

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF WAKE

09CVS06655

JUNE ST. CLAIR ATKINSON,)
individually and in her official capacity as)
Superintendent of Public Instruction of the)
State of North Carolina;)
Plaintiff,)

v.)

STATE OF NORTH CAROLINA;)
BEVERLY PERDUE, Governor of the)
State of North Carolina, in her official)
capacity; NORTH CAROLINA STATE)
BOARD OF EDUCATION; WALTER)
DALTON, Lieutenant Governor of the)
State of North Carolina, in his official)
capacity; JANET COWELL, State)
Treasurer of the State of North Carolina, in)
her official capacity; KATHY TAFT, RAY)
DURHAM, KEVIN HOWELL, SHIRLEY)
E. HARRIS, MELISSA E. BARTLETT,)
ROBERT THOMAS SPEED, WAYNE)
MCDEVITT, PATRICIA N.)
WILLOUGHBY, and JOHN A. TATE, III,)
Members of the North Carolina State Board)
of Education, in their official capacities;)
and WILLIAM C. HARRISON, Chief)
Executive Officer and Chairperson of the)
North Carolina State Board of Education)

**INJUNCTION AND DECLARATORY
JUDGMENT**

Defendants.

This Court having granted partial summary judgment for Plaintiff in the above-captioned case by Order dated July 17, 2009, now hereby issues this permanent injunction and declaratory judgment pursuant to N.C.G.S. § 1-254. The Court having held a hearing on July 15, 2009, and having issued its order in open court on July 17, 2009, having considered the arguments of counsel, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the Plaintiff's Petition for Declaratory Judgment and permanent injunction is **GRANTED**. Defendant North Carolina State Board of Education is hereby permanently enjoined from taking any action not in conformance with the Court's Order dated July 17, 2009. Specifically:

1. Defendant State Board of Education shall not and is hereby enjoined from giving the office of Chief Executive Officer of the State Board of Education or any similar or like position, the authority to run the North Carolina Department of Public Instruction and administering the free public school system of the State without said position being accountable and responsible to and without interference or contrary instructions from Defendant State Board of Education and the duly elected Superintendent, until such time, if ever, as the qualified voters of North Carolina specify otherwise by constitutional amendment;
2. Defendant State Board of Education shall not and is hereby enjoined from precluding any and all employees of the North Carolina Department of Public Instruction from being accountable to and responsible to the Superintendent of Public Instruction, as well as the North Carolina State Board of Education, until such time, if ever, as the qualified voters of North Carolina specify otherwise by constitutional amendment;
3. Defendant State Board of Education shall not and is hereby enjoined from attempting to implement in any fashion that portion of the State Board Policy Manual ID Number EEO (now TCS)–C-022 that states that 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,” as the same are unconstitutional; and

4. Any employee of the North Carolina Department of Public Instruction must be accountable and responsible to the State Superintendent of Public Instruction as well as the State Board of Education.

So ordered this the _____ day of August, 2009.

Robert H. Hobgood,
Judge Presiding