

STATE OF NORTH CAROLINA

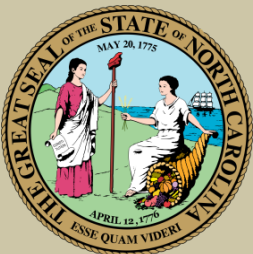
OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



STATE BOARD OF EDUCATION

RALEIGH, NORTH CAROLINA

INVESTIGATIVE REPORT
APRIL 2021



NCOSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The Office of the State Auditor initiated an investigation in response to a Hotline allegation regarding improper contracting practices by the Chairman of the State Board of Education (Chairman).

BACKGROUND

The State Board is responsible for "supervising and administering the free public-school system and the educational funds provided for its support."¹ The State Board provides adequate checks and balances to maintain a clear line of authority, to provide a balance of power for the education system, and to avoid total control by the executive and legislative bodies.²

The Southern Regional Education Board (SREB) is a regional nonprofit interstate compact for education. It is funded by member appropriations from 16 states³ including North Carolina, as well as by contracts and grants from foundations and from local, state and federal agencies. SREB works with states to improve public education at every level, from early childhood through doctoral education. It helps policymakers such as state legislators and education agency officials to make informed decisions by providing independent, accurate data and recommendations. In addition, SREB conducts research, collects and analyzes data, publishes reports and recommends actions on current and emerging issues.⁴

KEY FINDING

The Chairman of the State Board of Education signed a contract without required approvals.

KEY RECOMMENDATION

The Chairman of the State Board of Education should review and adhere to policies and procedures for contracts to ensure all proper approvals and signatures are obtained.

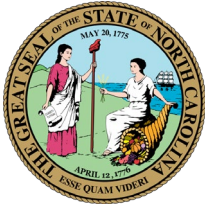
¹ <https://simbli.eboardsolutions.com/AboutUs/AboutUs.aspx?S=10399&TID=1>

² <https://stateboard.ncpublicschools.gov/about-sbe/history/chapter-nine>

³ SREB's members are Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

⁴ <https://www.sreb.org/about>

STATE OF NORTH CAROLINA
Office of the State Auditor



Beth A. Wood, CPA
State Auditor

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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Eric Davis, Chairman, State Board of Education

Ladies and Gentlemen:

Pursuant to *North Carolina General Statutes §147-64.6(c)(16)* and *§147-64.6B*, we have completed an investigation of allegations concerning the State Board of Education. 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)*. We appreciate the cooperation received from the management and employees of the State Board of Education during our investigation.

Respectfully submitted,

A handwritten signature in black ink that reads "Beth A. Wood".

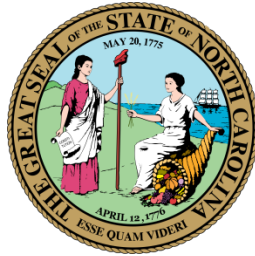
Beth A. Wood, CPA
State Auditor



Beth A. Wood, CPA
State Auditor

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BACKGROUND

The Office of the State Auditor initiated an investigation in response to a Hotline allegation regarding improper contracting practices by the Chairman of the State Board of Education (Chairman).

Our investigation of this allegation included the following procedures:

- Review of State Board of Education (State Board) policies and procedures
- Examination and analysis of available documentation related to the contract
- Interviews with personnel from the State Board, the Department of Public Instruction, and the Southern Regional Education Board

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

The State Board is responsible for "supervising and administering the free public-school system and the educational funds provided for its support." Board members include the Lieutenant Governor, the State Treasurer, and 11 other members appointed by the Governor and confirmed by the Legislature in joint session. The eleven gubernatorial appointees serve eight-year terms; the two ex-officio members' terms coincide with the term of their respective offices.⁵ The Chairman of the State Board is elected by the State Board membership and presides at all State Board meetings.⁶

The State Board exists to make sure that the opinions of the public are considered. The State Board provides adequate checks and balances to maintain a clear line of authority, to provide a balance of power for the education system, and to avoid total control by the executive and legislative bodies. The policies developed by the State Board set the direction for all aspects of Department of Public Instruction and local public-school organization and operations.⁷

The Southern Regional Education Board (SREB) is a regional nonprofit interstate compact for education. It was created in 1948 by southern governors and legislators who recognized the link between education and economic vitality. It is funded by member appropriations from 16 states⁸ including North Carolina, as well as by contracts and grants from foundations and from local, state and federal agencies. SREB works with states to improve public education at every level, from early childhood through doctoral education. It helps policymakers such as state legislators and education agency officials to make informed decisions by providing independent, accurate data and recommendations. In addition, SREB conducts research, collects and analyzes data, publishes reports and recommends actions on current and emerging issues.⁹

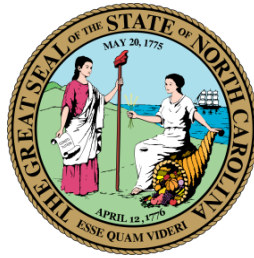
⁵ <https://simbli.eboardsolutions.com/AboutUs/AboutUs.aspx?S=10399&TID=1>

⁶ *North Carolina General Statute §115C-11(a)*

⁷ <https://stateboard.ncpublicschools.gov/about-sbe/history/chapter-nine>

⁸ SREB's members are Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

⁹ <https://www.sreb.org/about>



FINDING AND RECOMMENDATION

CONTRACT SIGNED WITHOUT APPROVALS

The Chairman of the State Board of Education (Chairman) signed a \$30,822 contract in violation of State Board of Education (State Board) policy. As a result, there is an increased risk that the Department of Public Instruction (Department) could be obligated to a contract that is not in its best interest. Per the Chairman, the violation occurred because he was unaware of the approval requirements. Per State Board policy, neither the State Board nor the Chair can sign a contract.

Contract Signed in Violation of Policy

In November 2019, the Chairman signed a contract with Southern Regional Education Board (SREB) for services totaling \$30,822 without obtaining the approval of the State Superintendent of Public Instruction (State Superintendent) and the Department Chief Financial Officer (CFO). The contract was not signed by the State Superintendent.

The Chairman admitted to signing the contract without obtaining the required approvals. He stated that he contacted SREB and "...shared with them the scope, legislation requirements, and discussed the timing" of the services and contract. The State Board created the contract based on SREB's proposal and the Chairman signed the contract.

In February 2020 and upon completion of the services, the State Board requested payment to SREB from the Department. The State Superintendent and the Department's CFO were not aware of the contract until this request for payment.

Once it was brought to SREB's attention that the proper approvals were not obtained, SREB dissolved the contract and did not require the \$30,822 payment for their services.

Resulted in Increased Risk for the Department

Although SREB did not require payment from the Department, the Department is at risk that the Chairman could enter into a contract binding the Department to a contract that is not in its best interest.

Caused by Lack of Understanding of Policy

Per the Chairman, he was not aware of the contracting policy when he signed the contract. Also, the Chairman stated that it was the General Counsel who brought the error to his attention. He stated it was rare for the State Board to sign contracts.

State Board Policy Requires Approval and Signature

The State Board's policy¹⁰ lists the following requirements which apply to all contracts entered into by the State Board.

All contracts must be in writing and:

- a. Must be approved by the Chief Financial Officer and the Superintendent.

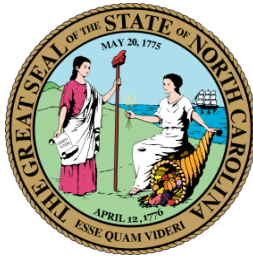
¹⁰ North Carolina State Board of Education Policy Manual, Contract Procedure

FINDING AND RECOMMENDATION

- b. Must be signed by the Superintendent if the contract has an annual value of \$25,000 or above.
- c. Must be signed by the Superintendent or Superintendent's designee if the contract has an annual value below \$25,000.

RECOMMENDATION

The Chairman of the State Board of Education should review and adhere to policies and procedures for contracts to ensure all proper approvals and signatures are obtained.



RESPONSE FROM THE STATE BOARD OF EDUCATION

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J Wendell Hall
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SBE Office:
 Deanna Townsend-Smith
 Director of Operations
 and Policy

April 20, 2021

The Honorable Beth A. Wood, State Auditor
 Office of the State Auditor
 2 South Salisbury Street
 20601 Mail Service Center
 Raleigh, NC 27699-0600

Dear Auditor Wood:

In response to the Investigative report by the North Carolina Office of the State Auditor, received by the State Board of Education ("Board") on April 7, 2021, the Board offers this response:

We acknowledge and accept the findings of the report and agree the contract which is the subject of this report was entered into without the required approvals.

The Board took corrective action to cancel the contract, as well as other measures to ensure this situation does not happen again. The list below provides necessary background information, steps of corrective action taken by the Board prior to this investigation, as well as any ongoing corrective actions.

- The contract in question was undertaken because through Session Law 2019-154 passed on July 22, 2019, the General Assembly required the Board, in consultation with the State Superintendent of Public Instruction ("Superintendent"), to among other things, conduct a study of how school achievement is measured. The General Assembly also required the Board and the Superintendent to report back to the legislature on the results of the study by February 15, 2020.
- The Board engaged the Department of Public Instruction (DPI) staff to get the required contract in place but could not get the sufficient assistance from the Department leadership to execute the required contract in a timely manner consistent with the timeline in the legislation. With the General Assembly's mandate and the deadline for producing a report in mind, the Chairman of the Board ("Chair") entered into the required contract on November 7, 2019 with the Southern Regional Education Board ("SREB"), a frequent partner of the Board and DPI on education policy issues. The State of North Carolina is a member of SREB.
- In February of 2020, the General Counsel for the Board at that time, brought it to the attention of the Chair that the contract with SREB did not have the approvals required by the Board's Policy for entering into contracts. The General Counsel and Board Chair separately reached out to SREB on this issue. The General Counsel then self-reported this error on behalf of the Board to the North Carolina Department of Administration and the North Carolina Department of Justice and sought guidance on how to address this issue. It was thereafter decided the Board should seek to dissolve the contract.

NORTH CAROLINA STATE BOARD OF EDUCATION

Eric C. Davis, *Chairman* | eric.davis@dpi.nc.gov
 6302 Mail Service Center, Raleigh, North Carolina 27699-6302 | (984) 236-2250 | Fax (984) 236-2348
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RESPONSE FROM THE STATE BOARD OF EDUCATION

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Honorable Beth A. Wood

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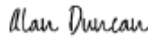
April 20, 2021

- The General Counsel for the Board reached out to SREB to let them know of the situation and to discuss with them the possibility of dissolving the contract. It was decided that the contract would be dissolved and SREB would not require payment for their services.
- At the next meeting of the Board, March 4, 2020, the Chair publicly acknowledged the contract had been entered into without the proper approvals, took full responsibility for the error, and noted that proper steps were being taken to correct the situation.
- To prevent this from happening in the future, the Board Chair and Board staff were made aware and reminded of all contracting policies and procedures. All new employees who deal with contracts are also made aware of and trained on these policies and procedures. In addition, all contracts entered by the Board, regardless of amount, are reviewed by the Business Operations Committee of the Board, as well as the Board legal staff prior to being considered for execution.

The State Board of Education thanks the staff of the Office of the State Auditor for the professional manner in which the investigation was managed and thanks the State Auditor for the opportunity to respond to this report.

Sincerely,

DocuSigned by:



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Alan Duncan

Vice Chairman

North Carolina State Board of Education

AD/th/dts

c: Catherine Truitt, Superintendent of Public Instruction

Jeani (Allen) Rousseau, Director of Internal Audit

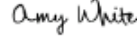
Reginald Kene 04/29/2021

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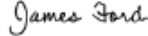
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ORDERING INFORMATION

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