

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
09 CVS 006655

JUNE ST. CLAIR ATKINSON, individually)
and in her official capacity as)
Superintendent of Public Instruction of the)
State of North Carolina; B and C,)
)
Plaintiffs,)
)
v.)
)
STATE OF NORTH CAROLINA, et al.)
)
Defendants.)

**AFFIDAVIT
of
BETSY WEST**

NOW COMES Betsy West, being first duly sworn, and deposes and says the following:

1. I am the Assistant Executive Director/Director of Operations for the North Carolina State Board of Education (hereafter "State Board") and as such have familiarity with the State Board's policy manual.

2. Attached hereto as Exhibits A and B are true and accurate copies of two policies of the State Board that are currently contained in the Policy Manual of the State Board.

3. These policies are designated as Policy ID Number TCS-C-022 and Policy ID Number TCS-C-013.

4. The policies attached hereto as Exhibits A and B were adopted by the State Board on March 4, 2009 and have been in effect since that date (other than the fact that the Policy ID Numbers for these two policies have been internally changed to substitute the acronym "TCS" [which stands for "Twenty First Century Systems"] for the acronym "EEO" [which stands for "Efficient and Effective Operations"]).

This the 16th day of June, 2009.

Betsy West
Betsy West

Wake County, North Carolina

Sworn to and subscribed before me this the 16th day of June, 2009.

My Commission Expires:
May 30, 2010

Doris King McCain
Notary Public
1921 Atkinson St.
Raleigh, NC 27610

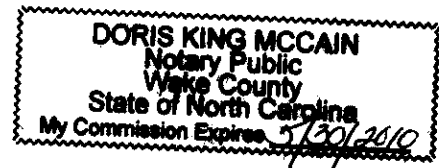


EXHIBIT A

**NORTH CAROLINA STATE BOARD OF EDUCATION
Policy Manual**

Policy Identification

Priority: Twenty-First Century Systems

Category: State Board of Education/Department of Public Instruction Op

Policy ID Number: TCS-C-022

Policy Title: Policy Creating the Chief Executive Officer of the State Board of Education

Current Policy Date: 03/04/2009

Other Historical Information:

Statutory Reference:

Administrative Procedures Act (APA) Reference Number and Category:

In order to permit the State Board of Education to more effectively and efficiently administer and supervise the North Carolina free public school system, the State Board of Education creates the position of Chief Executive Officer of the State Board of Education. Subject to the direction, control, and approval of the State Board of Education, the Chief Executive Officer shall have and exercise such powers and duties as the State Board of Education shall from time to time delegate to him or her. The Chief Executive Officer shall be solely accountable and responsible to the State Board of Education without interference or contrary instructions from any other entity and shall serve at the pleasure of the State Board of Education.

EXHIBIT B

NORTH CAROLINA STATE BOARD OF EDUCATION
Policy Manual

Policy Identification

Priority: Twenty-First Century Systems

Category: State Board of Education/Department of Public Instruction Op

Policy ID Number: TCS-C-013

Policy Title: Policy delineating the delegation of authority from the State Board of Education to the Superintendent of Public Instruction and to the Chief Executive Officer

Current Policy Date: 03/04/2009

Other Historical Information: Previous board dates: 01/08/1997, 06/05/1997, 09/04/1997, 10/04/1997, 11/06/1997, 12/04/1997, 03/05/1998, 11/05/1998, 10/07/1999, 12/06/2001, 12/04/2003, 05/06/2004, 09/02/2004, 02/01/2007

Statutory Reference:

Administrative Procedures Act (APA) Reference Number and Category:

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Pursuant to Article IX, sec. 5 of the Constitution of North Carolina, G.S. 115C-12 and G.S. 143A-44.1 through 44.3, the State Board is responsible for the general supervision and administration of the North Carolina free public school system and is head of the Department of Public Instruction. In accordance with Article IX, sec. 4(2) and G.S. 115C-19 and 21 and G.S. 143A-44.3, the State Superintendent is the Secretary and Chief Administrative Officer of the State Board and carries out duties of the office subject to the direction, control, and approval of the State Board.

In accordance with these and other applicable laws, the State Board of Education (the State Board) hereby adopts these policies for the purposes of (1) describing the duties of the State Superintendent of Public Instruction (the State Superintendent) and the Chief Executive Officer (CEO) and (2) delegating certain powers and duties to the State Superintendent and CEO. The State Board may add to or remove from the delegated powers and duties as it may deem appropriate for the effective and efficient implementation of the State Board's authority. The State Board may further modify or repeal these policies at any time the Board deems such action appropriate.

The State Board hereby delegates to the State Superintendent the powers and duties:

1. To keep the public informed as to the problems and needs of the public schools in accordance with G.S. 115C-21(a)(2) and in alignment with State Board policy;
2. To advise the State Board promptly and fully about problems and issues concerning the operation of the uniform system of free public schools and the education of the State's children;

3. Following approval by the Associate Superintendent for Financial and Business Services and the CEO, to execute all contracts entered into by the Department of Public Instruction on behalf of the State Board and to report these contracts to the State Board monthly as information;
4. Upon recommendation by the Associate Superintendent for Financial and Business Services and the CEO, to determine on behalf of the State Board the annual premium rate to be charged for insurance of school properties as provided by Article 38 of Chapter 115C of the North Carolina General Statutes and to report these rates to the State Board as information;
5. To execute and issue for and on behalf of the State Board documents signifying compliance with State or federal law or State Board policies or rules relating to licenses for principals, teachers, and all other school personnel required to have licenses;
6. To settle cases during litigation relating to license suspension and revocation. Department of Justice Education Section lawyer(s) and DPI and State Board staff members will advise the State Superintendent on settlement matters; and
7. Upon the receipt of a written request for reinstatement of a suspended or revoked license or for granting a new license after denial of a license, together with substantiating information, the State Superintendent will conduct an investigation sufficient to determine whether reasonable cause exists to reinstate the license or to grant a new license. The State Superintendent shall prepare and file a written recommendation concerning the request with the SBE.

The CEO shall report to the State Board. The State Board hereby delegates to the CEO the power and duty:

To manage the Department of Public Instruction on a day-to-day basis subject to the direction, control, and approval of the State Board; and

To approve all agency employment decisions for the positions of section chief and below, which decisions the CEO shall report to the State Board. The CEO shall report all employment requests for the positions of director and above to the State Board, which shall make the employment decision.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **AFFIDAVIT of BETSY WEST** in the above titled action upon all other parties to this cause by:

- Hand delivering a copy hereof to each said party or to the attorney thereof;
- Transmitting a copy hereof to each said party via electronic mail; or
- Depositing a copy hereof, first class postage pre-paid in the United States mail, properly addressed to:

Robert F. Orr
Jeannette K. Doran
N.C. Institute for Constitutional Law
333 East Six Forks Road, Suite 180
Raleigh, NC 27609

This the 19th day of June, 2009.



Mark A. Davis
Special Deputy Attorney General