



# **STATE OF NORTH CAROLINA**

## **INVESTIGATIVE REPORT**

**NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION, INC.  
CHAPEL HILL, NORTH CAROLINA**

**CHATHAM COUNTY SCHOOLS  
PITTSBORO, NORTH CAROLINA**

**DECEMBER 2011**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

**INVESTIGATIVE REPORT**

**NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION, INC.  
CHAPEL HILL, NORTH CAROLINA**

**CHATHAM COUNTY SCHOOLS  
PITTSBORO, NORTH CAROLINA**

**DECEMBER 2011**



**Beth A. Wood, CPA**  
State Auditor

STATE OF NORTH CAROLINA  
**Office of the State Auditor**

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**AUDITOR'S TRANSMITTAL**

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The Honorable Beverly Perdue, Governor  
The Honorable Janet Cowell, State Treasurer  
William C. Harrison, Ed.D., Chair, North Carolina State Board of Education  
William B. Matthews, President, Board of Directors, North Carolina High School  
Athletic Association, Inc.  
Davis A. Whitfield, Commissioner, North Carolina High School Athletic Association, Inc.  
Deborah H. McManus, Chair, Chatham County Board of Education  
Robert Logan, Superintendent, Chatham County Schools  
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed an investigation of allegations concerning the discovery of an employee of the North Carolina High School Athletic Association, Inc. on the payroll of Chatham County Schools. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with G.S. §147-64.6 (c) (12).

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

December 8, 2011

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## INTRODUCTION

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The Office of the State Auditor received a complaint through the *State Auditor's Hotline* regarding the discovery of an individual on the Chatham County Schools payroll who was not employed by the school system. During the preliminary investigation of this complaint, we determined that this individual was in fact an employee of the North Carolina High School Athletic Association, Inc. (Athletic Association) yet was on the payroll of Chatham County Schools.

Our investigation included the following procedures:

- Review of applicable North Carolina General Statutes
- Examination of relevant documents and records of the Athletic Association
- Examination of relevant documents and records of Chatham County Schools
- Examination of relevant documents and records of the North Carolina Teachers' and State Employees' Retirement System
- Interviews with officials from Chatham County Schools, the Athletic Association, the North Carolina Teachers' and State Employees' Retirement System, the North Carolina Department of Justice, and the North Carolina Department of Public Instruction.

This report presents the results of our investigation. The investigation was conducted pursuant to North Carolina General Statute § 147-64.6 (c) (16).

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## **ORGANIZATION OVERVIEW**

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### **North Carolina High School Athletic Association, Inc.**

The North Carolina High School Athletic Association, Inc. (Athletic Association) is a non-profit organization that administers the State's interscholastic athletic program. The Athletic Association is governed by a Board of Directors that is composed of member school superintendents,<sup>1</sup> principals, athletic directors, coaches and the Athletic Association's Commissioner. The Athletic Association has a staff of 15 employees including the Commissioner.

The Athletic Association was founded by a University of North Carolina at Chapel Hill (University) professor in 1912 and officially organized in 1924. It operated as a part of the University's Extension Division until 1947 when a new constitution removed most of the University's financial obligations. In the mid-1970s, the Athletic Association obtained tax-exempt status from the Internal Revenue Service but continued to remain closely affiliated with the University. This relationship between the Athletic Association and the University made possible the membership of the Athletic Association's employees in the North Carolina Teachers' and State Employees' Retirement System<sup>2</sup> (Retirement System). The Athletic Association's relationship with the University ended in June 2010. As a result, the Retirement System stopped accepting retirement contributions for Athletic Association employees at that time.

### **Chatham County Schools**

The Chatham County Board of Education (School Board) oversees the public school system in Chatham County, North Carolina. The School Board's five members serve staggered two-year terms in office. The School Board appoints the superintendent<sup>3</sup> of Chatham County Schools who is responsible for managing the school system's day-to-day operations. Chatham County Schools received \$88.7 million in federal, state, and county funds during the fiscal year 2009 - 2010.

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<sup>1</sup> The Chatham County Schools Superintendent is one of the members of the Athletic Association's Board of Directors for the 2011-12 academic year. The Superintendent was appointed to the Athletic Association's Board in July 2011.

<sup>2</sup> The North Carolina Teachers' and State Employees' Retirement System is administratively located within the North Carolina Department of the State Treasurer.

<sup>3</sup> See supra note 1.

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## FINDINGS AND RECOMMENDATIONS

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### **THE NORTH CAROLINA HIGH SCHOOL ATHLETIC ASSOCIATION AND CHATHAM COUNTY SCHOOLS INTENTIONALLY MISREPRESENTED THE EMPLOYMENT OF THE ASSOCIATE COMMISSIONER TO INCREASE HIS RETIREMENT BENEFITS.**

Chatham County Schools improperly included the Associate Commissioner for Communication (Associate Commissioner) for the North Carolina High School Athletic Association, Inc. (Athletic Association) on its payroll to continue his retirement contributions to the North Carolina Teachers' and State Employees' Retirement System (Retirement System). From June 2010 through April 2011, the Athletic Association transferred \$95,192.10 to Chatham County Schools to fund the Associate Commissioner's salary and benefits including \$12,592.11 in retirement contributions. The Retirement System confirmed that it received \$12,592.11 from Chatham County Schools from June 2010 through April 2011 on behalf of the Associate Commissioner. However, the Associate Commissioner was never an employee<sup>4</sup> of Chatham County Schools and was not eligible to continue contributing to the Retirement System. The intentional misrepresentation of the Associate Commissioner's employment may be a violation of North Carolina General Statute § 14-100, *Obtaining property by false pretenses*.

Retirement System personnel confirmed that there was no interruption in retirement contributions for the Associate Commissioner between May and June 2010. Retirement System personnel also confirmed that the Associate Commissioner's employer changed from the University of North Carolina at Chapel Hill<sup>5</sup> in May 2010 to Chatham County Schools in June 2010 although his salary remained the same. When it became an independent, non-profit organization in June 2010, the Athletic Association ended its affiliation with the University of North Carolina at Chapel Hill.

North Carolina General Statute §135-1(11) describes the employer of a contributing member in the Retirement System as one of the following:

...the State of North Carolina, the county board of education, the city board of education, the State Board of Education, the board of trustees of the University of North Carolina, the board of trustees of other institutions and agencies supported and under the control of the State, or any other agency of and within the State by which a teacher or other employee is paid.

Based on these legal requirements and the Associate Commissioner's status as an employee of the Athletic Association, he was ineligible to continue his monthly contributions to the Retirement System.

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<sup>4</sup> The Internal Revenue Service defines "employee" as "anyone who performs services for you...**if you can control what will be done and how it will be done**....What matters is that you have the right to control the details of how the services are performed." <http://www.irs.gov/businesses/small/article/0,,id=179112,00.html>

<sup>5</sup> State university whose employees are allowed membership in the Retirement System

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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On June 1, 2010, an agreement between the Chatham County Board of Education (School Board) and the Athletic Association regarding the Associate Commissioner's "employment" went into effect. The agreement included the following terms and conditions:

- the Athletic Association shall assign all duties and responsibilities for the Associate Commissioner
- the Athletic Association shall remain solely responsible for the Associate Commissioner's supervision, daily direction and control
- all services rendered by the Associate Commissioner will be for the benefit of the Athletic Association, not the School Board
- the Athletic Association will provide all salary and benefits for the Associate Commissioner

We believe these terms and conditions indicate that the Associate Commissioner was an employee of the Athletic Association, not Chatham County Schools. The agreement was initiated by the Athletic Association's Commissioner and the Superintendent of Chatham County Schools. The School Board also approved the agreement. The Chairperson of the School Board said the School Board approved the Associate Commissioner's inclusion on the Chatham County Schools payroll because the School Board's attorney reviewed the agreement, the Superintendent recommended approval of it, and there was no cost to Chatham County Schools.

Prior to the arrangement with Chatham County Schools, the Athletic Association developed a proposed Memorandum of Understanding with Orange County Schools in early 2010 to "become an affiliated educational unit" so that **all** Athletic Association employees would "become employees of [Orange County Schools]...to continue their present employee benefits...including participation in the State of North Carolina's defined-benefit retirement program." The Athletic Association would have still provided funds for all salaries and benefits for these employees. The Athletic Association presented the proposed Memorandum of Understanding to the Retirement System for consideration. In February 2010, the Retirement System concluded that Orange County Schools would not "control the [Athletic Association] employees," "hire...or fire, or otherwise direct their activities." As a result, the Retirement System determined that it "would not be able to recognize [Athletic Association] employees who are so affiliated with [Orange County Schools] as being eligible to participate in" the Retirement System.

In March 2010, the Athletic Association's Commissioner requested special permission from the Retirement System to continue **only** the Associate Commissioner's monthly contributions to the Retirement System. However, the Retirement System denied this request on the basis of the eligibility requirements for its contributing members. The Athletic Association's Commissioner said he facilitated the arrangement with Chatham County Schools to help the Associate Commissioner attain the retirement benefits associated with 30 years of State service.

## **FINDINGS AND RECOMMENDATIONS (CONTINUED)**

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In May 2010, the Associate Commissioner had 24 years of State service and an accumulation of 4,047 hours of sick leave. Based on the Associate Commissioner's years of service, sick leave hours, and his highest salary for 48 consecutive months prior to June 2010; his monthly retirement income would have been \$3,217.47 if he started receiving benefits when he reached 60 years of age. However, if the Associate Commissioner had continued his contributions until he reached 30 years of State service while maintaining the same level of compensation, his monthly retirement income would have increased to \$3,822.78. The Associate Commissioner said the reason he wanted to continue his contributions to the Retirement System until he reached 30 years of State service was to increase his monthly retirement income.

General Statute § 14-100 states that "If any person<sup>6</sup> shall knowingly and designedly by means of any kind of false pretense whatsoever . . . obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such . . . such person shall be guilty of a felony." If the value exceeds \$100,000, a violation is a Class C felony while a violation below that amount is a Class H felony. Because the Associate Commissioner, Commissioner, Athletic Association, and Chatham County Schools devised an arrangement that would enable the Associate Commissioner to receive a retirement benefit for which he was knowingly not eligible as an employee of the Athletic Association, the associated individuals and entities may have violated General Statute § 14-100.

### Retirement System Actions

In response to our initial inquiries about the activities described in this report, the Retirement System advised the Associate Commissioner and Chatham County Schools that monetary transfers from Chatham County Schools to the Retirement System on behalf of the Associate Commissioner should cease immediately. Additionally, the Retirement System reduced the Associate Commissioner's State service time by the number of months Chatham County Schools remitted retirement contributions on his behalf. Also, on August 25, 2011, the Retirement System returned \$4,689.59 (employee portion of improper contributions) directly to the Associate Commissioner.

## **RECOMMENDATION**

The North Carolina High School Athletic Association should terminate its agreement with Chatham County Schools to prevent future transfers of funds to Chatham County Schools on behalf of the Associate Commissioner. The Athletic Association's Board of Directors should exercise greater oversight and due diligence regarding agreements involving senior Athletic Association employees. The Athletic Association's Board should also consider taking disciplinary action against the Commissioner who initiated the arrangement and Associate Commissioner who benefited from it.

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<sup>6</sup> General Statute § 14-100(c) defines "person" as "person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

## **FINDINGS AND RECOMMENDATIONS (CONCLUDED)**

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Chatham County Schools should remove the Associate Commissioner from its employment payroll and should not make any additional contributions to the Retirement System on behalf of the Athletic Association's Associate Commissioner. The Chatham County Board of Education should exercise greater due diligence when approving individuals for employment with Chatham County Schools who have unusual position titles or responsibilities. The Chatham County Board of Education should also consider taking disciplinary action against the Superintendent for facilitating the approval of the arrangement.

Note: Finding referred to the District Attorney for North Carolina Judicial District 15B and the North Carolina State Bureau of Investigation.

## STATE AUDITOR'S NOTE

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Consistent with our standard practice, the Office of the State Auditor provided draft reports to the governing boards of the North Carolina High School Athletic Association (Athletic Association) and Chatham County Schools. A primary purpose of providing draft reports to responsible officials is to ensure that our reports are complete and objective. An equally important objective of providing draft reports to responsible officials is to include in the final report the corrective action the organization has taken or plans to take in response to the report's findings and recommendations.

Both the Athletic Association and Chatham County Schools elected to engage legal counsel to provide responses to our investigative report. Instead of an outline of corrective action, the responses from both attorneys attempt to rationalize the conduct of the Athletic Association and Chatham County Schools. Moreover, the responses include statements or implications that are misleading or inaccurate and warrant the following comments.

### Response on behalf of Chatham County Schools

The response on behalf of Chatham County Schools includes the statement, "*Neither the Board nor its Superintendent intended to mislead any person or entity.*" Yet, because Chatham County Schools included the Associate Commissioner for the Athletic Association on its payroll for nearly a year, the Retirement System assumed that the Associate Commissioner was an employee of Chatham County Schools when, in fact, he was not. The agreement between Chatham County Schools and the Athletic Association (see attached Appendix A, page 13) indicated that the Associate Commissioner performed no "services" for Chatham County Schools and explicitly noted that the Athletic Association "assigns all duties and responsibilities" and is "solely responsible for his supervision, daily direction, and control." Nonetheless, Chatham County Schools presented him as an employee to the Retirement System although he never met the definition of "employee."

The response also claims that "*As soon as the Board learned that the Retirement System did not approve of the arrangement..., the Board voluntarily corrected the mistake*" and "*When questions were raised, the Superintendent immediately called the Retirement System and learned, for the first time, that the arrangement was viewed differently...The Board and NCHSAA then immediately and voluntarily rescinded the contract.*" As such, the response attempts to indicate that Chatham County Schools proactively contacted the Retirement System. To the contrary, no such contact occurred until almost a year after the arrangement commenced and **after** we met with the Superintendent as part of our investigation on April 7, 2011. Later that month, Chatham County Schools submitted retirement contributions to the Retirement System on behalf of the Associate Commissioner. On May 2, 2011, Chatham County Schools sent an invoice to the Athletic Association requesting reimbursement for the Associate Commissioner's salary and benefits for April 2011. On May 6, 2011, the Superintendent spoke to officials from the Retirement System who advised him that Chatham County Schools should "immediately cease remitting retirement contributions" on behalf of the Associate Commissioner. This directive from the Retirement System was reiterated in a follow-up letter on May 12, 2011. The contract was not officially rescinded until May 31, 2011.

In addition, the response makes repeated references to "*virtually identical,*" "*seemingly identical,*" and "*virtually the same*" arrangements in attempting to compare Regional Educational Service Agencies (RESA), the North Carolina League of Municipalities, and the North Carolina

## STATE AUDITOR'S NOTE

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Association of County Commissioners to the arrangement devised for the Associate Commissioner. However, the arrangements between those organizations and the Retirement System received explicit approval from the Retirement System and are codified in State law. For example, employees of the League of Municipalities and Association of County Commissioners are specifically included in the Retirement System by virtue of North Carolina General Statute § 128-21. Chatham County Schools should have performed its due diligence and requested approval from the Retirement System; the failure to seek such approval suggests intentional deception or, in a light most favorable to Chatham County Schools, negligence. In addition, the exceptions for the above organizations included **all** employees of those organizations. If Chatham County Schools believed this arrangement was legitimate and similar to those arrangements, an exception would have been sought for all Athletic Association employees rather than just the Associate Commissioner.

The response on behalf of Chatham County Schools also attempts to portray the arrangement as “*an open and transparent*” matter. The response cites that the Chatham County Schools website “*clearly stated*” the Associate Commissioner’s “*role*” and “*affiliation with the NCHSAA...for easy public access.*” However, the only references to the Associate Commissioner are buried within the “Personnel Agendas” and “Meeting Files” for the specific Board meeting at which the arrangement was approved. Those documents simply list the Associate Commissioner’s name, title, educational and employment background, and hiring date; the same information is listed for every teacher and administrator approved for hire by Chatham County Schools at that meeting. There is no reference to his actual job duties or that this was a special arrangement outside the normal employment process. Further, a true open and transparent process would have included approval by the Retirement System that such an arrangement was permissible.

Finally, the response on behalf of Chatham County Schools includes a legal **opinion** that “*actions did not factually or legally violate N.C.G.S. § 14-100.*” It is important to note that the Office of the State Auditor did not make a determination of guilt or innocence regarding violations of State law. Our report includes the facts obtained during our investigation and those facts indicate that the referenced State law **may** have been violated. Therefore, we intend to refer those facts to the State Bureau of Investigation and the District Attorney for the jurisdiction where the alleged misconduct occurred in accordance with General Statute § 147-64B.

### *Response on behalf of the North Carolina High School Athletic Association, Inc.*

The response on behalf of the Athletic Association confirms that “*employees of the Association would no longer be eligible*” for the Retirement System, that “*a similar arrangement*” with Orange County Schools was denied by the Retirement System, and that the Athletic Association “*accepted the decision*” that being “*affiliated*” with a local school district would not be permissible to continue inclusion in the Retirement System. Given these agreed-upon facts and the prior requests for approval and rejection of “similar arrangements,” the Athletic Association knew it should have requested approval from the Retirement System but chose not to seek such approval.

## STATE AUDITOR'S NOTE

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Throughout its response, the Athletic Association argues that the arrangement would result in “no cost to the State or taxpayers.” However, the Retirement System receives State appropriations and benefits ultimately paid to retirees include State funds collected through taxes. As a result, the improper benefit the Associate Commissioner would have received *would have* cost the State and its taxpayers. In fact, had this investigation not been undertaken, the improper retirement contributions would have continued and the Associate Commissioner would have collected over \$600 per month in additional retirement benefits after achieving 30 years of State service. Just 10 years into retirement, the State would have inappropriately paid the Associate Commissioner \$72,637. After 13.7 years, the improper retirement benefits would have exceeded \$100,000.

Further, the Athletic Association’s response indicates that the Retirement System informed it that there was “no authority in the statutes [sic] which would permit” the Associate Commissioner to continue to participate in the Retirement System by “being allowed to ‘grandfather’ [the Associate Commissioner]’s membership...However nowhere did he indicate that an employee of the [Athletic Association]’s could not become affiliated with another qualified contributing member in the Retirement System, such as a ‘county board of education’.” However, the Athletic Association failed to contact the Retirement System to receive approval of the arrangement with Chatham County Schools and the Retirement System had previously denied a “similar arrangement” with Orange County Schools. Further, the Retirement System’s statement regarding “no authority” included no qualifiers for other situations that would permit his continued contributions. To the contrary, a clear line was drawn that his participation in the Retirement System ceased upon the Athletic Association’s split from the University of North Carolina (University). The Athletic Association argues that it was not denied approval of a request that it never submitted.

The Athletic Association’s response also attempts to draw comparisons between the arrangement with Chatham County Schools and agreements that some school districts have with Regional Educational Service Agencies (RESA). However, the arrangements between RESAs and local school districts received explicit approval by the Retirement System. The Athletic Association should have performed its due diligence and requested approval from the Retirement System; the failure to seek approval appears intentional considering the prior denials by the Retirement System. In addition, the exceptions for RESAs included **all** employees of those organizations. If the Athletic Association believed this arrangement was legitimate and similar to those arrangements, the Athletic Association would have created arrangements for all its employees instead of just the Associate Commissioner.

The Athletic Association’s response notes that the “contract” would enable the Associate Commissioner to “become an employee of Chatham County Schools, while retaining his duties and responsibilities to the [Athletic Association].” However, the Retirement System previously denied the arrangement with Orange County Schools because the local school system did not “control” the activities of the employees and the agreement (see Appendix A, page 13) with Chatham County Schools clearly indicated that the Athletic Association would control the day to day activities of the Associate Commissioner. In fact, the agreement stated that the Associate Commissioner performed no “services” for Chatham County Schools and explicitly noted that the Athletic Association “assigns all duties and responsibilities” and is “solely responsible for his

## STATE AUDITOR'S NOTE

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supervision, daily direction, and control.” Therefore, the Associate Commissioner was never an “employee” of Chatham County Schools. The creation of an employment “contract,” which included no consideration, does not change that fact.

The response also indicates that the arrangement with Chatham County Schools “*was the same basic arrangement that the [Athletic Association] had with [the University].*” However, the Athletic Association was actually a component of the University and **all** of its employees were considered University employees. Upon the split from the University, the Retirement System informed the Athletic Association that its employees could no longer participate in the Retirement System. In fact, that communication is what necessitated the entire process by which the Athletic Association attempted to devise a scheme to keep the Associate Commissioner in the Retirement System.

The Athletic Association’s response states that “*there was no false pretense involved as both sides fully understood the purpose of the contract with the [the Associate Commissioner], nor was there any ‘intent to cheat or defraud any person’ of ‘money, goods, property, services, chose in action or other thing of value’ as suggested in the Investigative Report.*” However, the false pretense was intentionally presenting the Associate Commissioner **to the Retirement System** as an employee of Chatham County Schools when both entities (Chatham County Schools and the Athletic Association) knew he was an employee of the Athletic Association and therefore **ineligible** to continue contributing to the Retirement System.

Furthermore, the response argues that the Athletic Association only “*knew...that the [Athletic Association] could not have all of its employees become affiliated with [Orange County Schools] nor could the [Athletic] Association ‘grandfather’ [the Associate Commissioner] into the [Retirement System].*” The Athletic Association further states “*in hindsight, it might have well been appropriate to have sought the approval...it was believed that the arrangement was a valid one.*” Again, the Athletic Association chose not to contact the Retirement System for approval after prior arrangements were denied in clear, precise terms regarding affiliation with other school districts as well as for this individual. The failure to request approval for the third method indicates a decision to move forward under the philosophy that “it is better to ask forgiveness rather than permission.”

Finally, the Athletic Association’s response asserts that “*when questions about the arrangement were first raised by the State Retirement Office [sic] and about the time your office began its inquiry into these matters, both the [Associate Commissioner] and the Chatham County Schools agreed to voluntarily terminate his contract.*” As such, the response attempts to indicate that the Athletic Association and Chatham County Schools proactively remedied the situation. However, payments were made to the Retirement System for over nine months including the April 2011 payment which was sent **after** the Office of the State Auditor notified the Athletic Association in April 2011 that the arrangement appeared improper. On May 6, 2011, the Athletic Association received an invoice from Chatham County Schools requesting reimbursement for the Associate Commissioner’s salary and benefits for April 2011. On that same day, the Chatham County Schools Superintendent spoke to officials from the Retirement System who advised him that Chatham County Schools should “immediately cease remitting retirement contributions” on behalf of the Associate Commissioner. This directive was reiterated in a follow-up letter on May 12, 2011. The contract was not officially rescinded until May 31, 2011.

**APPENDIX A**

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STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

**Agreement between Chatham County Board of Education  
and North Carolina High School Athletic Association, Inc.**

This Agreement is entered into between the Chatham County Board of Education ("Board") and the North Carolina High School Athletic Association, Inc. ("NCHSAA").

1. **Term.** This Agreement shall become effective on June 1, 2010 and shall remain in force until \_\_\_\_\_, unless sooner terminated as provided herein.
2. **Obligations of NCHSAA.**
  - a. NCHSAA will provide funding in the amount of \$99,028.52 to the Board to provide twelve months salary and benefits for Rick Strunk. *[Payment to the Board shall be made in 12 installments to be paid on or before \_\_\_\_\_].* This total funding amount shall include reimbursement for the following categories:

Salary:	\$84,017
Expenses:	NCHSAA, Inc. will cover directly with employee.
Health Insurance:	\$4,929.48
Disability Insurance:	Included in retirement cost.
Dental Insurance:	N/A
Vision Insurance:	N/A
Travel Costs:	NCHSAA, Inc. will cover directly with employee.
Death Benefit:	Included in retirement cost.
Retirement:	\$7,351.49
Vacation:	2.15 days per month
Sick Leave:	1 day per month
Longevity:	\$2,730.55
Total:	\$99,028.52

*NOTE: NCHSAA understands that the cost of longevity, health insurance and retirement contributions may change as a function of employee's salary and they assume any associated costs as a result.*

- b. NCHSAA shall assign all duties and responsibilities for Rick Strunk. The parties acknowledge that all services rendered by Rick Strunk will be for the benefit of the NCHSAA, not the Board. No partnership or agency is intended to be entered into by this Agreement. This Agreement does not create a joint venture or business partnership under North Carolina law. NCHSAA assumes full responsibility for all actions of Rick Strunk and shall remain solely responsible for his supervision, daily direction and

## APPENDIX A

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control, and all other like requirements and obligations, except as specifically noted herein.

- c. NCHSAA shall indemnify, defend and hold harmless the Board, its agents, and employees, from and against any and all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever, in whole or in part, resulting from or connected with this Agreement, including but not limited to court costs and attorney's fees incurred by the Board in connection with the defense of said matters. Such indemnification shall include repayment of any direct or indirect costs to the Board that result from any disability claim, worker's compensation claim, or any other claim filed against the Board by Rick Strunk or on his behalf.
- d. NCHSAA understands that it is solely responsible for any costs associated with workman's compensation claims made by Rick Strunk. Furthermore, upon resignation, termination, or retirement from Chatham County Schools, NCHSAA agrees to pay out Rick Strunk's leave time (includes vacation and bonus leave) in the amount of 30 days (240 hours) per Chatham County Schools' policy.

3. **Obligations of the Board.**

- a. The Board shall remit to Rick Strunk the funding amount provided to the Board by the NCHSAA, as designated in the categories pursuant to Paragraph 2(a), per year, as compensation for the services rendered to NCHSAA by Rick Strunk pursuant to Paragraph 2(b). These sums shall be payable in installments at such intervals as the Board pays its certified employees, and is subject to the termination provisions of Paragraph 5 herein.
- b. The Board shall be responsible for the withholding of all income taxes and social security from the amounts remitted to Rick Strunk pursuant to Paragraph 3(a).

4. **No Additional Obligations.** The Board shall incur no costs or financial obligations of any kind under this Agreement. Nothing in this Agreement shall be construed to create any right or entitlement on the part of NCHSAA or Rick Strunk or any other individual to any compensation, or request for funding, from the Board or any other person or entity, other than the funding provided to the Board by the NCHSAA as outlined in Paragraph 2(a).

5. **Termination.** Either party may terminate this Agreement at its option by giving the other party 30 days written notice. In the event of termination by either party, the Board shall refund to the NCHSAA any funds provided to the Board pursuant to Paragraph 2(a) but not yet remitted to Rick Strunk pursuant to Paragraph 3(a).

APPENDIX A

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6. **Other Provisions.** This Agreement shall be construed according to the laws of the State of North Carolina. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and may be modified only by a writing signed by both parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective legal representatives, successors, and assigns. If during the term of this contract, it is found that a specific clause of this contract is illegal under state or federal law, the remainder of the contract not affected by such a ruling shall remain in force.

In witness whereof, the authorized representatives of the parties have executed this Agreement.

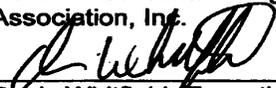
Chatham Public Schools Board of Education

 (SEAL)  
Deb McManus, Board Chair

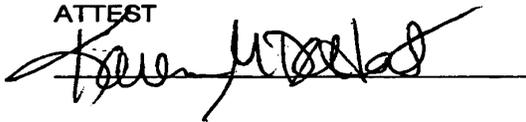
ATTEST

  
Dr. Robert Logan, Superintendent  
Secretary to the Board

North Carolina High School Athletic  
Association, Inc.

 (SEAL)  
Davis Whitfield, Executive Director

ATTEST



## APPENDIX A

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### ADDENDUM

In addition, NCHSAA, Inc. agrees to pay \$1.00 per month for the \$5,000 life insurance benefit offered through Chatham County Schools as part of this arrangement for a total of \$12/year.



Davis A. Whitfield, Executive Director

6-28-10

Date

**RESPONSE FROM THE NORTH CAROLINA HIGH SCHOOL  
ATHLETIC ASSOCIATION  
NOVEMBER 22, 2011**

The Honorable Beth A. Wood, CPA  
State Auditor  
2 S. Salisbury Street  
Raleigh, NC 27699-0601

Re: State Auditor's Investigation: North Carolina High School Athletic Association  
and Chatham County Schools

Dear Ms. Wood:

On behalf of the North Carolina High School Athletic Association, and its Board of Directors, Commissioner, and Associate Commissioner, I am writing to respond to the Findings, Conclusions and Recommendations contained in the Investigative Report initially prepared in September, 2011 by your office and then as modified in your transmittal of November 9, 2011. We understand that the Investigative Report was prepared in response to information received through the State Auditor's Hotline and the NCHSAA does appreciate the opportunity to have met with your investigators and to review and comment on this Investigative Report. We ask that you and they consider this response as you contemplate what further or future action, if any, should be taken in this matter.

**Background**

The North Carolina High School Athletic Association ("NCHSAA" or "Association") was established in its present form in 1947 and it is a voluntary, non-profit corporation which – with the consent and approval of the North Carolina Department of Public Instruction, administers the state's interscholastic athletic competitions in conformance with regulations adopted by the State Board of Education. Any North Carolina public or non-boarding parochial high school is eligible for membership as long as the school is accredited by the Department of Public Instruction and agrees to adhere to the rules and regulations of the NCHSAA. Currently there are 390 member schools in the NCHSAA.

Because the Association was initially conceived and established through the efforts of a professor at the University of North Carolina at Chapel Hill ("UNC-CH") in 1912, and because its employees were considered UNC-CH employees and its physical headquarters sit on property owned by the University of North Carolina at Chapel Hill, there has been a longtime affiliation between the Association and UNC-CH. Because of this affiliation, employees of the NCHSAA were able to have membership in the North

Carolina Teacher's and State Employees' Retirement System ("TSERS") through the University of North Carolina at Chapel Hill. Many of the senior level employees of the Association had been previously employed in public high schools in North Carolina prior to their employment with the NCHSAA and this benefit was a continuation of prior service. All funds for these employees were provided by the Association to UNC-CH for transmittal to the TSERS and there was no cost to UNC-CH.

In 2010, it was mutually agreed between UNC-CH and NCHSAA that the Association would become an independent 501(c)(3) non-profit corporation on or about June 1, 2010. One consequence of that decision was that the employees of the Association would no longer be eligible for TSERS through UNC-CH, although they would remain vested in all benefits they had earned up to that point. Because this had been a major benefit to the staff of the NCHSAA over the many years that its employees had been enrolled in that program, and as noted on page 6 of the Investigative Report there was an initial effort to see if a similar arrangement might be reached with a LEA and discussions were entered into by and between the NCHSAA and the Orange County Board of Education ("OCBOE") as the NCHSAA offices are physically located in Orange County. As noted in your report, a draft Memorandum of Understanding was devised in late 2009 to accomplish this purpose and it was submitted to the State Treasurer and State Retirement Office for review and approval. This MOU had been drafted with the consent and approval of the OCBOE's Superintendent, the Board's Attorney, the Commissioner of the NCHSAA and the undersigned as attorney for the NCHSAA. As your report correctly indicates, the Retirement System determined that it "would not be able to recognize (Athletic Association) employees who are affiliated with [Orange County Schools] as being eligible to participate in" the Retirement System. That MOU had anticipated that *all employees* of the NCHSAA would become affiliated with the OCBOE in the same manner that they had been previously affiliated with UNC-CH. Both the Association and the OCBOE accepted the decision of the State Retirement System and the effort for NCHSAA to become affiliated with the OCBOE was terminated.

One of the longest employed members of the NCHSAA staff who would be affected by this change was Mr. Rick Strunk, then Associate Executive Director of the Association for Special Programs. Mr. Strunk had 26.17 years of state service and benefits. Because of his age and good health, it was anticipated that Mr. Strunk would continue his employment with the NCHSAA, at least, through 30 years of continued service and perhaps longer. Because of his faithful and committed service to the Association over the years, the management and leadership of NCHSAA desired to find a method by which he could complete fewer than four years of service in a manner that would allow him to remain with the TSERS to be fully vested for 30 years of service at his retirement. Initially, and in an effort to see if this could be accomplished, the new Commissioner of the restructured NCHSAA, contacted Michael Williamson, Director of the North Carolina Retirement Systems, on March 5, 2010 inquiring as to whether or not there would be a method by which to "grandfather" Mr. Strunk so that he could remain in the TSERS system after the separation from UNC-CH effective June 1, 2010. As had been the case historically, he pointed out that the Association would accept all financial

responsibility for those contributions so that there would be no cost to the State or taxpayers of North Carolina for this continued and well earned benefit. On April 5, 2010, Mr. Williamson responded to Mr. Whitfield's inquiry about being allowed to "grandfather" Mr. Strunk's membership in the TSERS. According to Mr. Williamson, there was "no authority in the statues which would permit the TSERS to continue to allow Mr. Strunk to participate after the date on which the NCHSAA separates from the University of North Carolina at Chapel Hill (UNC-CH)." Copies of these emails are attached to this response as Exhibit A. In that exchange, Mr. Williamson made it clear that the NCHSAA could not "grandfather" into the TSERS one of its employees after it separated from UNC-CH. However, nowhere did he indicate that an employee of NCHSAA's could not become affiliated with another qualified contributing member in the Retirement System, such as "a county board of education." N.C.G.S. §135-1(11) and continue to make contributions for his/her retirement as had been done with UNC-CH. In discussion of this issue, it was learned that some members of the Board of Directors of the NCHSAA were familiar with what appeared to be similar arrangements with LEAs around the State.

One such relationship that presently exists involves Regional Education Service Alliances ("RESA"). These alliances provide assistance to local educational agencies ("LEAs") in a number of areas, including, curriculum, planning, facilities, and technology. Because a RESA is viewed as contributing to the betterment of educational opportunities in our public schools, several local Boards of Education have agreed to allow the employees of the RESA to be affiliated with and designated as employees of the LEA. Like the historic arrangement between UNC-CH and the NCHSAA, the affected RESA provides all the funds to the LEA with which it is associated for the salaries and employment related benefits of its affiliated employees, including contributions to TSERS while all supervision of the RESA employees is retained by the managers/directors of the RESA. The affected individuals are employees of the RESA, but, in part, because there is no cost to the LEA nor the taxpayers of North Carolina, these plans have been implemented and have existed for some time.

When the Commissioner learned from Mr. Williamson that there was no authority which would allow Mr. Strunk to be "grandfathered" into the TSERS by the NCHSAA, and after consultation with members of the Board of Directors of the Association, it was agreed to see if an arrangement similar to the RESA arrangements with a LEA could be accomplished for Mr. Strunk to enable him to reach full retirement benefits through his already vested funds with TSERS. Based on several factors and the long affiliation and involvement with the NCHSAA, it was decided to broach this subject with the Chatham County Board of Education through its Superintendent. As it developed, when Mr. Whitfield contacted the Superintendent about this possibility, he learned that he was aware of the relationship between RESAs and local boards of education through his own involvement in the Piedmont Triad Educational Consortium ("PTEC") where such a relationship already existed. In the belief that the NCHSAA assisted and benefited its member schools through its administration of interscholastic athletics in a manner similar to what a RESA provided, the Superintendent agreed to consult with his Board and the Board's attorney about the legality of agreeing to a similar arrangement with Mr. Strunk.

These discussions led to the preparation and execution of a contract between the Chatham County Board of Education and Mr. Strunk whereby he would become an employee of the Chatham County schools, while retaining his duties and responsibilities to the NCHSAA. Because the terms of the contract required that the NCHSAA would provide all of the funds necessary to pay Mr. Strunk's agreed upon salary and benefits to Chatham County Schools to fund these expenditures, there would be no costs to the Chatham County schools or the taxpayers. This was the same basic arrangement that the NCHSAA had historically had with UNC-CH and was consistent with the association of employees of various RESAs and local Boards of Education around the State. Upon the recommendation of the Superintendent, the Chatham County Board of Education approved this concept and a contract was *prepared* by the Board's attorney which was effective as of June 1, 2010. The discussions in regard to the terms of the contract were open and voluntarily agreed to by the NCHSAA and the Chatham County BOE and approved by the Board's attorney, who prepared the contract prior to being signed on behalf of the Board and by Mr. Strunk. This represented a good faith effort on the part of the NCHSAA and its Commissioner to help someone who had served the Association for over 25 years and its approval by the Superintendent, the Board and the Board's attorney seemed to justify this alternative arrangement. There was no false pretense involved as both sides fully understood the purpose of the contract with Mr. Strunk, nor was there any "intent to cheat or defraud any person" of "money, goods, property, services, chose in action or other thing of value" as suggested in the Investigative Report of your office. Conversely, these discussions were open and once the arrangement had been agreed upon and approved by all parties, this information was published on the web site of the Chatham County Board of Education so that any member of the public who wanted to view this information could do so. Clearly, there does not appear to have been an effort to misrepresent any of the factors in this decision.

The above recitation leads to a desire on the part of the NCHSAA to correct what we believe is a factual misrepresentation contained in the Investigative Report of November, 2011. On page 7, the authors of this Report have written: "Because the Associate Commissioner, Commissioner, Athletic Association, and Chatham County Schools devised an arrangement that would enable the Associate Commissioner to receive a retirement benefit for which *he was knowingly not eligible*, the associated individuals and entities may be guilty of violating N.C.G.S. §14-100." (emphasis added). What the Commissioner of the NCHSAA knew from the Director of the North Carolina Retirement System was that the NCHSAA could not have all of its employees become affiliated with the Orange County BOE nor could the Association "grandfather" Mr. Strunk into the TSERS. While in hindsight, it might well have been appropriate to have sought the approval of the State Treasurer or Retirement System of the proposed affiliation of Mr. Strunk with the Chatham County BOE, since it had been approved by the Chatham County Board of Education, its Superintendent and Board attorney, it was believed that the arrangement was a valid one.

Despite the fact that the contract of employment between the Chatham County schools and Mr. Strunk was deemed to be fair and appropriate by both the NCHSAA and the Chatham County Board of Education and was approved only upon advice of the

Board's counsel and recommendation of its Superintendent, when questions about the arrangement were first raised by the State Retirement Office and about the time your office began its inquiry into these matters, both Mr. Strunk and the Chatham County schools agreed to voluntarily terminate his contract so that no future payments would be made to the TSERS by the Chatham County schools for the benefit of Mr. Strunk using funds from the NCHSAA. In addition, and to fully cooperate with the investigation by your office as to whether or not there had been any intent to "defraud" or "deceive" any state agency by this contract, all interested parties have met with and fully cooperated with your office and its investigators in this matter.

In conclusion and on behalf of the Commissioner, Associate Commissioner and Board of Directors of the North Carolina High School Athletic Association, we would request that any reference to or inference that any party to this contractual relationship between the Chatham County schools and Mr. Rick Strunk may have engaged in criminal activity be removed from the report prior to its being made public as such a suggestion would tarnish and unnecessarily damage the reputations of individuals who work with and for two entities which exist to serve the public.

If you feel that there is any additional information that could be helpful in your consideration of this matter, please do not hesitate to let us know.

Yours very truly,

Handwritten signature of James B. Maxwell in cursive script, followed by the initials "LDR".

James B. Maxwell, Attorney

North Carolina High School Athletic Association

**EXHIBIT A**

Begin forwarded message:

**From:** Davis Whitfield <[davis@nchsaa.org](mailto:davis@nchsaa.org)>  
**Date:** May 9, 2011 9:10:16 AM EDT  
**To:** Karen Dehart <[karen@nchsaa.org](mailto:karen@nchsaa.org)>  
**Subject:** Fwd: NCHSAA employee and TSERS

Davis Whitfield  
*Commissioner*  
919-240-7365  
[davis@nchsaa.org](mailto:davis@nchsaa.org)

North Carolina High School Athletic Association  
[www.nchsaa.org](http://www.nchsaa.org)



Begin forwarded message:

**From:** "Michael Williamson"  
<[Michael.Williamson@nctreasurer.com](mailto:Michael.Williamson@nctreasurer.com)>  
**Date:** April 5, 2010 6:41:26 PM EDT  
**To:** "Davis Whitfield" <[davis@nchsaa.org](mailto:davis@nchsaa.org)>  
**Cc:** "David Vanderweide"  
<[david.vanderweide@nctreasurer.com](mailto:david.vanderweide@nctreasurer.com)>, "Debra Bryan"  
<[Debra.Bryan@nctreasurer.com](mailto:Debra.Bryan@nctreasurer.com)>, "Joyce Rutledge"  
<[Joyce.Rutledge@nctreasurer.com](mailto:Joyce.Rutledge@nctreasurer.com)>  
**Subject:** RE: NCHSAA employee and TSERS

Dear Mr. Whitfield:

I apologize for being so long in responding to your recent inquiry regarding

the North Carolina High School Athletic Association (NCHSAA) becoming an independent entity and no longer being eligible for membership in the Teachers and State Employees' Retirement System (TSERS). You questioned whether Mr. Raymond Strunk would be allowed to "grandfather" his membership in the TSERS.

There is no authority in the statutes which would permit the TSERS to continue to allow Mr. Strunk to participate after the date on which NCHSAA separates from the University of North Carolina at Chapel Hill (UNC-CH). He will not lose any of his creditable service or contributions. He could still retire with reduced benefits under early retirement or with unreduced benefits once he reaches age 60. Under the current State Health Plan provisions, Mr. Strunk would also be eligible for the group retiree health coverage when he commences his retirement benefits. The coverage would be effective the first day of the month following the effective date of his retirement benefits.

An application for retirement must be filed at least one day and no more than 120 days prior to the effective date. All retirements are effective on the first day of the month. If contributions are made to the TSERS for employees for the NCHSAA for compensation earned in the month of June, the earliest effective date of retirement would be July 1, 2010. The forms to apply for your retirement benefits can be found on our website at: <http://www.nctreasurer.com/DSTHome/RetirementSystems/Retirement+Application+Forms.htm>

If you have any further questions, please let us know.

Sincerely,

Michael Williamson

Michael Williamson, Director  
North Carolina Retirement Systems &  
Interim Chief Investment Officer  
325 N. Salisbury Street  
Raleigh, NC 27603-1385  
Phone: (919) 508-5377  
Fax: (919) 508-1022  
web: [www.myncretirement.com](http://www.myncretirement.com)

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law. It may be subject to monitoring and disclosed to third parties, including law enforcement personnel, by an authorized state official.

IMPORTANT: When sending confidential or sensitive information, encryption should be used.

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**From:** Davis Whitfield [mailto:[davis@nchsaa.org](mailto:davis@nchsaa.org)]  
**Sent:** Sunday, March 14, 2010 9:44 PM  
**To:** Davis Whitfield  
**Cc:** Michael Williamson; David Vanderweide  
**Subject:** Re: NCHSAA employee and TSERS

9/22/2011

Mr. Williamson and Mr. Vanderweide:

Good evening, I hope you are having a nice end to your weekend. It was finally warm enough to get outside and enjoy the sunshine.

I write this follow up email in hopes to initiate a response to my email request on March 5. If this form of communication is inadequate, please advise and I will place my request in the proper format.

Again, I ask you to consider my request for Rick Strunk and his continuance in the TSERS program following the NCHSAA's separation from UNC effective June 6. I have outlined the history below and ask for your consideration of this request.

Thank you in advance for your attention to this matter.

Davis Whitfield  
Executive Director  
North Carolina High School Athletic Association  
919-962-7788  
Fax: 919-962-4438  
[davis@nchsaa.org](mailto:davis@nchsaa.org)

Mailing Address:  
PO Box 3216  
Chapel Hill, NC 27515

Physical Address:  
222 Finley Golf Course Rd  
Chapel Hill, NC 27514

On Mar 5, 2010, at 5:41 PM, Davis Whitfield wrote:

Mr. Williamson:

For over 95 years, the North Carolina High School Athletic Association (NCHSAA) has been affiliated with the University of North Carolina at Chapel Hill (UNC). Initially started as a part of the Extension Division at UNC, the NCHSAA employees have been considered state employees and as such, have received state benefits including health insurance and participation in the TSERS program. The Association has been responsible for paying the state portion of these benefits through a trust account set-up at UNC; therefore, we have not been a financial drain on the state. UNC operates the payroll and administrative aspects of the retirement and health benefits for our 15 staff members and the NCHSAA pays the costs.

9/22/2011

However, effective June 6, 2010, the North Carolina High School Athletic Association will separate from UNC and become an independent 501©(3) entity. Consequently, our staff will no longer receive the state employee benefits that have been in place since our inception. Particularly, one staff member, Raymond Strunk, has approximately 26 years in the TSERS program with only four years left to fulfill the number of years needed to retire with full benefits. We are seeking some manner in which to "grandfather" Mr. Strunk so that he may remain in the benefits and TSERS system. The NCHSAA will commit to pay these benefits as has been customary but the fact that he will no longer be allowed to participate as a result of this separation has severe consequences.

Any guidance and assistance in this matter is greatly appreciated.

Thank you in advance for your consideration.

Sincerely,

Davis A. Whitfield  
Executive Director

0/22/2011

# RESPONSE FROM CHATHAM COUNTY SCHOOLS

## CHESHIRE PARKER SCHNEIDER & BRYAN, PLLC ATTORNEYS AT LAW

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OF COUNSEL  
THOMAS R. CANNON ±

◆ CERTIFIED LEGAL ASSISTANT  
Δ NORTH CAROLINA STATE BAR  
CERTIFIED PARALEGAL

+ BOARD CERTIFIED SPECIALIST IN CRIMINAL LAW  
± BOARD CERTIFIED SPECIALIST IN FAMILY LAW  
\* DRC CERTIFIED MEDIATOR  
◆ BOARD CERTIFIED CRIMINAL TRIAL ADVOCATE (NBTA)

November 23, 2011

Beth A. Wood, CPA  
Office of the State Auditor  
2 S. Salisbury Street  
Raleigh, North Carolina 27601

\*Via Hand Delivery

Dear Ms. Wood:

This letter is written on behalf of and with the support of the Chatham County School Board and its Superintendent, Robert Logan, as a response to the final draft of your office's investigation into the agreement between the North Carolina High School Athletic Association and the Chatham County School Board. While the Board now recognizes that it was incorrect, at the time it acted in placing Mr. Stunk on its employment roles in order to facilitate his continued participation with the Retirement System, the Board reasonably believed that the arrangement outlined in the audit report would be acceptable to the Retirement System at the time it was entered. At that time, both the Board and the Superintendent clearly believed, with good reason, that the arrangement was proper. Neither the Board nor its Superintendent intended to mislead any person or entity. As soon as the Board learned that the Retirement System did not approve of the arrangement between the Board and the NCHSAA, the Board voluntarily corrected the mistake. Nonetheless, while Chatham County was never impacted by the action, the Board will exercise greater care to ensure compliance with Retirement System policies.

### FACTUAL BACKGROUND

Around April 2010, the Director of the North Carolina High School Athletic Association ("NCHSAA")—a reputable organization that for decades has provided significant assistance to public schools throughout the State—approached the Superintendent of the Chatham County Board of Education ("Board") to ask the Board to consider the arrangement. The Director of

NCHSAA assured the Superintendent that doing so would not require the expenditure of any Chatham County funds.

At this time, the Superintendent knew of multiple instances of virtually identical arrangements in place throughout the state, and the Superintendent was not aware that NCHSAA had previously contacted the Orange County Board of Education about a different variation of the arrangement, which was denied by the Retirement System. Upon receiving the request from the NCHSAA, and without knowledge of the denial of the Orange County agreement, the Superintendent then contacted the Board's attorney, explained the proposed plan, and sought advice. Thereafter, the Board's attorney drafted a contract to establish the arrangement, and the Board approved the contract. At no time was the Superintendent or any member of the Board informed this arrangement would be unacceptable, nor did they have reason to so believe.

When questions were raised, the Superintendent immediately called the Retirement System and learned, for the first time, that the arrangement was viewed differently than the other (seemingly identical) arrangements. The Board and NCHSAA then immediately and voluntarily rescinded the contract.

**BECAUSE SIMILAR ARRANGEMENTS EXISTED BETWEEN OTHER GROUPS THROUGHOUT THE STATE, THE BOARD OF EDUCATION REASONABLY BELIEVED THE ARRANGEMENT WAS PROPER**

Multiple instances of virtually the same arrangement exist throughout the State. One example is the arrangement between the Piedmont-Triple Educational Consortium ("PTEC")—a Regional Educational Service Agency ("RESA") that aids school districts throughout the Piedmont region—and the Thomasville City Schools. The Thomasville City School Board lists PTEC employees on its payroll for the sole purpose of allowing PTEC to contribute to the Retirement System on its employees' behalf. A second example is the arrangement between the South Eastern RESA, which partners with Duplin County Schools for the same purpose.

Such arrangements exist outside of the school context as well. For example, a *News and Observer* article<sup>1</sup> discussed two groups that participate in the Retirement System:

*[T]he N.C. League of Municipalities . . . [and the] N.C. Association of County Commissioners . . . are allowed to participate in a public pension plan despite their stance that they are not public agencies.*

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<sup>1</sup> <http://www.newsobserver.com/2011/07/07/1326470/salaries-for-local-government.html>

Prior to approving the arrangement here at issue, the Superintendent, the Board's attorney, and the Board were aware of these other arrangements. Therefore, when acting, these parties believed that the arrangement was proper, and this belief was reasonable.

**THE ACTION WAS TAKEN IN THE ORDINARY COURSE OF BUSINESS AND POSTED ON THE BOARD'S WEBSITE WITH MR. STRUNK'S ROLE CLEARLY STATED, SHOWING THAT THE BOARD CONDUCTS ITS BUSINESS, INCLUDING THIS TRANSACTION, IN AN OPEN AND TRANSPARENT MANNER**

In putting the agreement into effect, the Board members acted in the ordinary course of business and promptly posted documentation of the action, including Mr. Strunk's affiliation with the NCHSAA, on the Board's website, where it remains available for online public access to this day.

Acting in the normal course of business and posting records of such activity online for easy public access shows that the Board believed that it was acting properly. It also indicates that neither the Board nor any of its employees attempted or intended to mislead. Again, upon the first indication that the arrangement was not acceptable to the Retirement System, the Board undertook immediate and voluntary action to correct the mistake, and that mistake has been corrected.

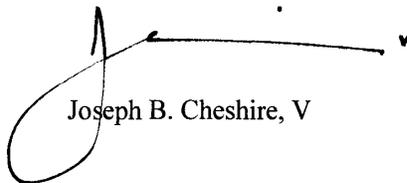
**CONCLUSION**

The Board appreciates the efforts of the Office of the State Auditor to ensure all agencies understand Retirement System policies. The full facts and law involved in this matter have been reviewed by the undersigned whose opinion, as he has informed the Board and its Superintendent, is that their actions did not factually or legally violate N.C.G.S. § 14-100. While the Board clearly did not violate any law, it appreciates this situation being brought to its attention so it could be corrected promptly. The Board also appreciates the support it has received from Chatham County citizens over the years and throughout this process.

Thank you for your time and consideration.

Sincerely,

CHESHIRE PARKER SCHNEIDER &  
BRYAN, PLLC



Joseph B. Cheshire, V

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## ORDERING INFORMATION

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Copies of this report may be obtained by contacting the:

Office of the State Auditor  
State of North Carolina  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, North Carolina 27699-0601

Internet: <http://www.ncauditor.net>

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Facsimile: 919/807-7647