

**From:** [Andrea White](#)  
**To:** [REDACTED]  
**Subject:** FW: ATTORNEY-CLIENT PRIVILEGED INFORMATION  
**Date:** Wednesday, June 23, 2021 4:43:45 PM  
**Attachments:** [image824482.png](#)

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**From:** Andrea White  
**Sent:** Tuesday, August 20, 2019 3:34 PM  
**To:** Gwozdz, Christina S <[Christina.Gwozdz@beaufort.k12.sc.us](mailto:Christina.Gwozdz@beaufort.k12.sc.us)>  
**Subject:** ATTORNEY-CLIENT PRIVILEGED INFORMATION

Good Afternoon,

I am writing in response to the inquiries made by several of the Trustees pertaining to the employee grievances filed against Will Smith. For ease of reference, I will respond to each inquiry with the salient points that need to be made.

### **HIRING OF A PRIVATE INVESTIGATOR TO CONDUCT A BACKGROUND CHECK ON WILL SMITH**

- At its meeting on June 25, 2019, the BCBOE retained me via a motion which asked me to “assess and review” the employee grievances regarding the Board. That motion passed unanimously and, in fact, was seconded by Mr. Dowling. As you will recall, there was much discussion about the language of the motion. The wording ultimately chosen was designed to protect the grievants, the Board and Mr. Smith.
- The definition of “assess” set forth in the Merriam Webster Dictionary provides that to “assess” in this context means to “determine the importance, size, or value of a problem.”
- I determined that, to properly assess for the Board the potential problems raised by these grievances, I needed to conduct a background check on Mr. Smith.
- Neither I nor anyone on my behalf conducted a SLED check (commonly referred to as a criminal background check) on Mr. Smith.
- I do not have Mr. Smith’s Social Security Number nor have I attempted to get that information.
- The information used in the context of this background check was obtained via research of the public index and other public records. These are easily accessible to the general public online.
- I made the decision to use a PI to conduct this research because it would be less expensive for the PI to do it, as he is affiliated with my office.
- There is no invoice, bill, etc from the PI that I utilized.
- Had I conducted the research myself, I estimate that it would have taken me at least three hours, for which I would have charged my hourly rate of \$245, meaning that the District would have been billed an additional charge of \$735.

### **APPLICABILITY OF THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT (“THE ACT”)**

- Section 8-17-300(1) of the Act stated that its coverage and provisions are not applicable to “political subdivisions” of the State
- Section 59-17-110 provides that every school district “is and shall be a body politic and corporate.”
- Our courts have consistently held, pursuant to the statute, that school districts are political subdivisions of the State. *See Carter v. City of Greenville*, 175 S.C. 130 (1935) and its progeny.
- Based on SC law, the Act is thus not applicable to the grievances filed by District employees against Will Smith.
- Even if the Act applied to school districts, please note that Section 8-17-370 means that the persons holding the positions identified there may not file a grievance against their employer, not that a grievance cannot be filed against the persons holding those positions.

## **THE RELEASE OF MY INVOICES REVEALING WILL SMITH'S NAME**

- As you will recall during our discussions in executive session, I advised you that the grievances themselves were not subject to disclosure under FOIA because the release of their contents would “constitute an unreasonable invasion of privacy” as it pertains to information provided by the employees. *See S.C. Code Ann. §30-4-40(a)(3)(C)*.
- We also discussed that, because Will Smith is a public official, rather than a public employee, the release of information about him would not be governed by that provision of FOIA.
- The Board determined that, in order to protect Will Smith’s identity from becoming publicly known, I would make oral reports to the Board rather than placing information in writing.
- My invoices indicate Will Smith’s name. However, while certain parts of those invoices are subject to disclosure (the amount of the invoices and the number of hours that I spent on a matter) under FOIA, the time entries themselves are subject to the attorney-client privilege and thus not subject to disclosure unless the client, in this case the BCBOE through a vote of the majority) waives that privilege.
- If certain members of the Board wish to waive the privilege they should make a motion, in Open Session, to do so. Quite frankly, I cannot fathom why certain Trustees would like to do so, as it “throws Mr. Smith under the bus.”

## **STATEMENT BY TRUSTEE THAT THE BOARD HAS “HAD THE WOOL PULLED OVER OUR EYES ENOUGH”**

- The meaning of that phrase: to deceive someone by telling untruths; to hoodwink, dupe, delude
- I interpret this statement as an attack on my integrity and character as a member of the legal profession and the South Carolina Bar Association.
- I can assure each of you that I have not “pulled the wool over your eyes.”
- In handling this matter, I have sought to protect, to the greatest extent possible, the entire Board of Trustees. That is what you retained me to do and that is what I did.
- I stand by all of the advice and guidance I have provided during this matter.

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