

September 24, 2010

Dr. Craig Witherspoon, Superintendent
Birmingham Board of Education
2015 Park Place North
Birmingham, AL 35203

**RE: Report of Independent Investigation of the Grades and
Transcript of**

Dear Dr. Witherspoon:

Pursuant to the agreement between our law firm and your office, we have conducted an independent investigation of whether the course grades of _____, as reflected on his final transcript for his junior and senior years of high school, were changed from the original grades reflected in his teachers' grade books. _____ is a former student of Hayes High School and Parker High School, having graduated from the latter institution in May 2009.

In conducting our investigation, we have interviewed several employees of the Birmingham School System, as well as other persons. We have also reviewed numerous documents produced by various employees of the Birmingham School System.

The findings of our investigation are set forth in this letter.

In the outset, we note that under Alabama regulations, grade books (which include the teacher's name, class, names of students, and their grades) are required to be maintained for three years after the entry of grades in the student's records. Local Boards of Education Records Disposition Authority, No. 7.05; Ala. Code 1975 § 41-13-22.

We requested the grade books of the Hayes High School eleventh grade teachers of _____, but we were informed that the Birmingham School system was unable to locate any of these grade books. Given these missing grade books, we are unable to make a determination of whether the Hayes High School grades were changed.

: transcript shows that he took fifteen courses at Parker High School during the period 2008-09. We were able to obtain the grade books for only six of those courses.

official transcript shows the following grades in the indicated courses taken during his junior and senior years of high school.

First Semester 2007-08 (11 th Grade)		Second Semester 2007-08 (11 th Grade)	
RD ¹	RD	RD	RD
RD	RD	RD	RD
RD	RD	RD	RD
RD	RD	RD	RD

First Semester 2008-09 (12 th Grade)		Second Semester 2008-09 (12 th Grade)	
RD	* ² RD	RD	RD
RD*	RD	RD	RD
RD*	RD		
RD*	RD	RD	RD
RD	RD	RD*	RD
		RD	RD
RD*	RD	RD	RD
RD*	RD		

We make the following findings with respect to the courses for which Parker High School grade books were provided.

1. **RD** : The grade reflected in the transcript is consistent with the grades posted in the grade book. There are no changes of scores or grades reflected in the grade book.

2. **RD** : The grade reflected in the transcript is consistent with the grades posted in the grade book. There are no changes of scores or grades reflected in the grade book.

¹ In view of the implications of the Privacy Act, 20 U.S.C. § 12329(g) *et seq.*, we have redacted the information that may not be publicly released in the absence of consent.

² The astericked courses are the ones for which the teachers' grade books were provided to us.

3. **RD** : The grade reflected on the transcript is consistent with the grades posted in the grade book. There are no changes of scores or grades reflected in the grade book.

4. **RD** : The grade reflected in the transcript is consistent with the grades posted in the grade book. There are no changes of scores or grades reflected in the grade book.

5. **RD** : The grade reflected in the transcript is consistent with the grades posted in the grade book.

However, it appears that a test score of "RD" was changed to "RD;" that a test score of "RD" was changed to a "RD; and that a test score of "RD" was changed to a "RD." average test score of RD for the first quarter is not posted in the grade book. His first quarter examination score is posted as RD. The second quarter score seems to have been changed from a "RD" to a "RD." Because the final grade for the course was not changed, the instructor was not required to execute Change of Grade forms.

posted average test score for the second quarter is "RD," but the mathematical average of his test scores for this period (RD, RD, RD, RD, RD, RD, RD, RD, RD) is RD. final grade of "RD" in this course is not supported by the contemporaneous test scores reflected in the grade book.

It should be noted that the instructor also changed the test scores and grades of several other students in the course.

6. **RD** : While the grades reflected in the transcript are consistent with the most recent grades posted in the grade book, the most recent grades posted in the grade book are different from those initially posted in the grade book.

(a) First Term (2008-2009): Ten (10) of the fourteen (14) recorded scores/grades, as well as the final grade, were conspicuously changed. The grade book shows that the original scores/grades were written over to reflect higher grades.

A Change of Grade Form, dated December 12, 2008, shows that
final grade was changed from "RD" to "RD." The teacher's name is printed on the Form and the Form is signed by the Night School Principal. However, the grade change was not entered into the school's computer system until April 28, 2009.

(b) Second Term (2008-2009): Seven (7) of the ten (10) recorded scores/grades, as well as the final grade, were conspicuously changed. The grade book shows that the original scores/grades were written over to reflect higher scores/grades.

A Change of Grade Form, dated November 14, 2008, shows that
original grade was changed from "RD" to "RD." The teacher's name is printed on the Form and the Form is signed by the Night School Principal. The first date reflected on the form is "12" "2008." Again, this grade change was entered into the school's computer system on April 28, 2009. Notably, the change of Grade Form for the second term is dated nearly a month earlier than the first term's Change of Grade Form.

We interviewed the teacher of the RD course. He admits to making the changes, explaining that completed make-up and extra work which justified the grade changes. We do not credit this explanation. We note that the teacher changed grades far more frequently than those of any other students in his class.

In conclusion, we find that RD's grades were changed by the instructor, and that the reasons given for the changes are not credible. To the extent that we were provided the requisite grade books for comparison with official transcript, we did not find any other substantial grade changes for his high school courses except as noted above.

This report completes our investigation. If you have any questions regarding the findings or any related matter, please contact us.

Very truly yours,



U.W. Clemon
J. Mark White
Hope Marshall
WHITE ARNOLD & DOWD P.C.