

STATE OF NORTH CAROLINA

INVESTIGATIVE REPORT

NORTH CAROLINA CENTRAL UNIVERSITY

DURHAM, NORTH CAROLINA

APRIL 2014

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

EXECUTIVE SUMMARY

PURPOSE

The Office of the State Auditor received an allegation concerning an employee who received inappropriate payments for services related to the rental of North Carolina Central University (University) athletic facilities.

BACKGROUND

The University athletic department rents some of its facilities to non-university organizations. Rental contracts require the presence of a University employee to serve as an on-site monitor for non-university organization events. The University foundation's purpose is to support the University's mission through private gifts and donations.

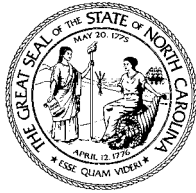
KEY FINDINGS

- An athletic department employee served as an event monitor and was paid directly by non-university organizations rather than through the University payroll system in violation of State personnel policies.
- The revenue produced from the rental of state-owned properties was improperly deposited into the University foundation's accounts

KEY RECOMMENDATIONS

- University management should evaluate athletic facility rental policies to ensure consistency with other University practices and consult with legal counsel and the Office of State Human Resources to determine what action is needed concerning the improper payments made to the employee.
- University management should review all athletic department accounts to ensure that non-gift revenue is not deposited into foundation accounts.

The key findings and recommendations in this summary are not inclusive of all findings and recommendations in this report.



Beth A. Wood, CPA
State Auditor

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Office of the State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Pat McCrory, Governor
Members of the North Carolina General Assembly
Dr. Debra Saunders-White, Chancellor, North Carolina Central University
Dr. Dwight D. Perry, Chair, Board of Trustees, North Carolina Central University
Mr. Thomas W. Ross, President, The University of North Carolina
Mr. Peter D. Hans, Chairman, Board of Governors, The University of North Carolina

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed an investigation of allegations concerning the operations of North Carolina Central University. The results of our investigation, along with a recommendation 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). We appreciate the cooperation of the management and employees of North Carolina Central University during our investigation.

Respectfully submitted,

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

Beth A. Wood, CPA
State Auditor

April 7, 2014

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
ORGANIZATION OVERVIEW	3
FINDINGS AND RECOMMENDATIONS	5
RESPONSE FROM NORTH CAROLINA CENTRAL UNIVERSITY	9
ORDERING INFORMATION	11

INTRODUCTION

The Office of State Auditor received allegations through the *State Auditor's Hotline* concerning the rental of North Carolina Central University athletic facilities. The complaint alleged an employee received inappropriate payments for services related to athletic facilities rentals.

The investigation of this allegation included the following procedures:

- Review of university and state personnel policies as well as North Carolina General Statutes
- Review of university policies related to rental of campus facilities
- Interviews of university employees, management, and Office of State Human Resources personnel
- Examination and analysis of available supporting documentation related to the work performed and payment sources

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

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ORGANIZATION OVERVIEW

North Carolina Central University

North Carolina Central University (University) was founded in 1910 as the nation's first public liberal arts university for African-Americans. The University enrolls approximately 8,200 students and employs more than 1,800 faculty and staff. The University is one of 17 constituent institutions in the University of North Carolina system. The University offers bachelor's degrees in more than 100 fields and awards graduate degrees in approximately 40 disciplines. The University is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. A 13-member Board of Trustees oversees its operations at the institutional level. The University's Chancellor and other senior administrators manage day-to-day operations.

Athletic Department

North Carolina Central University began participating in athletic competition during the same academic year the University started operating. The University sponsors 14 varsity intercollegiate sports teams. The offices for the athletic department are housed in the McDougald-McLendon Gymnasium. The athletic teams use six facilities (O'Kelly-Riddick Stadium, McDougald-McLendon Gymnasium, Track and Field, Dr. James W. Younge Tennis Courts, Durham Athletic Park, and Parkwood Athletic Field) located around the city of Durham, N.C.¹ O'Kelly-Riddick Stadium, McDougald-McLendon Gymnasium, and the Track and Field facilities are available for rental to campus and non-campus organizations.

North Carolina Central University Foundation, Inc.

The North Carolina Central University Foundation, Inc. (Foundation) is a 501(c) 3 tax-exempt entity that supports the operations of the University. The Foundation was created in June 1972 "to foster and promote the growth of higher education in North Carolina and specifically North Carolina Central University...to encourage, solicit, receive and administer gifts and bequests of property...for the use or benefit of North Carolina Central University."² A volunteer board of directors governs the Foundation's activities.

¹ <http://nccueaglepride.com/sports>

² North Carolina Central University Foundation, Inc.'s Articles of Incorporation

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FINDINGS AND RECOMMENDATIONS

1. SUPPLEMENTAL COMPENSATION VIOLATED STATE POLICY

A North Carolina Central University (University) Athletic Department employee received supplemental compensation from non-university organizations for work performed as an “Event Monitor.” When non-university organizations rent the University’s athletic facilities, the organization must have a University employee oversee or monitor the event. Over a three-year period, the employee received \$8,230 in additional compensation for serving as the Event Monitor. The payments violated a state policy that restricts employees from receiving such additional compensation.

The employee’s job title is “Facility and Events Coordinator” (Coordinator) and his position is classified as an Accounting Technician. His job duties include providing support to the Athletics business office by maintaining and reporting financial accounting information. His position is classified as a State Personnel Act Non-Exempt (SPA) employee and therefore, he is subject to overtime compensation provisions.

The Coordinator said that in addition to his accounting duties, he manages the rental of the Athletic Department’s facilities. From September 2010 through October 2013, the Coordinator was the only Athletic Department employee who oversaw the facility rental events and received a total of \$8,230 in additional compensation during this period.

Rental of Athletic Department Facilities

During the period under review, numerous non-university organizations rented athletic facilities at the University. The Coordinator reviewed and approved requests for facility rentals. Facility rental contracts included all fees, services, and equipment needed for each event.

According to the University’s facility use policy “Security and athletic personnel will always be required” and “the requestor must pay the expenses for the compensation of those personnel.” The Coordinator serves as the Event Monitor for these non-university organization events. Campus organizations are not required to have an “Event Monitor” because they are required to have a faculty advisor overseeing the event.

Under the terms of the facility rental agreement, when the Coordinator served as the Event Monitor, non-university organizations paid him, as well as off-duty police officers, directly by check. The University was paid separately for all other associated fees. According to the University Athletic Director, the Event Monitor was paid directly because off-duty police officers were also paid directly³ and she assumed it was appropriate.

³ Federal Wage and Hour Division, Labor § 553.27 (a) Section 7(p)(1) Outside Employment- “makes special provision for fire protection and law enforcement employees of public agencies who at their own option, perform special duty work in fire protection, law enforcement or related activities for a separate and independent employer (public or private) during their off-duty hours. The hours of work for the separate and independent employer are not combined with the hours worked for the primary public agency employer for purposes of overtime compensation.”

FINDINGS AND RECOMMENDATIONS

However, because the work involved services related to the Coordinator's normal duties and because state personnel policy prohibits such payments to SPA Non-Exempt employees, the separate payments were inappropriate. The event monitoring fees should have been included in the total facility rental payment to the University. Then, the Coordinator should have been paid for his services through the normal payroll process following state guidelines related to overtime compensation.

According to the State Personnel Manual, Section 4, *“For employees whose regular work schedule is 40 hours per week, the employee shall receive straight-time pay for a standard 40-hour workweek, with the provision that:*

- *an additional amount equal to 1½ times the employee's regular hourly rate times the number of hours worked in excess of 40 shall be added to the base pay or.*
- *an employee shall be given compensatory time off on the basis of 1 ½ times the amount of time worked beyond 40 hours during a week.”*

Also, the State Personnel Manual, Section 4, defines hours worked: *Generally, all time during which an employee is required, suffered, or permitted to be on the employer's premises on duty or at a prescribed work place, except for meals or other periods when the employee is free from duty, is considered as hours worked.*

RECOMMENDATIONS

University management should provide guidance to the Athletic Department concerning personnel policies as they relate to State Personnel Act and wage and hour requirements.

University management should evaluate current athletic facility rental policies. Policies related to the rental of Athletic Department facilities should be consistent with other University facility rentals.

Although the payments made to the employee were not state funds, University management should calculate the amount of overtime pay the employee should have received to determine if the employee was overpaid or is entitled to additional compensation. Upon completion of the determination, University management should consult with legal counsel and the Office of State Human Resources concerning any additional action.

2. ATHLETIC FACILITY RENTAL REVENUE HELD IN FOUNDATION ACCOUNTS

University officials improperly deposited revenue generated from the rental of University athletic facilities into North Carolina Central University Foundation (Foundation) accounts. The funds were deposited in accounts intended to maintain gifts and donations to support the University's Athletic Department. Proceeds derived from a revenue-generating program

FINDINGS AND RECOMMENDATIONS

that is outside the Foundation's mission, may violate the Foundation's Articles of Incorporation and could jeopardize the Foundation's tax-exempt status.

From September 2010 through October 2013, the Athletic Department collected \$31,215 from athletic facilities rentals and deposited the funds into Foundation accounts. The rental proceeds were generated using state owned facilities and resources. As a result, the proceeds are considered state funds and not a gift or donation. The funds should have been deposited into a University maintained account and used to offset the cost of operating the athletic facilities.

The purpose of the Foundation is to support higher education at North Carolina Central University. According to the organization's Articles of Incorporation, the mission is "**to encourage, solicit, receive and administer gifts and bequests of property...** [emphasis added] for the use or benefit of North Carolina Central University." The proceeds from facility rentals deposited into the Foundation's accounts were not derived from gifts or donations. Revenue from facility rentals could be characterized as Unrelated Business Income⁴ under Internal Revenue Service guidelines triggering tax implications for the Foundation.

The Athletic Director said University officials decided in 2005 to reclassify the athletic program to Division I. This move required a five-year transition process which created the need for more athletic teams, increased athletic grant-in aids, and enhancement to the athletic facilities. For these requirements to be met, the Athletic Department needed to increase revenues. The Athletic Director evaluated various options and determined that the rental of the University's athletic facilities was a common source of revenue at other institutions.

Athletic facilities rentals had already been taking place. However, the Athletic Director said that in 2010 they "started intentionally renting out athletic facilities as a revenue source...with a goal to generate \$20,000 in revenue per year." The Athletic Director said she did not consult with University officials concerning the proper accounting for the rental revenue because "I did whatever the University was doing at the time" and did not realize it was handled improperly.

The Associate Athletic Director for Business and Finance said the revenue was deposited into the Foundation rather than a University account because "It was what we were doing originally and then at the end of the year, money transferred over to the University side." The rental proceeds were then applied to the athletic budget. However, we determined that funds were only transferred if needed to cover a budget deficit and any excess remained with the Foundation.

⁴ According to the Internal Revenue Service Publication 598, Unrelated Business Income "is the income from a trade or business regularly conducted by an exempt organization and not substantially related to the performance by the organization of its exempt purpose or function, except that the organization uses the profits derived from this activity." <http://www.irs.gov/pub/irs-pdf/p598.pdf>

FINDINGS AND RECOMMENDATIONS

RECOMMENDATIONS

University management should review all Athletic Department accounts maintained by the Foundation to ensure that all non-gift revenue is deposited directly with the University.

Athletic Department officials should be instructed on the proper purpose and use of Foundation accounts.



Office of the Chancellor

James E. Shepard

April 1, 2014

Ms. Beth A. Wood, CPA, State Auditor
Office of the State Auditor
2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Ms. Wood:

Thank you for the opportunity for North Carolina Central University (NCCU) to respond to your investigative report. This institution values truth and service and takes seriously your recommendations associated with the investigation of a Department of Athletics employee receiving supplemental compensation that violated state policy, as well as athletic facility use revenues held in NCCU Foundation accounts. From the moment we were contacted by your Special Investigations team, we immediately identified the internal control weaknesses surrounding these incidents and have implemented additional procedures to further reduce our risk of any future exposure.

Please find enclosed our responses to your recommendations. We do concur, and our Internal Audit Office will ensure these corrective actions have been implemented.

We appreciate the level of professionalism the Special Investigations team has exuded throughout this process.

Sincerely,

Dr. Debra Saunders-White
Chancellor

Enclosure: NCCU's Response to the April 2014 Investigative Report

CC: Mr. Linc Butler, Chief Human Resource Officer
Ms. Ivanna L. Cole, Director of Internal Audit
Mr. Walter Davenport, Interim Vice Chancellor for Administration and Finance
Ms. Melissa Jackson-Holloway, General Counsel
Mr. Wendell Phillips, Chief of Staff
Dr. Ingrid Wicker-McCree, Athletic Director

Response to Finding 1, Supplemental Compensation Violating State Policy

The University has provided consistent and steady guidance related to employment classifications and their related impact on compensation to the Department of Athletics. In August 2011, administrative personnel provided to Athletics a detailed work session surrounding proper university operating procedures, including compensation of staff. Annually, administrative workshops are provided to the entire campus regarding operating procedures. The Department of Athletics received additional training regarding human resource management in December 2013.

The University has operated using a centralized facilities use process through the Special Events department within Facilities Services for numerous years. This office utilizes a standardized contract and invoice for use of university facilities. Funds are centrally collected by Special Events and deposited within the University. Any personnel that must be compensated is done so through University payroll. The Department of Athletics has been re-trained on facilities use policies several times in the last six months and will now utilize the University's Special Events department.

The University's Internal Audit Office has been engaged to assist University management in calculating the amount of overtime pay or compensatory time the employee should have received to determine whether or not the employee was overpaid or is entitled to additional compensation. Management will consult with Legal Affairs and Human Resources concerning remediation.

Response to Finding 2, Athletic Facility Rental Revenue Held in Foundation Accounts

The Foundation no longer accepts and manages non-gift receipts after an immediate cease and desist directive from the University Chancellor. The University and the Foundation have reviewed all accounts within the Foundation to ensure that only those that are gifts or donations are held by the Foundation and, as appropriate, are in the process of transferring any other funds to the University. In addition to those actions, the University re-issued a Financial Memorandum in November 2013 providing additional guidance on administrative and financial practices, which included clear guidance on proper processing of non-gift receipts.

The Department of Athletics has been instructed on the proper purpose and use of Foundation accounts during training sessions, meetings and via telephone conversations. However, University leadership will continue to monitor the department's financial activities as well as provide supplemental instruction to both Athletics and the campus at-large.

Lastly, specific instructions have been administered to the Athletic Director and the Associate Athletic Director for Business and Finance to ensure that consultations are held with the University's Vice Chancellor for Administration and Finance prior to making unilateral financial decisions that are not consistent with campus policies and procedures.

ORDERING INFORMATION

Copies of this report may be obtained by contacting the:

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Raleigh, North Carolina 27699-0601

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To report alleged incidents of fraud, waste or abuse in state government contact the:

Office of the State Auditor Fraud Hotline: 1-800-730-8477

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<https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745>

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