



**NC ABLE**  
National ABLE Alliance Member



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

## MINUTES NC ABLE PROGRAM BOARD OF TRUSTEES

The regular quarterly meeting of the NC ABLE Program Board of Trustees was called to order at 9:30 a.m., November 13, 2018, by the Acting Chair, Steve Toole, Executive Director, Retirement Systems Division, North Carolina Department of State Treasurer. The Chair, State Treasurer Dale R. Folwell, CPA, joined the meeting at approximately 9:50 a.m. The meeting was held in the Dogwood Conference Room of the Longleaf Building at 3200 Atlantic Avenue, Raleigh, NC, 27604. The Chair indicated there would be a public comment period for organizations and individuals to address the Board later in the agenda.

### **Members Present**

The board members present were: Treasurer Dale R. Folwell, CPA, Chair (via telephone), Ray Grace (via telephone), Melinda Plue (via telephone), Marquita Robertson and Ben Wright (via teleconference).

### **Members Absent**

Kody Kinsley

### **Guests Present**

The guests attending were: Chris Catanese and Paul Souppa from Ascensus (via telephone), Anna Cunningham from the Power of the Dream, Inc. and Cheryl Walfall-Flagg from ABLE National Resource Center (ANRC) (via teleconference).

### **Department of State Treasurer Staff Present**

The staff members present were: Mary Buonfiglio, Reid Chisholm, Chris Farr, Patti Hall, Brian Jackson, Rekha Krishnan, Karah Manning, Loren de Mey, Maja Moseley and Steve Toole.

### **Ethics Awareness and Identification of Conflicts or Potential Conflicts of Interest**

The Acting Chair noted that a copy of Marquita Robertson's most recent Statement of Economic Interest (SEI) evaluation issued by the State Board of Elections and Ethics Enforcement, as well as the updated SEI evaluations for Treasurer Folwell and Ben Wright can be found in the meeting materials. The Acting Chair stated that the evaluations are provided for board members' review and for recording in the meeting minutes pursuant to the requirements of the State Government Ethics Act. The Acting Chair encouraged all members to review the evaluations to inform and remind them of the identified actual or potential conflicts of interest. No conflicts of interest were identified by the board members.

### **Introduction and Swearing-in**

The swearing-in of the newly appointed trustee, Marquita Robertson, was postponed until the February 2019 board meeting.

### **Resolution**

The Acting Chair asked for a motion to adopt a resolution of appreciation for the service of Mr. John Lyon. Mr. Grace so moved, and Mr. Wright seconded. The motion passed unanimously.

### **Approval of Minutes**

The Acting Chair entertained a motion to approve the minutes of the August 15, 2018, NC ABLE Program Board of Trustees meeting, and Ms. Robertson so moved. Mr. Wright seconded, and the motion passed unanimously.

### **Communication and Outreach Update**

The Acting Chair recognized Ms. Buonfiglio who shared the communications efforts during the quarter. She thanked Mr. Chisholm for having created the NC ABLE whitepaper intended as a legal reference for the program. Ms. Buonfiglio provided an update regarding the program's social media presence to raise public awareness and make new connections. She also noted the renewed focus on partnership with the Department of Health and Human Services.

### **ABLE Consortium Trust Financial Statements**

Ms. Buonfiglio directed the attendees' attention to the consortium's financial statements as of June 30, 2018. She noted that the audit was performed by certified public accounting firm, Thomas and Thomas LLP, and a clean audit opinion was received. Ms. Buonfiglio highlighted several parts of the report, such as the asset balance, net fiduciary position and legislative changes summary. She noted that the financial statements constitute a valuable resource to the program's trustees.

### **Administrative Update**

The Acting Chair recognized Mr. Catanese and Mr. Souppa. Mr. Catanese provided an overview of the quarterly administrative activities, including account and contribution information, eligibility types as well as an update on newly opened and recently closed accounts.

Mr. Souppa provided a summary of investments' performance, noting positive results.

Following the presentation, the trustees discussed the impact of market volatility on portfolio assets and requested additional reporting regarding the cash flows in the checking option.

### **Administrative Code Update**

The Acting Chair recognized Mr. Chisholm who described the administrative rulemaking process and the program's and the department's need to codify the administrative fee charged by the program to each account in the amount of five dollars annually. Mr. Chisholm summarized staff's proposal, detailed in the board meeting materials, and noted that in the event of a fee increase, the rule-making process would be repeated, which offers less flexibility in increasing the fee. Mr. Chisholm confirmed that the staff will continue to update board members regarding the rule's progress.

### **Board of Trustees Comments**

No comments were offered.

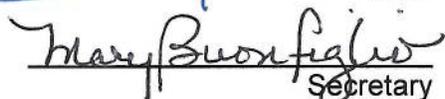
### **Public comments**

No public comments were offered.

### **Adjournment**

There being no further business before the Board, Ms. Robertson moved to adjourn, which was seconded by Mr. Grace, and the meeting was unanimously adjourned at 10:24 a.m.

  
Chair

  
Secretary



# NORTH CAROLINA

## State Board of Elections & Ethics Enforcement

Mailing Address:  
P.O. Box 27255  
Raleigh, NC 27611-7255

Phone: (919) 814-0700  
Fax: (919) 715-0135

September 21, 2018

The Honorable Dale R. Folwell  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, NC 27604

*Via Email*

**Re: Evaluation of Statement of Economic Interest  
Achieving a Better Life Experience (ABLE Program) Board of Trustees**

Dear Mr. Folwell:

Our office has received your 2017 and 2018 Statement of Economic Interest as a member of the ABLE Program Board (the “Board”). We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 163A of the North Carolina General Statutes (“N.C.G.S.”), also known as the Elections and Ethics Enforcement Act (the “Act”).

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter’s contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 163A-193(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 163A-157.

**We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.**

The Achieving a Better Life Experience (ABLE) Board of Trustees was established to implement a private savings account program (ABLE accounts) for the purpose of supporting individuals with disabilities. The Board is authorized to contract for investment advice, retain professionals, develop a marketing plan, establish methods for dispersing funds, and set administrative costs for the program, as well as develop and implement investment strategies.

The Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. § 163A-211 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. § 163A-216 prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant’s extended family, or a business or non-profit with which the public servant or a member of the public servant’s immediate family is associated may receive a reasonably foreseeable financial benefit.

As the Treasurer for the State of North Carolina, you hold an ex-officio role on the Board. You disclosed that you own stock in a publicly traded company (Colony) which as an American International Investment Firm may conduct business with the Board. As such, you have a potential for a conflict of interest and should exercise appropriate caution in the performance of your public duties should this company with which you have a financial interest comes before the Board for official action or otherwise seeks to conduct business with the Board.

In addition to the conflicts standards noted above, N.C.G.S. § 163A-212 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. § 163A-212(e).

Pursuant to N.C.G.S. § 163A-159(c), when an actual or potential conflict of interest is cited by the Board under N.C.G.S. § 163A-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act.

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 163A-158. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Annette B. Barefoot, Compliance Analyst  
NC Board of Elections & Ethics Enforcement

cc: Ms. Laura Rowe, Ethics Liaison

Attachment: Ethics Education Flyer



# NORTH CAROLINA

## State Board of Elections & Ethics Enforcement

Mailing Address:  
P.O. Box 27255  
Raleigh, NC 27611-7255

Phone: (919) 814-0700  
Fax: (919) 715-0135

August 28, 2018

The Honorable Roy A. Cooper, III  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699-0301

*Via Email*

**Re: Evaluation of Statement of Economic Interest Filed by Marquita Robertson  
Prospective Appointee – ABLE Board of Trustees**

Dear Governor Cooper:

Our office has received **Ms. Marquita Robertson's** 2018 Statement of Economic Interest as a prospective appointee to the **ABLE Board of Trustees (the "Board")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 163A of the North Carolina General Statutes ("N.C.G.S."), also known as the Elections and Ethics Enforcement Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 163A-193(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 163A-157.

**We did not find an actual conflict of interest or the likelihood of a conflict of interest.**

The ABLE Board of Trustees was established to implement a private savings account program (ABLE accounts) for supporting individuals with disabilities. The Board is authorized to contract for investment advice, retain professionals, develop a marketing plan, establish methods for dispersing funds, and set administrative costs for the program, as well as develop and implement investment strategies.

The Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. § 163A-211 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. § 163A-216 prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Ms. Robertson will fill the role of a person having experience in investments on the Board. She is the Executive Director of The Collaborative of North Carolina, a nonprofit organization.

In addition to the conflicts standards noted above, N.C.G.S. § 163A-212 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. § 163A-212(e).

Pursuant to N.C.G.S. § 163A-159(c), when an actual or potential conflict of interest is cited by the Board under N.C.G.S. § 163A-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act.

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 163A-158. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Lisa Johnson, SEI Unit  
NC Board of Elections & Ethics Enforcement

cc: Marquita Robertson

Attachment: Ethics Education Flyer



# NORTH CAROLINA

## State Board of Elections & Ethics Enforcement

Mailing Address:  
P.O. Box 27255  
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Phone: (919) 814-0700  
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September 21, 2018

The Honorable Phil Berger  
President Pro Tempore of the Senate  
16 W. Jones Street, Room 2008  
Raleigh, NC 27601

*Via Email*

**Re: Evaluation of Statement of Economic Interest Filed by Benjamin P. Wright  
Member – Achieving a Better Life Experience (ABLE Program) Board of Trustees**

Dear Senator Berger:

Our office has received Benjamin P. Wright's **2017 No Change Form and 2017 and 2018 Statement of Economic Interest** as a member of the ABLÉ Program Board of Trustees (the "**Board**"). We have reviewed them for actual and potential conflicts of interest pursuant to Chapter 163A of the North Carolina General Statutes ("N.C.G.S."), also known as the Elections and Ethics Enforcement Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 163A-193(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 163A-157.

**We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.**

The Achieving a Better Life Experience (ABLE) Board of Trustees was established to implement a private savings account program (ABLE accounts) for the purpose of supporting individuals with disabilities. The Board is authorized to contract for investment advice, retain professionals, develop a marketing plan, establish methods for dispersing funds, and set administrative costs for the program, as well as develop and implement investment strategies.

The Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. § 163A-211 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. § 163A-216 prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mr. Wright fills the role of an individual with experience in advocacy for the disabled on the Board. He is President of Dye Creek Capital, Inc., a financial services company. Additionally, he has disclosed that he holds the position of Treasurer with the National Down Syndrome Society and that his wife is President of Able to Work USA, all of which could seek a professional relationship with the Board. As such, Mr. Wright has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues regarding Dye Creek Capital, Inc. or any entity on which he or his wife serves come before the Board for official action or otherwise seek to conduct business with the Board.

In addition to the conflicts standards noted above, N.C.G.S. § 163A-212 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. § 163A-212(e).

Pursuant to N.C.G.S. § 163A-159(c), when an actual or potential conflict of interest is cited by the Board under N.C.G.S. § 163A-189(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act.

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 163A-158. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Annette B. Barefoot, Compliance Analyst  
NC Board of Elections & Ethics Enforcement

cc: Mr. Benjamin P. Wright  
Ms. Laura Rowe, Ethics Liaison

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