff, with an emphasis on supporting women in STEM with a lens of intersectionality.
- Appalachian State University is also one of 19 universities joining a three-year effort — known as Aspire: The National Alliance for Inclusive & Diverse STEM Faculty — to increase the diversity of its STEM faculty through inclusive recruitment, hiring and retention practices, and ensure all STEM faculty engage in inclusive teaching, advising and research mentoring.

In an interview with reporters from the campus newspaper in January, Interim CDO Parson said, "These efforts are priorities for the chief diversity officer because Chancellor Everts has prioritized diversity and inclusive excellence since her first day on campus. She has made it clear that these efforts are prioritized, resourced and will continue at App State."

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