



R. O. Everett (1878-1971)
Kathrine Everett (1893-1992)
Hugh Cannon (1931-2005)
Robinson O. Everett, Sr. (1928-2009)
E. D. Gaskins, Jr.
William G. Hancock
C. Amanda Martin
Louis E. Wooten, III
William P. Janvier
K. Matthew Vaughn
Michael J. Tadych
Ashley Matlock Perkinson
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C. Amanda Martin
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March 19, 2010

Ann Majestic, Esq.
Tharrington Smith, LLP
209 Fayetteville Street
P.O. Box 1151
Raleigh, North Carolina 27602

Re: Closed Session Action of Wake County Board of Education

Dear Ann:

As you know, we represent *The News & Observer*, WRAL and WTVD, whose management has asked us to correspond with you regarding the closed-session action taken by the Wake County Board of Education on March 9, 2010, removing Del Burns from his position as superintendent of the Wake County Public School System. As you know, while the Open Meetings Law permits a closed session discussion of the qualifications or performance of a public employee, the law is explicit: "Final action making ... [a] removal by a public body having final authority for the ... removal shall be taken in an open meeting." G.S. § 143-318.11(a)(6). I assume there is no debate that the Board of Education has the final authority with regard to the superintendent position, and the appointment of Donna Hargens as acting superintendent leaves little question that Mr. Burns was removed. The Open Meetings Law permits a public body "to consider" qualifications and performance or "to hear or investigate" complaints or grievances. However, there is no language that authorizes a public body to take action on personnel matters in closed session, which the Board of Education did last week.

It has been reported widely that the vote to remove Mr. Burns was 5/4 and that Board members voted "along the same lines" as previous votes. However, that information comes from unofficial sources, and I write to request that the Board of Education officially confirm the vote. General Statute Section 143-318.13 makes plain the General Assembly's intention that the public know how particular public officials vote on matters. "[A] public body may not vote by secret or written ballot," unless each written ballot is signed by the voting public officer.

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We believe this issue can be resolved by the Board of Education officially stating how each Board member voted or conducting a second vote in open session. If not, some of my clients have stated they intend to pursue the matter through an Open Meetings complaint, but I hope that will not be necessary. If you would like to discuss this, I can be reached most reliably on my cell phone, which is 919 810 6246 or by email (amartin@eghs.com).

I look forward to hearing from you.

Sincerely,

EVERETT, GASKINS, HANCOCK & STEVENS, LLP

A handwritten signature in black ink that reads "Amanda Martin". The signature is written in a cursive, flowing style.

C. Amanda Martin