



September 23, 2013

Tom Corbett
Governor of Pennsylvania
Southeast Office
200 South Broad Street
Eleventh Floor
Philadelphia, PA 19102

RE: Current Students, Prospective Students, Alumni, Current Faculty, Prospective Faculty, Current Staff, and Prospective Staff of Cheyney University of Pennsylvania (all individually and also all on behalf of persons similarly situated) v. Commonwealth of Pennsylvania Governor Tom Corbett, Acting Commonwealth of Pennsylvania Secretary of Education Dr. Carolyn Dumaresq, Pennsylvania State System of Higher Education (PASSHE) Acting Chancellor Dr. Peter Garland, PASSHE Chancellor Frank T. Brogan, PASSHE Board of Governors Chairman Guido M. Pichini, et al.

Dear Governor Corbett:

This is to serve as a "demand letter," which is the first step toward the filing of a major civil rights lawsuit. The goal of this correspondence is to begin to seek "parity through equity," so that the traditionally black state-owned Cheyney University can properly compete on an equitably level playing field with the 13 traditionally white state-owned institutions.

I submit this letter as counsel for a recently formed broad-based coalition known as "Heeding Cheyney's Call." It consists of Cheyney University alumni, current, prospective, and former students, current and retired faculty members, current and retired staff persons, and many regionally-based community leaders who are concerned about the welfare of this historic institution. This coalition also includes several of the Cheyney University plaintiffs named in the successful September 23, 1980 civil rights lawsuit against the Commonwealth of Pennsylvania that averred racial discrimination resulting primarily from inequitable funding.

From its beginnings as the African Institute and later the Institute for Colored Youth in 1837 to Cheyney Training School for Teachers in 1914 to Cheyney State Teacher's College in 1951 to Cheyney State College in 1959 and then to Cheyney University in 1983, this institution has created the likes of Julian Abele (architectural designer of the Philadelphia Free Library and also the Art Museum), Ed Bradley ("60 Minutes" correspondent), Octavius Catto (martyred civil rights activist), Dr. Rebecca J. Cole (one of the first African-American female physicians in the country), Marcus Foster (nationally renowned educator), Joseph E. Lee, Esquire (one of the first African-Americans to practice law in Florida), Bayard Rustin (civil rights activist), Andre Waters (NFL star), and literally hundreds of other notables in their various professions.

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Also, it is the oldest Black institution of higher learning in America. It has 33 majors and concentrations for undergraduates as well as a Masters in Educational Leadership program and a recently established Masters in Public Administration program. The Masters in Educational Leadership program has historically been one of the nationally ranked leaders in producing Masters' degrees in education for students of color and one of the major producers of teacher and administrative leaders in the tri-state region. Its impressive undergraduate and graduate "Call Me MISTER" teacher leadership program encourages African-American men- who are much needed and woefully underutilized in the field of education- to dedicate their lives to becoming role models. Its outstanding "Teach STEM Scholarship Project" prepares African-American women to become highly qualified teachers who will change paradigms in Science, Technology, Engineering, and Mathematics education through positive role-modeling and high tech innovation. Its extraordinary "Aquaculture Research and Education Center" meets the needs of the region's critical waterways with the objective being to train students to become as professional in various scientific areas in the United States and abroad. Its distinguished "Keystone Honors Academy" is a far-reaching academic excellence program that fosters intellectually enriching experiences for the entire campus community. It also positions students to receive a Bond-Hill Scholarship that provides for complete tuition funding for students to attend state graduate programs in the fields of medicine, law, education, and business.

Moreover, it is undeniably advantageous that the vast majority of the men and women who administer these and other programs and who teach the courses look like and have the same cultural experiences as the students and therefore serve as powerfully inspiring role models. All of this is obviously great.

But all of this will be for naught if this historic and essential African-American institution is allowed to wither away due to continued Commonwealth-created and/or Commonwealth-condoned unlawful and impoverishing racial discrimination, whether resulting from intent or disparate impact. For example, the aforementioned Keystone Honors Program in the past has been able to support more than 200 students. But due to state budget cuts- including a 25 percent slashing- that 200 plus student number has dropped to a mere 77. While Cheyney University is not the only state-owned school to suffer from this administration's severe cuts, it does suffer more from them. This means that the decrease in the "Educational and General Appropriations" for Pennsylvania State System of Higher Education (PASSHE) from \$444,470,000 statewide in 2010-2011 to \$412,751,000 in 2013-2014 was a devastating blow to small and therefore financially struggling schools like Cheyney University.

In regard to Cheyney University's ongoing plight, the fundamental issues are whether the Commonwealth of Pennsylvania is meeting its responsibilities under Sections 1983 and 2000d of Title VI of the Civil Rights Act of 1964 and whether it has eliminated and rectified all vestiges of discrimination in its public school system of higher education. Unfortunately, the answers, objectively speaking, are no.

In addition to the mandates of Title VI, the Commonwealth has affirmative obligations to ensure that Cheyney University becomes and remains equitably comparable to the public traditionally white institutions in Pennsylvania. This is precisely the kind of obligation constitutionally ordered by the Supreme Court in its 1992 US v. Fordice decision proclaiming that states can be compelled to pursue corrective affirmative action to remedy discrimination against African-American students despite purported race-neutral policies. And this is consistent with Executive Order 12232 of 1980 that was issued “to overcome the discriminatory treatment and to strengthen and expand the capacity of historically Black colleges and universities to provide quality education.”

Not only is the Commonwealth required to fulfill its longstanding obligations under Title VI and Fordice- especially when making budgetary decisions- it is also required pursuant to its 1999 agreement with the US Department of Education’s Office for Civil Rights to “enhance” Cheyney University. And that unquestionably includes the “Enhancement Plan,” stemming from the 1980 suit, to repair the physical facilities that, as noted as recently as 2010, are in deplorable condition. And in accord with that plan is the recent five-year strategic reinvestment plan that includes recommendations of higher educational experts who have consistently urged the Commonwealth through PASSHE to provide much-needed fiscal and physical resources, proven institutional growth strategies, and established managerial “best practices” for Cheyney University.

It should be noted that it was the US Department of Education’s predecessor, namely the US Department of Health, Education, and Welfare, that beginning in 1969 determined that Pennsylvania operated an illegal dual and de facto racially segregated system of higher education. Accordingly, the Commonwealth was directed by the federal government to submit a plan to correct its unlawful racial discrimination. Pennsylvania submitted such a woefully inept plan that it was rejected in that same year. Since 1969 (and before), the Commonwealth has continued its unlawful racial discrimination against its only predominately African-American institution of higher learning.

Accordingly, plaintiffs (who, by the way, will be specifically identified if litigation becomes necessary) are prepared to seek declaratory relief and injunctive relief pursuant to 28 USC 1331, 1343(a)(3), and 1367(a) to preclude the above-named defendants and others from operating an illegal dual and de facto racially segregated system of higher education and to compel them, forthwith, to develop and implement a constitutionally sound plan for remedying past and present inequities. Such legal action would be brought to redress the deprivation of rights protected by 42 USC 1981, 1983, and 2000d as well as the rights protected under color of state law pursuant to 24 PS 2510-301 et seq.

As a result, plaintiffs raise the following concerns:

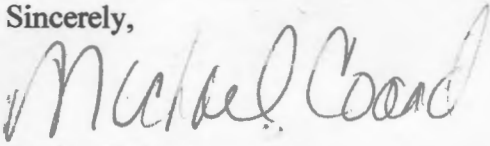
- 1) The Commonwealth's inequitable funding formula must be substantively revised and done so retroactively. The leading cause of Cheyney University's low enrollment is high tuition- which is oppressively high for Cheyney students because the average household income of their families is less than \$40,000 and more than 80 percent of these students are on financial aid. Increases in tuition automatically equal decreases in enrollment. That is exactly why the school's 1977 enrollment of nearly 3,000 is now down a shocking 60 percent to merely 1,200. And when enrollment drops, the school loses state funding due to enrollment requirements in the PASSHE inequitable funding formula. This is the major factor underlying the university's massive \$14 million accumulated debt with a structural deficit of an additional \$5 million more in the 2013-2014 fiscal year.
- 2) The Commonwealth must finally and completely comply with the letter and the spirit of the 1999 Partnership Report and Commitments (also known as "the agreement"), which is a legally binding document that the Commonwealth entered into with the US Department of Education regarding the Commonwealth's responsibilities to Cheyney University under Title VI of the Civil Rights Act of 1964 and under Fordice.
- 3) There is an urgent need to revitalize undergraduate and graduate facilities (such as buildings, "smart" classrooms, Blackboard technology, online education, etc.) and academic programs, including those at the institution's Philadelphia campus as part of PASSHE's Multi-University Center.
- 4) Special attention must be given to the secondary education programs first because they are absolutely needed and second because the school has historically been a teacher's college. Teacher education is what has distinguished Cheyney from every other state and state-related institution in Pennsylvania.
- 5) There must be no implementation of any austerity measures. Instead of reductions, there must be expansions that consist of at least two new academic programs during the next two years in majors such as electrical engineering, science, mathematics instruction, and/or health in order to begin to attain parity with the other 13 state institutions.
- 6) The Commonwealth must explicitly make it clear that it will respect Cheyney University's unique value and historic existence by permanently guaranteeing, pursuant to the desegregation guidelines and the 1980 Enhancement Plan Agreement, that there will be no duplication of Cheyney University's new programs at West Chester University (which is a mere seven miles away).

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- 7) There must be an immediate moratorium on the submission of or the consideration of the name of any person to serve as a member of Cheyney University's Council of Trustees. This moratorium is essential in order to avoid potentially irreversible disruption while key settlement negotiations are being pursued for the purpose of determining the school's short-term and long-term direction.

I respectfully request your reply within ten calendar days.

Sincerely,



Michael Coard
MC/ck

cc: Acting Secretary of Education Dr. Carolyn Dumaesq
Acting PASSHE Chancellor Dr. Peter Garland
PASSHE Chancellor Frank T. Brogan
PASSHE Guido M. Pichini