

CONFIDENTIAL REPORT OF INVESTIGATION

SUBMITTED TO

CITY OF HOOVER BOARD OF EDUCATION

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I. INTRODUCTION

This report contains the findings of the attorneys engaged by the City of Hoover Board of Education (the “Board”) to conduct an independent confidential investigation into possible favoritism and preferential treatment given to athletes, and particularly to football players, at Hoover High School (“HHS”), as well as issues relating to the overall conduct and management of the HHS football program.

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A. Conduct of the Investigation

As contemplated by the letter of engagement, this has been an independent investigation, with the goal to determine and report the relevant facts fairly, objectively and impartially. Our independence has not been hampered by any effort by a Board member or the Superintendent to constrain or restrict our investigation. We have, however, been conscious of the Board’s desire that the investigation be completed as early as practical and without excessive cost. Accordingly, we have not interviewed every possible witness nor reviewed every available document and email, where we believed that was not needed to ascertain the facts. Nor have we “chased every rabbit” that persons may have suggested as potential areas for inquiry.

Our investigation has largely – though not exclusively – been based on interviews (most in person, some by telephone) with current or former HHS teachers, administrators,

counselors, coaches, and staff personnel and on a review of various documents, reports, and emails available at HHS. We have also received a substantial number of unsolicited – sometimes anonymous – communications suggesting matters for inquiry, or commenting generally on the interface between academics and athletics not just in the Hoover high schools but in other school systems as well. Mindful that the Board would probably like our report to cover, where feasible and appropriate, some of the subjects that have become matters of public concern and debate since our investigation started in late June, we have generally followed newspaper and television accounts suggesting possible problems at HHS.¹

Our investigation has at times been constrained by the fact that we have had no power to issue subpoenas for documents or to require testimony under oath.

Nevertheless, almost all whom we wanted to interview have been willing to talk with us, even though some were apprehensive that any mention of them in our report, however innocuous, might somehow tarnish their reputation. Most have been very cooperative, frank, and candid, even to the point of expressing criticism at times about some of their friends and colleagues and, indeed, even acknowledging some error or mistake on their own part.

B. The Report

In this report, we identify students not by name but simply as “STUDENT #1,” “STUDENT #2,” etc. Originally, we had contemplated that most teachers and staff members would similarly not be identified by name. However, while preparing this

¹ We have not, however, addressed issues relating to the non-renewal/termination of Richard Bishop as HHS principal in late July or his subsequent lawsuit against the Board involving this decision. We do not represent the Board in that lawsuit and have prepared this report without regard to its possible impact, one way or the other, on that lawsuit.

report it became clear that using codes like “TEACHER #1” would make the report very difficult to read and follow. So, where helpful in understanding some event, we have identified the teachers, administrators, counselors, coaches, etc., by name.² For convenience, we sometimes use the term “administrators” to refer to the Principal and Assistant Principals. We sometimes use the term “counselors” to include not just those with that title but also others performing or overseeing similar support roles, such as Individualized Education Program (“IEP”) counselors, college guidance, academic support and peer tutoring.

Our role is that of fact-finders. For that reason, we have only rarely included comments that could be viewed as suggestions on what the Board might consider as potential action steps based on these findings.

We recognize that the Board may choose to make all or portions of this report available to the public. With that possibility in mind, we have at various points included some background information that, though probably already known by the Board, might not be known by the “outsider.”

² We note that, on the advice of the Board’s attorney, many emails and other documents naming teachers, administrators, etc., have been determined to be accessible public records and provided to newspaper reporters.

II. GRADES

A. Overview

To put in proper context the later specific discussions about grade changes by non-teachers and about football players possibly receiving preferential grades, it is useful to begin by reviewing briefly HHS's policies and procedures for calculating, submitting, and changing grades.

During each of the four 9-week grading periods during a school year, teachers individually calculate student scores/grades based on various homework assignments, special projects, and classroom quizzes and exams. These vary teacher-by-teacher and course-by-course. Starting with the 2004-05 year, the teacher has entered a numeric (integer) grade for each 9-week grading period into the teacher's gradebook segment of HHS's STI computer program.³ At the end of the second 9-week period of each semester, the teacher also enters into STI a numeric (integer) grade for the semester's exam. By default, STI automatically calculates an integer rounded average for the semester, with 40% for the 1st 9-week score, 40% for the 2nd 9-week score, and 20% for the semester exam. Numeric grades are typically converted into letter grades – A (89.5 or above), B (at least 79.5 but below 89.5), C (at least 69.5 but below 79.5), D (at least 59.5 but below 69.5), and F (below 59.5).⁴

Grade changes are not unusual, either for athletes or non-athletes: teachers sometimes enter incorrect scores; students may be allowed to retake quizzes or to submit late homework assignments; teachers sometimes exercise their discretion to "bump up" borderline scores; etc. For a short time after the end of each semester, teachers can

³ The State Board of Education requires that Alabama high schools use the STI program. HHS experienced problems with STI throughout the period covered by this investigation.

⁴ Some additional grades are "I" for "incomplete," "N" for "no credit," and "Pass" or "Fail."

change their STI grades for any of the three components of the semester grade. After these close-out semester periods, grade changes can still be made, but not directly by the teachers; instead, such late changes may be entered only by the registrars, who require documentation for the requested change. Occasionally a request is made to the registrars to change a semester average (rather than change one of the three components of a calculated average); registrars will, on documented request, do this by manually “overriding” the 40-40-20 default calculation.

Two special policies affect seniors: (1) Seniors with an 80+ average can be excused from taking the second semester exam, instead having their second semester grade calculated as 50% of the 3rd 9-weeks score and 50% of the 4th 9-weeks score. (2) Students who fail in their senior year a course required for graduation are allowed to retake semester exam, and their parents/guardians are notified of this opportunity.

Starting with the 2006-07 school year, the State Board of Education instituted a new grading policy affecting year-long academic courses. Credits, grades, and quality points for such courses were no longer to be calculated on a semester-by-semester basis, but rather by calculating a yearly grade based on the average of the first and second semester grades.⁵ This new policy had the advantage that students failing one semester but achieving a sufficiently high score in the other semester would not have to retake the course in summer school or in a subsequent year.⁶ But in determining quality points for students receiving passing (but different) grades in the two semesters of year-long academic courses, the effect of this action by the State Board was more problematic: for

⁵ The State Board subsequently changed this directive, allowing school systems to revert to the semester-grading method.

⁶ Sometimes students elect to retake a course not because of a failing grade, but in hopes of attaining a higher grade and raising their GPA.

example, a student receiving an A in the first semester and a B in the second semester – which formerly would have been recorded as totaling 3.5 quality points – would now, depending on the respective integer grades of the two semesters, result in either 3.0 quality points or 4.0 quality points. For a few students, this difference could have major consequences.

In Spring 2007 HHS personnel, based on instructions from STI, added a column that would, on the central database, automatically calculate yearly averages for the year-long academic courses. There remained some confusion among teachers about the impact of the change from semester-to-year grades, a confusion that apparently continued into early May when teachers were conducting “exit” conferences with seniors with respect to graduation and possible exemption from second semester exams.

On graduation day, Thursday May 24th, the administrators and counselors involved in year-end grade reviews made what they believed to be a startling discovery. For some inexplicable reason, they concluded that the modified STI program was incorrectly calculating yearly averages by not rounding up calculated averages ending in .5 to the next highest integer. So far as we have been able to determine, there was in fact never any such problem with STI’s rounding of averages. However, believing at the time that such a rounding problem existed, the administrators and counselors, at Principal Richard Bishop’s direction (or with his approval), on May 24th attempted to identify all teachers who had students (whether athletes or non-athletes) with a final grade of 59, 69, 79, or 89, asking them by email or telephone to verify their grades since there appeared to be a computer glitch.⁷ Nineteen teachers, with 36 “suspect” ’9 grades, were identified

⁷ Apparently they overlooked STUDENT #1, whose Algebra II grade for the year was an 89, and did not contact his teacher, Forrest Quattlebaum.

during this quick search. Starting on May 25th and continuing over the next couple of weeks, the teachers responded, many with requests for one or more grade changes, both for athletes and non-athletes. Grade changes were requested for many, though not all, of the 59, 69, 79, and 89 final grades – none because of the supposed rounding error – and there were also changes requested for some grades not ending in '9.

B. Grade Changes Not Authorized by Teachers

1. Algebra II grade of STUDENT #1

The clearest instance of a grade change being made other than by (or at the request of) the teacher involves the Algebra II grade of STUDENT #1, an outstanding senior football player who was going to the University of Alabama on an athletic scholarship. The bizarre and convoluted circumstances that led to this change – and to its subsequent wide-spread attention in the news media – merit detailed discussion as to how this happened.

On Tuesday, May 30th, the day after Memorial Day, Terri Borie, the Peer Helping Coordinator at HHS, received a call at home on her cell phone from University of Alabama Assistant Football Coach Kevin Steele. Steele told Borie that he had learned from University athletic department personnel that STUDENT #1 was “seven one-thousandths” of a point below the core-course GPA required for NCAA eligibility.⁸ Borie, who stated that she received the call from Steele because Alabama officials were having trouble reaching HHS College and Career Specialist Cindy Bond, immediately relayed this information to Bond, who it turns out had already returned a missed call from a University administrator. Borie also called and informed Kathey Long, the HHS 12th

⁸ From our examination, it appears to have been .07 (not .007) of a QPA short. There is no suggestion that the Alabama representative was asking for any change in STUDENT #1's grades.

Grade Assistant Principal. This was startling and shocking news to all of them because this student (who had passed all courses and had a school GPA going into his senior year of 2.66) had not been viewed as “at risk.” Borie also advised Long of some information learned during her call with Bond – that one of the student’s grades in his senior year was a grade of 89 in Algebra II, a class taught by Forrest Quattlebaum, and that the team in its May 24th review had failed to identify Quattlebaum as a teacher with a student having a ’9 grade and hence had not asked him for any grade verifications. Long said that she would call Quattlebaum, but also suggested that the team check for a possible computer-rounding error.

Bond and Counselor Marley Stephens reviewed the student’s grades on the computer and, looking at the 1st semester’s grade (90) and at the grade in the last column (89), concluded that this was a computer-rounding error. Bond then submitted to registrar Tammy Schroeder a memo stating “please round [STUDENT #1’s] 89.5 to a 90 in Algebra II non-trig.” Schroeder made the change as directed by Bond. With sighs of relief, the team thought that they had corrected a computer error. Borie immediately called Long – who had not yet contacted Quattlebaum – to report that, indeed, this was simply a computer-rounding glitch, that the student’s yearly average for the course was 89.5, and that they had taken steps to show his correct grade of 90 or A.

About two weeks later, Carol Martin, then the 9th Grade Assistant Principal, and Terri Borie went to a local restaurant and, by coincidence, saw Quattlebaum there with some other teachers. Borie and Martin told Quattlebaum that he would be pleased to learn that they had found and corrected a computer error in STUDENT #1’s grade. Quattlebaum, who (with the others at his table) was unaware of any computer-rounding

problems, was puzzled by this information and, after further thought, somewhat skeptical – perhaps because he was a math teacher, meticulous in his grading, and indeed had taken a special interest in calculating yearly grades under the new system, even to the point of developing and sending to other teachers on May 10th a spreadsheet template for their personal use in calculating yearly grades.⁹

That same evening, Quattlebaum went to the school and checked his handwritten grade sheet for the Algebra II class and the STI grades on the computer. STUDENT #1's grades were 90 for the first semester (second highest in the class), 88 for the 3rd nine-weeks, and 88 for the 4th nine-weeks. With an 80+ average, he had been excused from taking the second semester final exam, resulting in a second semester average of 88, and a grade for the year of 89.0 (not 89.5). The 90 showing on STI as the year-end score was not a “corrected” score based on rounding, but was a changed score, raising (without Quattlebaum's approval) the student's yearly grade from B to A. Quattlebaum subsequently told reporters at the *Birmingham News* about this unauthorized grade change, and this event became part of an article concerning HHS football players.

A few days before the article was published, Bond and Stephens heard about Quattlebaum's concerns, and they carefully reviewed STUDENT #1's Algebra II grade. This review confirmed what Quattlebaum had stated – that the grade had been changed, not simply corrected. It also showed that, when Bond and Stephens had looked at the student's grades on May 30th and averaged a 90 and an 89, they were looking at the scores for the first semester and for the year, rather than for first semester (90) and for the

⁹ Interestingly in view of the later problems, Quattlebaum had distributed to the HHS faculty two revisions of his first template, one to provide a second semester average for students exempt from taking the second semester exam, and another to calculate yearly averages by using average of integers rather than the average of decimal grades.

second semester (88). This type of mistake is easy to make when looking at grades under the new format, where the last column displayed no longer is the second semester score but the year-end average.¹⁰

In interviews during this investigation, Quattlebaum was told Bond's and Stephens's explanations about how this mistake occurred and why he had not been called. Even so, he was reluctant to accept their explanations, particularly since so many administrators and staff were involved and since, as he then understood, grades of other students ending in '9 had not been reviewed for possible computer rounding problems. He was unaware that on May 24th nineteen teachers had in fact been so identified and contacted about possible grading problems – for both athletes and non-athletes.

Quattlebaum also stated that STUDENT #1 was one of the better students in his Algebra II class and that, when discussing with the student the option not to take the second semester exam, he was unaware of the potential consequences that skipping the exam might have on the student's NCAA eligibility. Quattlebaum stated that the student might well have made a 91 on the final exam – the score needed to raise his year-end average to a 90. Indeed, of the students taking the final exam,¹¹ two made a 91 or better, and each of these two had lower first semester grades than STUDENT #1. Quattlebaum stated that, if requested, he would certainly have allowed STUDENT #1 to take the semester exam late and, indeed, might even have considered bumping up the final semester grade as he had occasionally done for a few students in past years.

¹⁰ During the course of this investigation, we have experienced similar difficulties because the scores shown in the far-right column of printed grade sheets and transcripts sometimes reflected final year scores and sometimes second semester exam scores or second semester averages .

¹¹ STUDENT #1 and two others skipped the exam under the senior option.

In retrospect, it appears that a series of mistakes contributed to the erroneous grade change:

- None of the administrators, counselors and coaches ordinarily involved in following “at-risk” students identified STUDENT #1 as being on the cusp of NCAA ineligibility after his last ACT exam in February 2007. As a result, the student and his teachers (like Quattlebaum) were unaware that the student needed to earn particular grades in his final semester in order to be NCAA eligible.
- Consequently, the student and Quattlebaum were unaware of the potential consequences of skipping the second semester exam. There would have been no downside to the student’s taking the exam – he might well have made the 91 needed to earn an A for the year and, even if he had made 0 on the exam, he still would have had 80 for the semester and a B for the year.
- For some reason, the administrators and counselors involved in the May 24th search for teachers with students having a grade ending in ‘9 did not spot Quattlebaum and STUDENT #1. As a result, Quattlebaum was not asked to verify his grades.
- On May 30th, learning of the potential NCAA eligibility problem, Bond and Stephens, still believing there was a potential glitch in the computer’s rounding calculation, personally recalculated STUDENT #1’s yearly grade for the course but mistakenly looked at a wrong column on the computer screen for the second semester score. And, believing that they had simply corrected a computer error rather than changed a teacher’s grade, they did not try to contact Quattlebaum.
- In a chance meeting with Quattlebaum about two weeks after the grade change, administrators told him about correcting the so-called computer glitch. That same evening, Quattlebaum rechecked his grade book and the STI scores and found that, even if there was a rounding problem with the computer program, the student still had earned only an 89 for the year, not the A showing on the transcript. Quattlebaum did not follow up on this error with school officials, and instead provided this information to news reporters for use in an article on the Hoover football program.

To summarize: We are convinced that, though clearly an unauthorized grade change, this was the result of an innocent human error by Bond and Stephens – without any purposeful intent to benefit a football player – and that they would not have made this change without Quattlebaum’s authorization if they had realized that the student’s

year-end average was 89 rather than 89.5. There is no indication that STUDENT #1 was personally involved in, or even aware of, the grade change.

2. Campbell-Ware's Economics class

We place in this portion of our report about possible unauthorized grade changes a discussion about Sylvia Campbell-Ware's Economics grades, although these events do not fit neatly into the section's description.

STUDENT #2, a star football player with an IEP for Special Education students, took a one-semester Economics course taught by Campbell-Ware in the Spring of 2007.¹² Campbell-Ware said Terri Borie told her in December 2006 that STUDENT #2 would be in her Economics course during the second semester. Borie also informed Campbell-Ware that STUDENT #2 was originally scheduled to be in the Economics course taught by Deborah Wilson but was moved to her class because Borie thought Campbell-Ware would work better with STUDENT #2. Campbell-Ware said that, after news of STUDENT #2's transfer to her class became known, other teachers approached her and told her that any teacher who had STUDENT #2 in a course and did not give him a passing grade would not be back at HHS the next year. Another teacher, Nikki Townsend, advised Campbell-Ware to document all of her work with STUDENT #2. Campbell-Ware also discussed the situation with Wilson, who told Campbell-Ware she

¹² Campbell-Ware was hired shortly before the 2006-07 school year when an Economics teacher unexpectedly decided not to return. She was not certified and had no experience teaching high school but had taught business courses at a local junior college. She admittedly had no experience with Special Education students or IEPs and stated she paid close attention to the accommodations to which STUDENT #2 was entitled. Lisa Armstrong, STUDENT #2's Special Education case manager for his senior year, confirmed that Campbell-Ware followed STUDENT #2's IEP accommodations and tried to help him throughout the course.

Campbell-Ware was not rehired for the 2007-08 school year but does not believe her disagreement about STUDENT #2's third exam played any role in this decision. Campbell-Ware was not critical of the HHS administrators and counselors (except with respect to allowing STUDENT #2 to take the exam a third time) and was particularly complimentary of Armstrong.

believed the student was transferred out of her class because it was known she would require him to do the work and not give him preferential treatment.

According to Campbell-Ware, STUDENT #2's attendance in the course was poor, particularly toward the end of the semester, and he often received slips that said "excused -- no parent note" when school policy required a note from the student's parent. STUDENT #2's poor attendance was confirmed by his Special Education case manager, Lisa Armstrong, who said he attended class hardly at all during the final two weeks of the semester. When he attended class, Campbell-Ware found his effort to be lacking.¹³

Campbell-Ware said she followed STUDENT #2's IEP accommodations and personally provided a study guide to him before each test when he was present. If he was absent, she provided the study guide to Borie to give to him. Campbell-Ware kept Borie informed about STUDENT #2's attendance and progress in the course because she knew Borie was interested in him. Campbell-Ware said Borie checked on STUDENT #2's status at least once per week. Armstrong also monitored his work in the course.¹⁴

During the semester, on occasion when STUDENT #2 did poorly on a test or assignment, Campbell-Ware was requested to allow him to re-take the test. Campbell-Ware agreed to allow him to study again and re-take a test more than once so he might improve his grade. On other occasions, Campbell-Ware on her own allowed him to re-take a test, re-submit an assignment, or submit an assignment late because she wanted

¹³ We attempted to interview STUDENT #2 but were unsuccessful.

¹⁴ Armstrong echoed the comments of other teachers who felt uncomfortable after receiving requests from Martin and/or Borie to make special requests on STUDENT #2's behalf, such as asking teachers to allow him to re-take a test he failed. She believes Martin and Borie assisted STUDENT #2 too much and in some ways caused him to put forth less effort because he believed Martin and Borie would take care of any problems.

him to do well in her course. She did this because of STUDENT #2's IEP, not his status as an athlete.

Despite the efforts of Campbell-Ware and the others, STUDENT #2 performed poorly in the course and had a failing grade (54.5) going into final exams. Campbell-Ware became frustrated with his lack of effort as the semester progressed, particularly when many of her students were working hard in the course. Campbell-Ware told Borie that STUDENT #2 would have to do the course work and earn his grade.

a. Final Examination – First Attempt

Rather than give a final examination on the entire semester, Campbell-Ware decided the final examination would cover only one chapter and informed the class which chapter would be covered on the examination.¹⁵ Her decision was not an attempt to help STUDENT #2 pass but rather done for the benefit of the entire class. STUDENT #2 took the examination on May 17 and made 43, which of course resulted in a failing grade (52) for the semester.

After the first examination, Carol Martin contacted Armstrong and asked her to make sure STUDENT #2's IEP accommodations had been followed. Campbell-Ware told Armstrong she gave the study guide to STUDENT #2, who lost it, and she later gave him a second copy. Martin said STUDENT #2 claimed that he did not receive the study guide for the first examination as called for by his IEP. Campbell-Ware clearly recalled providing the study guide to him before the examination.

¹⁵ Kathey Long stated some students who failed the course claimed Campbell-Ware did not tell them which chapter would be covered on the final examination.

b. Second Attempt

HHS policy allows senior students who are failing a course to re-take the final examination, so it was consistent with policy for STUDENT #2 (or any other student) to re-take the examination under the circumstances.

Prior to the second exam, Armstrong received the study guide from Campbell-Ware and personally delivered it to STUDENT #2. The test covered the same material and contained the same questions. There is no question that he received the study guide before taking the second examination on May 21. He made 43 on the second examination.¹⁶

c. Notification about STUDENT #2's Grade

With the number of HHS employees monitoring STUDENT #2's work, it could not have come as a surprise that he was in danger of failing the Economics course. There is nothing in the email correspondence suggesting anyone involved was caught off guard by this development, at least as far as STUDENT #2 was concerned. On May 22, 2007, at 1:53 p.m., Campbell-Ware emailed a summary of STUDENT #2's grades for the second semester to Armstrong and Borie. The e-mail states his final grade was 52 and clearly lists the grades for both the "1st Time Final" and the "Final Exam Retake." Armstrong forwarded the email to Martin along with her observations on STUDENT #2's performance in the course. Armstrong stated in part:

[STUDENT #2] was given the pages he needed to study for the exam. When he was to retake the exam, Sylvia recopied those pages and I passed them on to [STUDENT #2]. He obviously did not study either time -- all the information he needed was on those pages.

¹⁶ Campbell-Ware allowed other senior students who were failing to re-take the exam, and some of them improved their grade to a passing mark. She had one student who, like STUDENT #2, failed both attempts. This student did not take the exam a third time.

Respectfully, I cannot go to Sylvia and ask for this information again. Ms. Campbell allowed him to retake three tests over again -- one test she allowed 2 retakes. He will not study, so his grades are not improving.

Obviously, I am frustrated with [STUDENT #2]. He has skipped most all of his classes for the last week or so. . . I cannot in good conscience keep asking for exceptions for a student who does not care and will not make any effort.

Several things are clear from the email. First, Armstrong believed his IEP accommodations had been followed on both attempts. Two, Armstrong clearly informed Martin that he had already taken the exam twice. Martin forwarded Armstrong's email to Principal Bishop within minutes of receiving it.

Long denies receiving or even being aware of this email exchange between Armstrong and Martin. Bishop, however, forwarded this email to Long and others at 12:40 a.m. on May 23.¹⁷ In forwarding this email, Bishop noted "I see that [STUDENT #2] finally gave up I think we have exhausted all our options."

At 3:24 p.m., Long emailed Campbell-Ware and asked "how did 'my boys' wind up doing? [another standout football player]? [STUDENT #2]? I know my gray hairs have multiplied, but you are too young to have to start having them!" There is no reference in the email to any student other than these two football players. We note, however, that Long's actions the next day demonstrate she was concerned about all of the students who failed the course.

¹⁷ Long said she was very busy during this time, and it is possible she received but did not open or read the email until some time after STUDENT #2 took the exam a third time. Long is adamant she did not know STUDENT #2 had taken the final exam twice when he took it for the third time. Had she read Armstrong's email, or Campbell-Ware's May 22nd email attachment, she would have known this. She said Martin did not inform her that STUDENT #2 had already taken the exam twice.

At 3:46 p.m. on May 22, Campbell-Ware replied and told Long neither student passed the course. Campbell-Ware attached with the email a list of students who failed.¹⁸ The students were listed on a spreadsheet attachment which clearly stated that STUDENT #2 (and another student) had already taken the exam a second time.¹⁹

At 5:04 p.m., Long replied, inquiring whether Campbell-Ware had shared the information with the administrators in charge of the graduation program. Long also asked how the students' parents reacted to the news their children would not graduate.

d. Third Attempt

On May 23, 2007, Long and other HHS administrators had a regularly scheduled meeting at 6:30 a.m. Bishop and Martin were among those in attendance, and Campbell-Ware's Economics class was discussed during the meeting. During a break in the meeting, Long learned Campbell-Ware was not at work. Campbell-Ware, who was in the late stages of pregnancy, had a doctor's appointment and was told by her doctor not to return to work that day.

Concerned about whether the seven students would graduate, Long contacted Campbell-Ware to discuss the situation. Martin actually made the call and handed the telephone to Long after Campbell-Ware answered. Long asked Campbell-Ware about the students who failed and whether they had taken the exam only once. Campbell-Ware said she told Long that STUDENT #2 had already taken the exam twice but the other

¹⁸ At HHS, Assistant Principals are given primary responsibility for a particular grade. Long was the Assistant Principal responsible for the 12th grade. She said much of her time each spring is spent monitoring the status of students who are in danger of not graduating. Long felt the need to act quickly on May 23 because HHS was finalizing the list of graduating seniors for the graduation program the next day.

¹⁹ Long said she was surprised by the list and during her interview criticized Campbell-Ware for not notifying both her and the students' parents earlier that the students might fail the course.

students had taken it once. Campbell-Ware then called Armstrong and told her where the exam was located in her office. Both Campbell-Ware and Armstrong say they told Long that STUDENT #2 had taken the exam twice already.

Long called the students and/or their parents to tell them about the failing grade and encourage them to return to the school immediately to re-take the examination. Of the seven students, two were athletes, and the other re-took the exam but did not pass the course. Non-athlete students also failed the course.

Long met with STUDENT #2 and two other students to review the materials before the exam. The exam covered the same material and contained the same questions as the initial exam. Long administered the exam to the three students. The students were placed in separate areas for the exam. The exams were graded by an HHS counselor to avoid, in Long's words, any appearance of impropriety. STUDENT #2 needed a grade of 84 to pass the course, and he made a grade of 88 on this third attempt. The entry of STUDENT #2's grade, as well as the grades of the other students, was handled in Campbell-Ware's absence by having an HHS information technology employee change her password and enter the new exam scores on STL.²⁰

It is clear Martin knew STUDENT #2 had taken the final exam twice before the final attempt, and the only explanation she offered is that STUDENT #2 told her he did not receive his IEP accommodation on the first attempt. Campbell-Ware disputes this, and Armstrong's May 22 email supports Campbell-Ware on this point.

²⁰ It was later discovered that an eighth student had received a failing grade in Campbell-Ware's Economics class, but was mistakenly not notified of his right to re-take the exam before graduation. Because of this error by HHS, on May 30, 2007, Principal Bishop authorized a change of his final grade from a 57 to a passing grade of 60.

Long says before she gave the final exam to STUDENT #2, either Martin or Armstrong told her Campbell-Ware did not provide STUDENT #2 with a study guide (as called for by his IEP) before the first exam. Armstrong denies saying this to Long or having personal knowledge of STUDENT #2's first exam. Campbell-Ware is adamant she provided not one but two study guides to STUDENT #2 before the first exam. Long did not discuss this issue with Campbell-Ware when they spoke on May 23. Bishop was generally aware of STUDENT #2's situation and said he heard STUDENT #2 did not receive the proper accommodations in connection with the first exam.

After the issue of the third exam arose and Long heard some at HHS were questioning her actions, she went to then HHS Athletic Director Jerry Browning to clear her name. Browning says Long told him that she allowed STUDENT #2 to take the exam again because she did not know he had already taken it twice.

Neither Long nor Martin questioned the dramatic increase in STUDENT #2's score, noting that STUDENT #2 normally did well when he focused and received his accommodations. Others were surprised by and suspicious of this 45-point jump in his score. We have reached no conclusion on the validity of his score on the third exam but do note the test itself covered only one chapter and was multiple choice and fill-in-the-blank questions.

e. Conclusions

We have concluded that HHS policy was violated when STUDENT #2 was allowed to take the exam a third time. The information available suggests one or more HHS administrators and/or teachers knew STUDENT #2 did not deserve a third attempt at the final exam. STUDENT #2 also received many advantages during the semester that did not relate to his IEP accommodations, such as second attempts at valid tests and

projects, as well as the constant attention of HHS administrators. Despite this, or perhaps because of this, it appears STUDENT #2 put forth minimal effort and regularly missed class. The persistence of Borie and Martin is consistent with their tendency, however well-intentioned, to do everything they could to assist STUDENT #2 and other athletes with little regard to whether other students received the same treatment or whether their actions were consistent with school policy.²¹

3. Firth's Earth Science Class

Jenny Firth taught Earth Science at HHS during the 2005-06 school year. STUDENT #2 was in her class. STUDENT #2 passed during the first and second nine-week grading periods, with grades of 75 and 63. STUDENT #2 failed to take the final examination, receiving a grade of zero. This resulted in a final semester average of 55. Firth believes STUDENT #2 simply failed to show up for the final exam.

In early January 2006, Firth, a non-tenured teacher, was asked to allow STUDENT #2 to re-take the final exam. Firth did not object to the request because she believed it would become a big issue if she refused since it involved STUDENT #2. She provided the final exam to Terri Borie. Firth believes but is not certain that Borie administered the exam to STUDENT #2. Firth graded the exam, and STUDENT #2 made 70. On February 6, 2006, Firth asked the registrar's office to change STUDENT #

²¹ As noted below, we interviewed another teacher (Brian Gober) who was "strongly encouraged" by Martin to allow a highly-regarded football player to re-take tests. Gober heeded Martin's requests, and another student in the class (who was also a football player) eventually complained that he did not receive the same opportunities to re-take tests as did the highly-regarded football player. Gober agreed with the student's complaint and felt all students should be treated the same. When he raised the issue with Martin, she described the student's complaint as "tacky" and instructed him to refer any students who persisted in their complaints to her. Gober, nevertheless, decided to afford all students, athletes and non-athletes, the same opportunity to re-take tests.

2's final exam grade from zero to 70. This resulted in a final average of 69.2, a grade of D, for the first semester.

Firth went on maternity leave on February 7, 2006. She was replaced by Trent Walker. She had very little contact with Walker after going on maternity leave, and none of her discussions with him involved STUDENT #2.

On May 26, 2006, Walker sent an email to the registrar's office requesting changes to STUDENT #2's grades. Walker changed STUDENT #2's grade for the second nine-weeks from 63 to 65, saying STUDENT #2 had made up some work that justified the change. The effect of this change was to raise STUDENT #2's first semester average from 69.2 to 70, or from D to C, and of course to raise his GPA. Although she had no knowledge of the change or whether it was justified, Firth stated STUDENT #2 did no extra work to raise this grade before she went on maternity leave in February. She noted it would be very unusual for a student to be allowed to do first semester make-up or extra work during the second semester.

Walker is no longer teaching at HHS. He stated that late in the 2005-06 school year, Martin asked him to review STUDENT #2's work from the first semester to see if he could do anything to improve his grade of D. We located an email exchange between Martin and Walker dated May 24, 2006, which confirms this. It is clear from the email exchange that Martin initiated this discussion and the goal was to raise STUDENT #2's first semester average to 70 so he would receive a grade of C. Walker then reviewed Firth's materials from the fall semester and told Martin he would allow STUDENT #2 to re-take one test and resubmit one assignment. Martin replied that STUDENT #2 would meet the next day with Walker to do this and asked Walker to find the study guide for the

test. Walker said STUDENT #2 actually did this make-up work, causing him to change the grade to 65. This change raised STUDENT #2's first semester grade from D to C. Walker said Martin's request to allow make-up work from the first semester was unusual. He also said Martin made this request for STUDENT #2 only and none of the other students in the course.

4. Computer grade of STUDENT #2 changed to "N"

Later in this report, we discuss in detail STUDENT #2's grades in other classes and pressure exerted on Casey Macke, a computer teacher and assistant football coach. Without Macke's approval, Martin caused STUDENT #2's final grade in Macke's Spring 2006 class to be changed from an "F" to an "N" (for "no credit"). Martin had placed STUDENT #2 into Macke's class after beginning of second semester, as an "8th" course. STUDENT #2 missed many classes, dividing time between this last period class, the athletic field and leisure activity. STUDENT #2 failed the class. Martin claimed that she had made a "mistake" by moving STUDENT #2 into Macke's class, and therefore decided to change the grade from an "F" to an "N." The changing of the grade to "no credit" had no effect on STUDENT #2's athletic eligibility.

C. Pressure on teachers to enhance athletes' grades

With regard to both grade changes and pressure on HHS teachers to change grades, we have reviewed allegations that non-tenured teachers have been pressured to change certain football players' grades or, at a minimum, to provide those players with extraordinary accommodations that were not offered to other students.²² We also considered, though not nearly as extensively, allegations that, as a regular practice,

²² At HHS, a teacher normally serves a three-year period during which he or she does not have tenure. Some teachers are dismissed before this three-year period runs. If a teacher fulfills this three-year period, the teacher is either "non-renewed" or given tenure.

football players were transferred from the classrooms of tenured teachers to the classrooms of non-tenured teachers because teachers without tenure would be more susceptible to influence and pressure in order to preserve their jobs.

We did not find substantial, persuasive evidence of such patterns and practices. We qualify this conclusion, however.

As we discuss below, administrators and to a lesser extent coaches at times pressured teachers to either change grades or otherwise show unique favoritism to at least some football players. That pressure included pressure on non-tenured teachers who were not renewed and who had football standouts in their classes – Sylvia Campbell-Ware, Brian Gober, Nikki Townsend, and Casey Macke. Townsend felt that her job might be in danger if she did not do what was asked of her; Gober and Macke were both warned – although not threatened – that their positions could be in peril. Townsend believes she was not renewed because she complained to Bishop and others that she felt pressured by Martin and Borie to give STUDENT #2 a better grade than he deserved.

On the other hand, Campbell-Ware does not believe that her non-renewal was related to football players in her class; she admits she had been told she would not be renewed before the issue arose surrounding STUDENT #2 and the final exam. But even tenured teachers could also experience pressure to unduly accommodate football standouts, as we note in our discussion of science teacher Laura Burke. In addition, we note that we were offered reasons why Campbell-Ware, Townsend, and Macke were either non-renewed or resigned. We do not express any conclusions about those actions as personnel matters.

Similarly, the record is mixed on the class-transfer question. STUDENT # 2 was transferred from the class of a tenured Deborah Wilson to the class of a non-tenured Campbell-Ware. Wilson did not accept as correct the reason given for the transfer – that her class conflicted with STUDENT # 2’s art class. On the other hand, STUDENT # 2 was also transferred between *tenured* teachers (from David McCollum to Whitney Curvin) in another course.²³ Between 2003 and 2007, STUDENT # 2 had 35 teachers at HHS. Of those, more were tenured (21) than non-tenured (14). The difficulties that some non-tenured HHS teachers experienced with regard to some of their football students were genuine, but there is not substantial, persuasive evidence of a pattern focusing on non-tenured teachers.

We now turn to particular examples of pressure on HHS teachers to enhance athletes’ grades or otherwise unfairly accommodate athletes’ grades.

1. STUDENT #2

In the section on unauthorized grade changes, we comment on the fact that during his junior year STUDENT #2’s grade in the computer-applications course was, without his teacher’s consent, changed from an “F” to an “N.” In that section, we also noted that at the end of his senior year he was allowed, without his teacher’s consent, to take the

²³ This transfer warrants further discussion. McCollum taught STUDENT #2 in his Geometry B course, which covered a two-year period. STUDENT #2 was failing McCollum’s course when he was removed in middle of the Fall semester of 2006. McCollum did not know what happened to STUDENT #2 and assumed he had been transferred to another Geometry B class. McCollum learned near the end of the school year that STUDENT #2 had been transferred to Curvin’s Geometry A class. Geometry A is a more difficult course than Geometry B in that the same material is covered in one year, where Geometry B takes two years. McCollum also learned STUDENT #2’s grade improved in Curvin’s course. McCollum discussed the matter with Curvin and is satisfied that STUDENT #2 earned the grade he received in her course. He has no reason to suspect Curvin gave STUDENT #2 a better grade than he deserved. We have not interviewed Curvin.

final Economics exam a third time, resulting in his semester grade being changed from an “F” to a “D.”

But the saga of STUDENT #2’s academic challenges at HHS – and the story of the relentless efforts by administrators, counselors and coaches to somehow shepherd him through course requirements, aiming to keep him eligible for high school athletics and then to graduate and perhaps even be eligible for a college football scholarship – starts back in his freshman year.

STUDENT #2 entered HHS in 2003-04, already highly touted as a potential football star but also as one likely to have academic problems. He had failed at least two 8th grade classes at Simmons Middle School. He did not complete any course work in the regular 2003 summer school programs in which he was originally enrolled. Answering later questions about how he was able to even be admitted as an HHS freshman, 9th grade Assistant Principal Carol Martin in an email to Patricia Hartley²⁴ on November 11, 2003, stated that he had completed these graduation requirements at Crossroads (an alternative school available for Hoover students with special problems). In the same email, Martin noted:

He is supposed to be a good athlete and I am pleased that at least he has stayed out of trouble so far. David Shores is supposed to be the one taking care of him – I will recommend that he set up a conference with us and Coach Propst. Rush and I have already done this once. You might let David know about how concerned you are. I have been very concerned, too. We might drop Computer and put him in an academic support group.

²⁴ Hartley was concerned about STUDENT #2, who had a “19% average in a computer class” and was “failing almost everything else.” The student apparently was allowed to withdraw from the computer class; at least it does not show up on his transcript. Thus, when Martin enrolled him in Casey Macke’s computer class more than two years later, it was STUDENT #2’s second run at the course.

Back in September 2003, Martin in an email had noted that STUDENT #2's Special Education IEP accommodations had been in place the previous year (at Simmons) and that a potential revision for HHS is "our last idea to try."

Despite persistent efforts by administrators, counselors and coaches to press STUDENT #2 to attend and participate in classes and to complete his assignments, he failed two semesters of core academic classes in his freshman year, as well as a third elective course (Art). During this period, we have no information about pressure being brought on teachers other than to help in the effort to get him to do his work. To become eligible for high school athletics for the next year, he re-took the two failed core courses in the Summer of 2004, receiving in each a grade of C.

In his sophomore year, he passed all core academic classes and did not have to attend summer school to maintain his eligibility for high school athletics. Again, while there was regular monitoring by counselors and administrators, we have no information about any improper pressure being brought on teachers to enhance his grades during that year.

In 2005-06, STUDENT #2's junior year, he did not fail any classes and would not have had to attend summer school to maintain his eligibility for high school athletics in his senior year. However, by this time, it was apparent that he needed to raise his GPA in core classes to meet the minimum required by the NCAA (2.0)²⁵ and indeed was facing potential problems with not graduating. He went to summer school and received a B in a core course, boosting slightly his GPA, and also passed another elective non-academic class.

²⁵ NCAA eligibility would also depend upon obtaining a sufficient score on the ACT or SAT standardized test or perhaps an initial eligibility waiver by the NCAA.

It was during this junior year that, as previously described, his Computer grade was changed from “F” to “N.” In and of itself this had no effect upon STUDENT #2’s status since, under Hoover’s policies, he would still have to retake a computer course that final year. What is most significant here is this change took place at Martin’s direction and without the teacher’s knowledge or approval.

During his senior year, teachers were increasingly pressured in an effort to see that STUDENT #2 would graduate – which also meant his passing the remaining elements of the Alabama High School Graduation Exam (the “AHSGE”) – and, indeed, in some unrealistic hope that his NCAA core-course GPA could be raised to the 2.0 minimum level. There was so much activity and email traffic regarding STUDENT #2 that Bishop told Martin in an October 13, 2006 email that “I appreciate your interest in helping [STUDENT #2]. I do not want any teachers pressured to pass [him] ... he needs to earn the grade.”

a. Macke

During the 2005-06 academic year, Casey Macke was an assistant football coach at HHS. He also taught computer classes to grades 9-12. In the second semester of his junior year, STUDENT #2 was placed in Macke’s computer class. STUDENT #2 failed the class. Football coaches pressured Macke about steps to avoid an F. Macke declined to take such steps. Carol Martin later changed STUDENT #2’s grade from an F to an N (for “no credit”), without Macke’s knowledge or approval.

i. Macke’s Initial Contacts About STUDENT #2

In December of 2005, an assistant football coach approached Macke about putting STUDENT #2 into Macke’s computer-applications class. The coach indicated that

STUDENT #2 needed an A. Macke replied that the course was not difficult and that, if the student regularly came to class, he could get an A.

Macke did not hear anything further until Martin came to him during the first week of the Spring semester and said that STUDENT #2 might be in his class. However, STUDENT #2 was not enrolled in Macke's class until the fourth week of the semester.

Although the class was taught during the 7th and "final" period of the day, it was actually STUDENT #2's 8th class period of the day because, like many athletes, he was assigned a "zero" period early in the morning. STUDENT #2 was absent from Macke's class a significant amount. According to Macke, he missed approximately forty (40) class days, although the figure of forty days includes the fifteen days (15) from the first three weeks, when he was not signed up for the course at all. Over the course of the semester, Macke expressed his concerns regarding STUDENT #2's attendance and performance in his class to Martin, Propst, and other assistant coaches.

ii. Macke Meets With David Faulkner

On or shortly after the last day of school in May 2006, assistant football coach David Faulkner met with Macke to discuss STUDENT #2's status. Although not technically Macke's supervisor, Faulkner did oversee Macke's coaching duties. Macke reported to Faulkner that STUDENT #2 failed the computer class. Faulkner, apparently concerned that Macke, as a younger coach, was being too severe on STUDENT #2, asked about other options for additional or make-up work. Faulkner also told Macke that he needed to pick his battles, especially as a new coach with a young family.

Macke believed that the grade would be changed whether or not he wanted it to be changed, and that he might lose his job because of his stance. At no point, however,

did Faulkner demand that Macke change STUDENT #2's grade, nor did Faulkner threaten Macke's job as a wide-receivers coach.

iii. Macke Meets With Rush Propst

Sometime during the following two days, Macke met with Propst. After confirming that Macke intended to fail STUDENT #2 in the computer class, Propst reminded Macke that STUDENT #2 was one of the school's best players. He and Macke then had an in-depth discussion about STUDENT #2; his prospects for life if he did not play football at the college and NFL levels; and Macke's role in and loyalty to the Hoover football program.

Propst proposed that Macke change STUDENT #2's grade to an "Incomplete" and allow him to complete assignments he missed over the summer. Under Propst's plan, Macke would then give STUDENT #2 a passing grade if he successfully completed the work. If he does not do the work, Propst said, then STUDENT #2 should fail. Propst added that Macke would not need to stay at school during the summer to oversee this supplemental work; rather, either Propst or another assistant coach would administer the assignments to STUDENT #2. Macke replied that this would not be fair to the other students.

Propst told Macke to go home, think about it, and then let him know what he decided.

iv. Macke Rejects Propst's Proposal and Transfers the File to Martin

Macke eventually told Propst that he did not feel comfortable providing this supplemental opportunity to STUDENT #2, but that an administrator would have the power to do so. Macke then gave the assignments that STUDENT #2 had missed to

Martin, literally giving her a stack of documents. He explained to her what Propst wanted to do.

Thereafter, Propst told Macke that he would be reassigned for the following year as a Junior Varsity coach, the position for which he had apparently been originally hired. Dissatisfied with that prospect, Macke decided not to return to HHS the next year.

It does not appear that any effort was made by Martin to have STUDENT #2 complete the missed assignments. STUDENT #2's grade was never changed to "Incomplete." Rather, concluding that it had been her error to place STUDENT #2 into Macke's computer class, Martin caused the "F" to be changed an "N."²⁶ Macke did not know about or authorize the grade change.

We note that, in the essentials, Macke, Faulkner and Propst agree about what happened. They diverge on the intent and effect of the conversations. Whatever the intent, the effect of these meetings clearly put pressure on Macke to offer a standout football player a second chance to makeup or redo work in order to improve a failing grade.

²⁶ Within the HHS system, the letter grades available are "A," "B," "C," "D," "F," "I" and "N." An "I" stands for "Incomplete" and reflects the fact that the teacher expects the student to complete missed or additional work, so that the requirements of the course may be satisfied and the grade entered.

On the other hand, an "N" stands for "No Credit." In essence, the student is treated as having withdrawn from the course, without reducing his or her HHS GPA by treating the class as hours attempted. The grade of "N" is ordinarily used only in unusual situations, such as where during a semester a student suffers a grievous injury or a debilitating illness. In the 2005-06 school year, HHS had only 10 grades of "N" out of a student body of over 2000.

In addition, HHS policy for handling the "8th" class was not followed. HHS policy does not allow a student to drop an 8th class after the drop/add period. The only option available to a student is to petition to have the 8th class changed to Pass/Fail.

b. Townsend.

STUDENT #2 took English 12 from Nikki Townsend during his senior year,²⁷ having been transferred to Townsend's class in September 2006. There was nothing suspicious about the transfer, which apparently was motivated by a complaint of classroom misconduct by STUDENT #2 in the original class. However, as STUDENT #2 was failing the course at the time of his transfer, Townsend requested a meeting with various administrators who worked with or had a special interest in STUDENT #2. Carol Martin, Kathey Long, Jeremy Pruitt (assistant football coach), Martin Nalls (another Assistant Principal) and Townsend attended the meeting. Townsend requested the meeting to learn the expectations of her in teaching STUDENT #2 and to make it clear she would require him to earn his grade.

At the outset of the meeting, Martin stated "we need a B" in the course.²⁸ Townsend thought the statement unusual but did not interpret it as an instruction or attempt to influence her. Rather, at the time she took Martin's comment as indicating what STUDENT #2 needed to meet NCAA eligibility requirements. Martin confirmed this was her intent in making the comment and added she did not want Townsend or any of STUDENT #2's teachers to lower their expectations and "give up" on him during the early stages of the school year. Townsend believed the goal to be unrealistic, as she understood STUDENT #2 had never made higher than a grade of D in English.

²⁷ Townsend was in her third year at HHS during 2006-07. HHS decides whether a teacher will receive tenure at the end of the third year. Townsend was not renewed at the end of the 2006-07 school year and did not receive tenure. She believes she did not receive tenure because she refused to provide preferential treatment to STUDENT #2. HHS administrators cite unrelated reasons for the decision. We reach no conclusion as to whether Townsend's beliefs are well-founded.

²⁸ The emails reviewed suggest Martin or someone else made a similar statement to STUDENT #2's original teacher in English 12.

Townsend asked Martin if she had an alternative plan in the event STUDENT #2 did not improve his grades sufficiently, and Martin said no. From the email correspondence, it is clear that Townsend appreciated from the outset that STUDENT #2 needed to pass all of his courses in order to graduate.

During the fall, STUDENT #2 continued to have a failing grade. He failed the final exam on his first attempt and was allowed to re-take it. His exam score improved on the second attempt, but he still had a failing grade.²⁹ In January, STUDENT #2's special education case manager, Lisa Armstrong, informed Townsend that his IEP accommodations had not been followed on the two final exams, as his exam had not been divided into sections. There is no dispute that STUDENT #2's accommodations were not followed, and Armstrong accepted responsibility for this mistake. STUDENT #2 was allowed to take the final exam a third time, this time with the allowed accommodations, and his exam score improved to 65. His final average for the semester, however, remained a failing grade, 57.

According to Townsend, she was told by Borie in early 2007 that she and Bishop had a plan by which STUDENT #2 could meet NCAA eligibility requirements. Bishop confirmed he was aware there was a slight chance STUDENT #2 could increase his grades and become eligible but noted he would have to perform at a level he had not previously achieved at HHS.

In late January, a teacher told Townsend that Propst had complained to Bishop about Townsend, prompting Townsend to contact the English department chair about the matter

²⁹ Given the change from semester grading to yearly grading for the 2006-07 academic year, it is unclear whether HHS policy allowed senior students to re-take the final exam during the fall semester. Assuming the policy did allow this, there is also a question whether STUDENT #2 could have taken the exam a second time with proper accommodations (*i.e.*, a fourth time).

because she felt she was being set up. She met with the department chair, who in turn relayed her concerns to Bishop.

On February 12, 2007, Bishop met with Townsend. Townsend expressed her concerns and told Bishop she felt pressured by Borie and Martin. Bishop assured her she should not be concerned and told her she should not treat STUDENT #2 preferentially. He encouraged her to focus on doing her job. Townsend did not feel pressured by Bishop but doubted his sincerity given the perception that he and Propst were close friends.

STUDENT #2 failed to turn in an assignment during the winter of 2007, dropping his average to 36. Townsend was very frustrated with his lack of effort, and Borie's attempts to make excuses for him only added to this frustration. Townsend interpreted Borie's comments as a criticism for not doing more to help STUDENT #2 complete his work. When Townsend failed to relent on this one issue, Borie did not pursue it.³⁰

Townsend also took her concerns directly to Martin. Martin recalled that, for reasons unrelated to STUDENT #2, Townsend was concerned she would be denied tenure and asked if Martin thought Townsend was a good teacher. Martin responded that she was not the appropriate administrator to ask this question and declined to answer. Martin went on to address her special relationship with STUDENT #2, explaining that she asked questions only because she cared for STUDENT #2 and was concerned about his future.³¹

³⁰ Townsend also shared her concerns and frustrations with Armstrong in late February 2007 and noted she was "looking at other possibilities job wise though. I need to keep my options open."

³¹ Martin readily admitted that, when it came to STUDENT #2, she acted more as a parent or advocate, and not as a school administrator.

Townsend grew weary of the constant monitoring by Borie, Martin, and Armstrong of STUDENT #2's progress in her course.³² She felt he received this attention because of his status as a well-known athlete; none of her other students received the same level of attention and assistance.³³ Townsend believed Martin used Borie and Armstrong as mouthpieces to voice her concerns and make sure STUDENT #2 received every advantage. Martin denied any inappropriate conduct, but agreed that she tried to avoid direct communication with Townsend regarding STUDENT #2's work and used Borie and Armstrong to stay informed.

In late February, fearing she would lose her job over her refusal to treat STUDENT #2 preferentially, Townsend went to see both her department chair and Assistant Superintendent of Education Jan Dennis to voice her concerns. Townsend informed Dennis that she was applying with another school system in the event she was not renewed for the 2007-08 year. When Dennis asked Townsend why she was concerned about not being renewed, Townsend said "I am the only nontenured English 12 teacher and the most important senior case was assigned to me. He needs certain grades to go straight to college, but he is not making those grades. . . I am disposable and sticking to my guns." After discussing the matter with Dennis, Townsend said the pressure from Borie and Martin stopped for approximately one month.³⁴

³² The emails between Townsend and Borie/Martin support Townsend's statements regarding constant monitoring and requests for special treatment.

³³ While STUDENT #2's status as a special education student justified different treatment regarding his accommodations, Townsend noted he received much more attention and assistance than other special education students.

³⁴ Kathey Long, Assistant Principal for the senior class, confirmed Townsend came to see her several times about her concerns that she would not be renewed if STUDENT #2 did not receive a grade of B in her course. Long said she advised Townsend to give STUDENT #2 the grade he earned.

STUDENT #2 received a grade of 62 for the second semester in Townsend's course. He made a 60 on the final exam. His average for the year was 59.5, which was properly rounded up to 60, the lowest possible passing grade. Townsend said that STUDENT #2 actually earned this grade. But she also believe that STUDENT #2 passed her course only because of the extraordinary efforts of Borie, Martin and Armstrong in constantly monitoring STUDENT #2's work and lobbying on his behalf for extensions of time for assignments and for opportunities to re-take tests and resubmit assignments. Townsend was troubled by the fact that other students did not receive the same attention and opportunities as STUDENT #2.

c. Hufford

Del Hufford is currently a teacher and assistant football coach at Foley High School. During the 2006-07 academic year, Hufford taught 10th grade History at HHS. Hufford was also an assistant football coach at HHS.

During the 2006-07 school year, Hufford was approached by Martin and informed that STUDENT #2, a senior at the time, was being placed in his 10th grade History course. STUDENT #2 passed this class as a sophomore, but received only grades of C for each semester; presumably the re-take of the course was to afford an opportunity to increase his NCAA core-class GPA. However, based upon conversations during the first semester with Marjo Gann, head of the history department, Hufford believed that his mandate was also to remediate STUDENT #2 and prepare him for passing the 10th and 11th grade history portions of Alabama High School Graduation Exam.³⁵

³⁵ STUDENT #2 did not pass this Social Studies portion of the AHSGE in December 2006, but did receive a passing grade in March 2007.

During the first two nine-week periods, Hufford taught the same materials to STUDENT #2 as he did to all other students in his History 10 class. STUDENT #2 was working out of a graduation exam preparation book that covered topics from both 10th and 11th grade history, and during the early part of the semester, the materials in STUDENT #2's preparation book were similar to those being taught to the rest of the class. During this period, STUDENT #2 was given the same assignments, quizzes, and tests as all other students in the class. However, Hufford realized in or around December 2006, after a conversation with Martin, that the materials in STUDENT #2's exam preparation book were not necessarily the same as the materials covered with the rest of the class, particularly the material in the second nine-weeks.

According to Hufford, he then revised and reissued a number of assignments, quizzes, and tests to STUDENT #2 to account for this discrepancy. He also realized at that time that he had not been following STUDENT #2's IEP in the administration of tests during the first two nine-week periods. Following the reissuance of the quizzes and tests, STUDENT #2's second nine-week average was changed from a 79 to a 94. Hufford stated that STUDENT #2 earned this grade change by early 2007; he neglected to report it to the registrar's office until May 24, 2007.

Coach Hufford also changed STUDENT #2's third nine-weeks grade from an Incomplete to an 89, and ultimately to a 97 based upon make-up work that STUDENT #2 completed. Again, these changes were not reported to the registrar until May 2007. The

grade changes resulted in STUDENT #2's final average in the course being a 90 – the only A the student ever received in an academic class.³⁶

Hufford said he made these grade changes by hand in his original gradebook, which he turned in to Martin before he left HHS. Martin did not deny receiving the gradebook and said that she gave it to Donna Pettis, Bishop's assistant and the apparent custodian for gradebooks. Pettis has been unable to locate this original gradebook.³⁷

Although the circumstances of these grade changes are questionable, Hufford maintains that STUDENT #2 earned the grades that he received in History 10. While skeptical, we cannot state as a fact that STUDENT #2's grades in History 10 were artificially inflated.

2. STUDENT #3

a. Laura Burke's Science Class

Laura Burke was a science teacher at HHS, as well as a volleyball coach during the 2006-07 academic year. In the Spring of 2007, STUDENT #3 was in her 9th grade science class. STUDENT #3 was considered to be an outstanding football player. He was also in the academic support class run by Terri Borie. Although the academic support class is available to non-football players and non-athletes, we were told that football players comprise a high percentage of the program.

At the end of the third nine-week grading period, Burke gave the class a test. STUDENT #3 made a 50. Martin asked Burke to allow STUDENT #3 to re-take the

³⁶ It is also worth noting that STUDENT #2's satisfactory HHS GPA is largely attributable to the fact that each semester he received an A in Borie's academic support class and an A in weight lifting.

³⁷ Hufford also explained that he left all of his graded tests and student assignments in a locked closet in his HHS classroom. We have been informed that these materials are not in this closet and cannot be located.

exam. Although Martin could not compel Burke to allow the re-take, Burke felt that it was not worth fighting over. Martin had made similar requests before and, in Burke's experience, had always prevailed.³⁸

Although STUDENT #3 was not a special education student or otherwise entitled to special accommodations, Burke decided to offer the special-education version of the test, because she was resigned to the fact that she would have to administer the test yet again, should STUDENT #3 perform poorly. At Martin's direction, Burke gave the test to assistant football coach Kent Underwood, who in turn oversaw STUDENT #3's re-taking of the test. On the re-take, which Burke graded, STUDENT #3 made an 88. STUDENT #3 had never made more than a 60 on previous exams. Burke considered the new result to be an implausibly high score, considering STUDENT #3's prior performance, his abilities and the fact that, on the re-take, he made the highest grade in the class and correctly answered most of the hardest questions. Burke later heard that an AP physics student assisted STUDENT #3 with the re-take, although she was not able to identify any specific student who may have provided assistance. If a tutor did assist STUDENT #3 with the test, such assistance would not have been appropriate under the rules, as STUDENT #3 did not have an IEP. Underwood has no specific recollection of the re-take, including whether assistance was provided by a student tutor.

b. Brian Gober's Ninth Grade American History Class

Brian Gober was a history teacher at HHS. He did not have tenure and, at the end of the 2006-07 school year, he was not renewed.³⁹ He was also an athletic trainer.

³⁸ Burke claimed that at 9th grade team meetings, faculty were regularly instructed by Martin to allow athletes to re-take exams. Another teacher confirmed Martin took a special interest in STUDENT #3.

Gober was instructed by Martin to allow STUDENT #3 to re-take a 9th Grade American History test in or around April 2007. As with STUDENT #3's science re-take, the history test was to be administered for the second time in Underwood's academic support class. While Gober had no problem generally with allowing STUDENT #3 to re-take the test, he was concerned that all students were not provided the same opportunity. Accordingly, Gober sent an email to Martin on April 11, 2007, in which he expressed this concern and noted that other students in the class had raised similar concerns. Martin responded that other students should be required to tell Gober "why they deserve the opportunity. They can also come and tell me." She added that students could come to her with such requests, but that she thought that students were "just asking you this in front of others to be tacky."⁴⁰

We have seen little or no evidence that the athletes referenced in this section of the report had legitimate reasons for the retakes and/or makeup work that Martin often requested, directly or indirectly, on their behalf. Gober did not recall a legitimate reason for STUDENT #3 or STUDENT #4 re-taking tests or submitting assignments after the due date. Gober said these two students were discussed in detail at nearly every 9th grade teacher team meeting, with Martin monitoring them much more closely than other students. Gober felt STUDENT #3 and STUDENT #4 were receiving preferential treatment in a manner that was unfair to the other students. Rather than refuse Martin's requests, he remedied the situation by making the same opportunities available to all of

³⁹ Gober said he was very surprised by this decision and that he was not provided any meaningful explanation for it.

⁴⁰ Gober said STUDENT #4 passed his course only because he was allowed to re-take tests and submit assignments well after their due date. Gober changed STUDENT #4's grade for the third 9-weeks the day before the school year ended because STUDENT #4 turned in past-due assignments at the last minute, and this allowed him to pass the course.

his students. He was clear, however, that his normal procedure would not be to allow test re-takes or to accept late assignments without penalty. Both Gober and Burke stated that they were never approached about allowing a re-take for a non-athlete.

c. Kent Underwood's Meeting With Carol Martin

As noted above, Kent Underwood was an assistant football coach for HHS during the 2006-07 academic year. Underwood also oversaw the "In School Supervision" (or "ISS") program during the fall semester and later taught an academic support class during the second semester.

Underwood met with Richard Bishop in April 2007. Bishop discussed the status and progress of Underwood's academic support class. Following this meeting, Bishop sent Underwood to meet with Martin to discuss Underwood's academic support class. Underwood felt like the purpose of the meeting was to critique the job that he was doing and to lean on him regarding student athletes. Underwood alleges that during this meeting with Martin, he discussed with her his concerns about making his students (who were mostly athletes) good citizens and students rather than good athletes. While Underwood says that Martin agreed with him, she also told him that it was his also his job to do everything he could to keep football players eligible. Underwood says that Martin asked him to come up with a plan to get two freshman football players eligible, one of whom was STUDENT #3. Underwood had a problem with this approach because he felt that it provided special attention to the better football players and not to others who could have benefited from administrative and/or counseling assistance. Underwood insisted that, during his year at HHS, he never offered preferential treatment or gave special assistance to any student because he or she was an athlete.

Underwood was informed shortly before final exams in May 2007 that he had a one year non-renewable contract and would not be offered a position at HHS for the 2007-08 school year.

3. STUDENT #5

Nikki Townsend taught STUDENT #5 in her English 10 course during the 2005-06 school year. Townsend recalled that STUDENT #5 earned a grade of 78 during the second semester, though HHS records show his average was 79. Townsend claims Kathey Long requested her to change the grade from 78 to 80, which would improve STUDENT #5's grade from C to B. According to Townsend, Long said it would "look better" if he had a grade of B. As far as Townsend knows, the grade change had no effect on STUDENT #5's eligibility to play football for HHS. Townsend agreed to the grade change and submitted a handwritten note to the registrar's office authorizing the change.

Townsend was very complimentary of Long as an administrator and as a person and did not feel as though Long was pressuring or forcing her to make the change. Nonetheless, STUDENT #5 did not deserve the higher grade according to Townsend.

Townsend was later approached by a school administrator who overheard the conversation she had with Long about STUDENT #5's grade change. The administrator was not comfortable with what he heard, so he asked Townsend if she changed the grade, and she said yes. The administrator asked Townsend if she felt pressured to do so, and she said no. The administrator told Townsend she should not do this in the future because the practice was unacceptable. He told her she should never feel compelled to change a grade unless the student earned it.

Long admitted discussing STUDENT #5's grade with Townsend but denies asking Townsend to raise the grade. Long says she asked Townsend if she was aware

STUDENT #5 had a 79 average for the semester. When asked why she, as Assistant Principal for the 12th grade, had such an interest in a 10th grade student, Long explained that she had a close relationship with the student and his family that dated back several years. We have no reason to doubt this. Long also noted that while she was a teacher, she routinely gave an extra point to students, athletes and non-athletes, whose semester average ended in '9. Long said she told Townsend this on the day they discussed STUDENT #5, and she told other teachers this over the years. Long flatly denied asking Townsend to increase the grade to a B, as well as Townsend's statement that STUDENT #5's average was 78. Long said she would bring this up only where the student needed a single point to achieve the higher letter grade.

4. STUDENT #6

Jenny Firth taught a course called Active Chemistry and Physics during the 2004-05 school year, and STUDENT #6 was a student in her course. At the end of the first semester, STUDENT #6 had an average of 58, a failing grade. Firth said Chris Conoyers, an assistant football coach and teacher at HHS, asked her to change STUDENT #6's grade to 60 so he would pass the course. Firth refused to do this, and the grade was not changed by Firth or anyone else. This incident is mentioned as an example of a teacher being asked to make an undeserved grade change for an athlete.

III. PREFERENTIAL TREATMENT AND SUPPORT OF ATHLETES

A frequent criticism by many teachers and parents – not just at HHS but at other schools around the State as well – is that undue emphasis is placed on athletics in general and football in particular. Many complain that that special support and attention is given disproportionately to those at the upper 10% and lower 10% academic levels, leaving the large majority of students with only minimal support from teachers, counselors, and administrators. We do not, however, address these generalized concerns, with which the Board is no doubt familiar.

Rather, in this section, we look at whether special attention given to HHS athletes – and in particular to star football players – may have crossed the line of acceptability and even involved the manipulation of a Special Education student's IEP.

At the center of this inquiry is the role played by Carol Martin in providing academic support for a number of students, many of whom were not directly under her responsibilities as 9th grade Assistant Principal.⁴¹ We have already detailed many of the specific instances in which Martin was instrumental in shepherding STUDENT #2 through his four years at HHS, ultimately leading to his graduation in May 2007. Her special interest in STUDENT #2 began during his freshman year, when she was the Assistant Principal for his grade. Her interest did not cease when he moved into the sophomore class, but indeed increased. Over time, she began to take on the role of his ad hoc guardian, dedicated to seeing that he graduated and had the opportunity to play collegiate and professional football.

⁴¹ In a shifting of positions for the 2007-08 school year, Martin has been reassigned as the 11th grade Assistant Principal.

Enthusiastic . . . dedicated . . . smart . . . compassionate. These are the words most HHS faculty and staff – even her critics – would use to describe Martin. Martin is a self-professed watchdog and champion for the disadvantaged and underprivileged, and her administrative efforts have to a substantial degree been devoted to such students. She denies, however, that athletes have gotten unwarranted support from her or other administrators and counselors, and says that the level of attention has simply been based on the level of need.

Although Martin clearly has taken an interest in non-football athletes and in non-athletes with scholastic problems, it is also clear that an abnormally large portion of her time was spent in monitoring the academic status of a few football superstars and in advocating on their behalf with teachers, counselors and other administrators. At times, her communications were simply inquiries about attendance, homework assignments, classroom quizzes, etc., or were unnecessary reminders to the teacher about what grade the student needed to achieve in the class. At other times, a teacher was requested to allow late home work assignments or re-take of an examination. And, indeed, simply by the frequency of these communications – which with respect to STUDENT #2 during his senior year became at times almost daily – the implicit message was that the teacher was expected to see that the student got at least a passing grade. A non-tenured teacher could certainly understand the implications of this message.

Martin's friend and colleague, Terri Borie, is in charge of "Academic Support" and the peer-helper program at HHS. In that responsibility, she regularly communicated with teachers, coaches, and other counselors in monitoring the academic status of "at risk" students, sometimes lobbying for re-take of exams or allowing late homework

assignments. Like Martin, she first met STUDENT #2 when he was in the ninth grade and her interest in him grew during his four years at HHS. She was extensively involved in Martin's efforts to somehow get STUDENT #2 to graduate, authoring many of the emails to teachers asking for special help for him. However, like Martin, Borie is adamant that any assistance provided by her was well-intentioned and not because the students at issue were football players. She did admit that at times she herself felt pressure from Martin to see to it that student athletes were taken care of.

We share the view of several teachers, counselors, and administrators that, in their zeal, Martin and Borie sometimes went "over the line," and, indeed, that their interventions may not have been in the students' best interest. The perception was that in large part STUDENT #2 put in minimal effort in his classes in large part because he knew Martin and Borie would ultimately see that he passed and received his degree.

Lisa Armstrong, currently the head of HHS's Special Education Department, was the Special Education case manager for STUDENT #2 for the 2006-07 school year. In this capacity, she had many meetings with Martin and Borie regarding STUDENT #2's academic situation. Armstrong felt that Martin or Borie often sought assistance and accommodations for STUDENT #2 that were not warranted by his IEP, regularly asking Armstrong to assist in approaching teachers regarding test or exam re-takes or extending deadlines for STUDENT #2. According to Armstrong, Martin's efforts to provide assistance to Special Education students beyond that required by the student's IEP were not limited to STUDENT #2, with Martin making decisions that should be made by a trained Special Education case manager.

There were several other instances – such as allowing make-ups for work missed during periods of unexcused absences – where an athlete received preferential treatment not given to others. We do not attempt in this report to cover such matters, which were isolated and not in and of themselves particularly significant but which contributed to the perception by many faculty members, parents, and students that athletes (and football players in particular) were being shown favoritism by some teachers, counselors and administrators.

IV. CONDUCT AND MANAGEMENT OF FOOTBALL PROGRAM

A. General control/responsibility

To say the obvious, at the start of the 2006-07 school year HHS's football program was big – big in its domination of state championships; big even in national high school football ratings; big in the attention drawn from the MTV *Two-A-Days* series; big in its ability to attract, even without recruitment, outstanding players from other schools in and out of the state; big in the number of regular, part-time, and volunteer coaches; big in the financial support obtained by its booster club; and certainly big in its potential influence on HHS administrative policies.

Richard Bishop came into this environment in Fall 2006 as the new HHS Principal, the fourth principal or interim principal in a three-year period. Many faculty members thought football and Propst had gotten too big; they were concerned that, given Bishop's experience as a head football coach and his prior relationship with Propst,⁴² he would become a puppet in an erosion of the academic integrity of the school. On the other hand, Bishop believed that his coaching experience and friendly relationship with Propst would, to the contrary, be helpful in enabling him to exercise appropriate supervision and administrative control over any improper influence by the football program.

Previous principals had largely relied upon the Athletic Director, Jerry Browning, to help in supervising the various athletic programs.⁴³ Early on, it became apparent that

⁴² It was rumored that Propst and Bishop had been roommates while football players at Jacksonville State University. In fact, they were there together for one year, and lived on the same dormitory floor. In the intervening years they had remained friendly, but rarely saw one another.

⁴³ It should be noted that there were several other HHS athletic teams that achieved considerable success and enjoyed substantial support from parents and other boosters.

Bishop had a different style, being very much a direct “hands on” manager – some would say “micro-manager” – not just with regard to athletics but also with the various academic departments.⁴⁴ As the year went on, Browning saw his responsibilities being taken over by Bishop as an ad hoc Athletic Director – with his advice being ignored by Bishop, who then made incorrect decisions, particularly with respect to not reporting possible rule violations to the AHSAA. The relationship between Bishop and Browning worsened, and by the end of the school year Browning, finding the situation intolerable, decided not to return to HHS.

It would be incorrect, however, to conclude that Bishop became Propst’s stooge. While Bishop sometimes adopted Propst’s position on a matter – such as in selecting a person with football coaching experience to fill a teaching vacancy – at other times he disagreed with Propst and, as will be seen, ultimately wrote a letter of reprimand to be placed in Propst’s personnel file.⁴⁵

B. Direction of football program

1. Using Ineligible players

The HHS junior varsity football team played a game against Spain Park High School on September 18, 2006. HHS knowingly and intentionally allowed two ineligible players to compete in this game. There is no dispute that the two were in fact ineligible for competition. Athletic Director Jerry Browning learned of this issue during the contest when he heard one of the players’ name announced over the public address system. Shortly after the game, Browning discussed the matter with Propst and Bishop.

⁴⁴ Several department chairs felt that their leadership roles were from time to time subsumed by Bishop’s interventions.

⁴⁵ The reprimand letter is not dated. The date on which and by whom it was generated and signed have not been verified. We believe that the letter was likely generated several months after the violation.

The witnesses interviewed about this issue provided different accounts of the events leading to the use of ineligible players, and the non-reporting of this violation to the AHSAA. Perhaps the best way to understand the differences is to report separately what each witness said, rather than addressing point by point.

a. Rush Propst

Propst admits he was responsible for the ineligible players being in uniform at the Spain Park game but said he hoped not to have to use the players. He claims he contacted Spain Park High School Head Football Coach John Grass prior to the game and informed him that HHS planned to dress the ineligible players for the game but did not plan to play them unless injuries made it necessary. Propst claims Grass told him he had no problem with this and might play an ineligible player himself.⁴⁶ Propst said there was no agreement to use ineligible players.⁴⁷

While Propst admits he approved the decision to allow the ineligible players to dress and possibly play in the game, he stated the decision to actually use the players was made by two assistant coaches no longer employed at HHS.⁴⁸ Propst admitted, though, he was present at the game when the players were allowed to compete and did nothing to stop it. Propst defended his actions in part by stating it was common among Alabama high schools for ineligible football players to compete in junior varsity contests.

⁴⁶ AHSAA rules prohibit representatives of two high schools from agreeing to ignore a rule such as the one governing eligibility, so Propst's explanation, even if true, did not excuse the violation. The AHSAA website contains a section titled "Frequently Asked Questions" in which the following appears:

"51. May the rules of the Association be set aside by mutual agreement? No."

⁴⁷ During his interview, Propst said injuries to other players prompted the decision to allow ineligible players, as he was shorthanded at several positions for the junior varsity game. However, according to Grass, both SPHS and HHS dressed out approximately 50 to 60 players for the game.

⁴⁸ One of the assistant coaches disputed this and stated Propst made the decision to allow the ineligible players to compete. The other was not interviewed.

b. John Grass

Grass denies having any conversation or agreement with Propst prior to the game about the use of ineligible players. His first notice occurred during the game itself when he realized HHS was using a player he knew to be ineligible under AHSAA transfer rules.⁴⁹

c. Richard Bishop and Jerry Browning

Bishop and Browning say the explanation Propst gave them shortly after the game is different than the one he provided during our interview of him. Bishop and Browning say Propst told them he and Grass agreed prior to the game that both would play ineligible players.⁵⁰

Browning told Bishop that HHS needed to report the violations to the AHSAA.⁵¹ Bishop decided to disregard Browning's advice, telling him violations could be reported

⁴⁹ We found no reason to doubt Grass. Browning discussed the matter with the Athletic Director at Spain Park, who told him Grass denied having any agreement with Propst to use ineligible players. In addition, Bishop said Propst admitted several months later that he misled him, and there was no agreement with Grass.

⁵⁰ In addition to his comments during our interview, Bishop was quoted in an August 11, 2007 article in the *Birmingham News* as saying "Rush admitted to me that he misled me. He admitted (Spain Park coach) John Grass knew about it, but said John did not play an ineligible player. Rush said, 'There is no reason to call John. I'm taking responsibility for this.'" The clear inference from the article, however, is Propst stuck to his story that Grass was aware, prior to the game, HHS might play ineligible players.

⁵¹ Bishop has recently been quoted in the media as admitting that he decided not to report the violation against the advice of Browning.

to AHSAA only by a high school principal.⁵² Bishop decided to handle the violations internally.⁵³ The violations were not reported until ten months after they occurred.

The knowing and intentional use of ineligible players is disturbing, as is the fact Propst provided different explanations for how the violation occurred. Perhaps more disturbing is Bishop's decision to disregard his Athletic Director's advice and not report the violation to the AHSAA.⁵⁴ There is no question HHS should have reported the violation during September 2006 when it occurred. HHS did not self-report the violation, even after it was reported in the media on June 23, 2007. AHSAA Executive Director Dan Washburn learned of the allegations from these media reports, and on June 25, he wrote Bishop to ask for a response to the allegations in the media reports.

Several days after receiving the letter, Bishop contacted Washburn; Washburn believes this happened in early July. Washburn said that during the conversation, Bishop asked for guidance on a hypothetical situation in which a school knew it allowed ineligible players to compete and did not self-report the violation. Washburn said he told Bishop if the violation was reported later, by the school or someone else, the school would in effect be guilty of an additional violation for its failure to self-report in a timely

⁵² Interestingly, when HHS finally reported the violation on July 17, 2007, the letter was signed by the HHS interim Athletic Director, not Bishop. The AHSAA confirmed there is no rule stating only the principal can report rules violations. Once a violation is reported to the AHSAA by any source, a request for a response is made to the principal.

⁵³ The AHSAA expects all rule violations to be self-reported in a timely manner; the internal imposition of some sanction on an offender, while commendable, does not, from AHSAA's standpoint, relieve the school from its obligation of self-reporting.

⁵⁴ Bishop stated during his interview that he decided not to report the violation at the time it occurred because (1) it involved a junior varsity contest, (2) it involved HHS's "sister school," and (3) the opposing head coach (Grass) agreed to the use of ineligible players before the game. Bishop admitted he did not contact Grass to verify Propst's account. Bishop stated he would have reported the violation immediately had it occurred during a varsity contest. Bishop claimed he reprimanded Propst verbally at the time. According to Propst, Bishop told him it was not a big deal to play ineligible players in a junior varsity game and that ineligible junior varsity players played at Tarrant High School when he was principal there.

manner. Washburn said he made it clear to Bishop that in his hypothetical the school should immediately report the violation to AHSAA but noted the school ultimately had the discretion whether to do this or not.⁵⁵ Washburn said Bishop never mentioned HHS or its use of ineligible players during this conversation.

But for the media coverage and resulting inquiry from the AHSAA, HHS would not have reported the violation. Even after receiving Washburn's June 25th letter asking for a response to the allegations, HHS did not reply. Washburn said he had to make two additional calls to HHS requesting a response. In the first, he spoke with HHS interim Athletic Director Myra Miles and told her to inform Bishop the AHSAA expected to receive a response from HHS immediately. Approximately one week later, Washburn said he called Bishop and told him the AHSAA planned to rule on the allegations without HHS's response.

On July 17, 2007, Miles submitted a written report to Washburn on the violation. Her report is factually deficient and at odds with the true facts as we understand them. Her report gives the erroneous impressions that (1) Propst had no prior knowledge of or involvement in the decision to use ineligible players, (2) the violation occurred due to "oversight," (3) the assistant coaches were solely responsible for the violations, (4) Propst would have prevented the violations had he received prior notice, and (5) the assistant coaches were no longer employed at HHS at least in part due to the violations. Miles was relatively new to the job given Browning's recent departure and perhaps was provided incomplete or false information from which to compile the report. Bishop, on the other

⁵⁵ In the *News* article, Bishop discussed the issue of why the violation was not reported to AHSAA. Bishop said he did not report the violation following a conversation with Washburn. Bishop is quoted in the article as follows: "He said, 'I expect it to be reported, but it's still at the discretion of the principal.'"

hand, knew what really happened. Given his view that only he could report the violation and his discussions with the AHSAA, he should have made certain the AHSAA received a complete and accurate report. This did not occur.

On July 18, 2007, the AHSAA fined HHS \$500 and placed it on probation for one year, specifically noting HHS's failure to report in a timely manner.

2. Spying

The allegations of spying on a Vestavia Hills High School football practice during the week leading up to the game between the teams have been widely reported in the news media. It is undisputed that a Hoover assistant coach, Luke Pruitt, attended the practice on October 11, 2006, and the complaint filed by Vestavia Hills with the AHSAA states Pruitt lied about his identity when approached by Vestavia officials at the practice. While the violation might be trivial to some, it clearly was a serious matter to the AHSAA, which described the conduct as "very unethical" and suspended Pruitt from coaching in the state for one year. HHS was also fined \$250 and placed on probation for one year.

For purposes of our investigation, this incident is particularly noteworthy because of HHS's failure to report the matter to AHSAA in a timely manner. As with the ineligible players, Bishop and Propst were aware of the facts shortly after the violation occurred and decided not to report it. Vestavia Hills reported the incident to the AHSAA on November 2. In its complaint, Vestavia Hills said it notified Bishop of the incident on October 18th, and Bishop subsequently said HHS did not consider Pruitt's conduct to be a violation of AHSAA rules and would not self-report.⁵⁶ According to Vestavia Hills,

⁵⁶ Before filing its complaint, the Vestavia Hills Superintendent called Hoover's Superintendent, Andy Craig. Craig, who was unaware of the incident, called Bishop, who reported that this had

Bishop attributed his conclusion that no violation occurred to conversations he had with Browning and with an AHSAA official.⁵⁷ Both Browning and the AHSAA official dispute this explanation. Browning says he first learned of the incident when Vestavia Hills filed the complaint with AHSAA, and only then did he discuss it with Bishop.⁵⁸ In response, Bishop wrote Washburn to clarify that he had these discussions with Browning and the AHSAA official in unrelated contexts before the spying incident occurred, and not in connection with the spying incident as suggested by the complaint filed by Vestavia Hills.

3. Propst's Absences, Signing In and Email Management

We heard concerns about (1) allegations that Propst had an unusually large number of unexcused absences from work and (2) allegations that, in order to cover up such absences, Propst had other persons “clock in” for him.

Although it is clear that Propst does not work regular office-like hours, that fact is not surprising for a person in his position. We did not find sufficient, credible evidence to be able to draw conclusions about these allegations.

occurred but that, based on conversations with Browning and an AHSAA representative, the matter did not have to be reported. Based on that information, Craig related to Vestavia Hills' Superintendent his understanding that the incident did not have to be reported to the AHSAA

⁵⁷ Browning recalls Bishop asking him in a prior, unrelated context if it would be a violation for someone to spy on an HHS practice, to which Browning replied that such conduct would be unethical but not necessarily a violation. Browning stated Bishop misrepresented and took out of context the one conversation they had about this topic. Bishop later wrote a letter to the AHSAA denying that he told anyone that he spoke with Browning or the AHSAA official specifically about whether the Vestavia Hills incident was a rules violation.

⁵⁸ During his interview, Propst denied any involvement or prior knowledge of Pruitt's plan. Browning said Propst initially acted as if he had not heard about the incident. Browning said Propst later changed his story somewhat to say he did not learn about Pruitt's actions until after they occurred and that he did not send Pruitt to the Vestavia Hills practice. Browning claimed other HHS coaches told him Propst knew beforehand that Pruitt planned to attend the Vestavia Hills practice. We have not interviewed Pruitt and reach no conclusion on whether he acted on his own.

In conducting our investigation, email was helpful. Unlike every other coach, teacher or administrator at Hoover High School whose email traffic we reviewed, Propst forwarded virtually all of his school email to a personal outside email account, from which presumably he sent any responses. The result of his practice was that, although we found a substantial number of emails sent to Propst, we found few replies from Propst. When asked about this practice, Propst initially told us, “I don’t want people to see what’s in there.” Propst later said that he is in the film room all the time; that, in season, he may not look at e-mail for two weeks; and that it was easier to deal with e-mail while he was at home.

C. Financial issues

1. Football/ Rush Propst Income

A number of financial issues were brought to our attention during the course of the investigation. These issues relate primarily to the HHS football program and more particularly to the head football coach, Rush Propst.

We lacked subpoena power and thus had no means to compel production of financial, tax or accounting information from witnesses or from third parties (such as banks). A comprehensive financial investigation and audit is an extensive, often-expensive proposition that requires both a means to compel such information and the expertise to analyze the information obtained, often by means of a hired consultant. We had neither. For that reason, we encourage the Board to view this section of the report as an overview only, one that raises financially-related issues for the Board’s future consideration or investigation.

a. Propst's Contract and Compensation

Propst has a one-page standardized contract with the Hoover School Board. This contract is the only one he has ever had with the Board. The contract does not address additional or supplemental income, or how outside income (for example, income from football camps) is to be handled. His salary from the Board for the 2006 was approximately \$93,000.

b. Football Camps

Propst runs football camps during the summers. The camps are held at HHS and staffed with HHS coaches, who are paid by check, in cash, or both. We have received no explanation why a coach would or should be paid in cash. We found no evidence that Propst or the camps had ever paid for the use of school facilities. There is nothing in his contract on the subject of camps or any other kind of outside income. Propst apparently makes between \$15,000-\$27,000 a year from the camps. (It is unclear whether these figures are gross or net).⁵⁹

Rather than maintaining a separate "camp" bank account, Propst apparently provides all camp revenues to the custodians of the bank account for "Buc TV," the operation that televises HHS football games. Below, we discuss in greater detail "Buc TV," and the commingling of "camp" and "TV" funds.

c. Media

We have been directed to four financially-related aspects of the media:

1. "Buc TV"
2. MTV and *Two-A-Days*

⁵⁹ Propst also runs "Nike Coach of the Year Clinics," which are football clinics for coaches. He has held these clinics at the Wynfrey Hotel and at the Hilton Perimeter.

3. “Prep Zone” with Herb Winches

4. Radio

“Buc TV” is an ill-defined entity run outside the HHS administrative and auditing system, apparently set up and operated by parents of current or former football players and other boosters. We do not know its corporate or financial form (if any), nor do we know its banking or tax status. Propst has solicited contributions on behalf of “Buc TV.” We understand but have not been able to confirm that the television production for the games requires about \$50,000 a year. In the future, we understand, the television productions will be “moved inside,” meaning that they will be treated as a public Hoover High School account (apparently like the Touchdown Club, the football booster club), and thus presumably subject to both internal audit and public disclosure. We believe this is a positive change.

The parties to the contract that resulted in the *Two-A-Days* television show are MTV and the Hoover Board of Education. Propst is not a party to the contract. (Note, however, the “Super Bowl” discussion below).

With regard to “Prep Zone,” Herb Winches apparently has paid Propst \$250 per show over a total of 14 shows.

Radio broadcasts of HHS football games were at one time “internal” but, because of financial losses, are now run by an outside individual on a for-profit basis.

d. Commingling of Camp and TV Funds

For several years – and perhaps always – the “camp money” and the “TV money” have been commingled in one bank account – the “TV” account. Apparently, Propst turns over all camp funds to the “TV people.” Thereafter, checks are written to Propst from the “Buc TV” account containing the commingled TV and camp funds. The checks

are written by one or more of the unidentified “TV people” – presumably, parents and other boosters mentioned above. Propst would then deposit the checks into an account under his control, from which he would pay camp coaches and other camp expenses.

We did not receive a satisfactory explanation as to why the funds were commingled, or why Propst apparently turned over all camp funds to be deposited into an account over which he has no control. On the other hand, although perhaps not the most sound accounting practice, we did not find any evidence that this unusual system was unlawful; or contrary to Board or HHS policy; or in violation of Propst’s contract. (As noted above, the contract does not speak to outside income, one way or the other). Propst is emphatic that it was always his understanding that the only money he was getting back out of the television account was derived from the camp money that went into the account. Although Propst allowed us to review certain personal banking records, we lack sufficient financial records to be able to confirm or disprove that statement.

e. Loaned Vehicle

Propst regularly receives a new Titan truck from Crown Nissan about every 60,000 miles. Apparently, there is a lease agreement, but the lease amount is nominal. (We do not have a copy of the contract). Propst claims to have disclosed this arrangement to former HHS principal Sandra Spivey and former HHS athletic director Jerry Browning. It is unclear whether there was actually any formal disclosure of the lease agreement or its terms, but Browning was at least aware of the fact that Propst frequently received new vehicles from Crown Nissan, and that Propst was likely receiving them as a courtesy.

f. Super Bowl Trip and Autograph Sales

MTV paid for a trip that Propst took to the 2007 Super Bowl, accompanied by the producer of the *Two-A-Days* show. Under its contract with MTV, the Board of Education has the obligation to cooperate reasonably in promotional activities. Discharging that obligation, Propst went to the Super Bowl to talk about his *Two-A-Days* experiences, and to promote the DVD of the first season.

We also considered allegations that Propst had sold his autographs at the Super Bowl or elsewhere. While Propst is apparently asked for his autograph from time to time, we found no evidence that he had sold his autograph – or that anything would be wrong with it, if he did.

2. Other Financial Issues

a. Funding of the “hitting facility”

Sometime in 2003, a group of baseball boosters at HHS borrowed money from Compass Bank in order to finance the construction of a baseball “hitting facility” at HHS. There is some factual dispute as to what the Board or its delegates said to the baseball boosters about whether the loan would be repaid by the Board, or whether the debt would remain the sole obligation of the boosters. We draw no conclusions about who is correct or incorrect in that regard. There is no dispute, however, that there came a time when the boosters sought to have the Board take over or pay off the loan.

In September or October of 2006, the decision was made – by whom, ultimately, is unclear – that the appropriate resolution of the debt would be for the Board to pay off the loan. To pay off the debt, Hoover personnel took several steps.

First, Hoover system employees identified expenditures that certain HHS booster clubs had made for items or services that could have been paid from “public” funds, but

which the booster clubs had paid from their “non-public” funds.⁶⁰ By October 26, 2006, the Central Office of the Hoover school system had identified \$516,502.56 of such expenses that had been borne by these booster clubs.

Second, as an accounting matter, entries were made into the booster clubs’ books as “reimbursements” for the identified expenditures. These entries were bookkeeping entries only: no actual cash was transferred.

Third, having been reimbursed for the “public” expenses with “public” money, the individual booster clubs’ accounts – which contained “non-public” funds – could now be debited, with an amount equal to the reimbursement being credited to the athletic department at HHS. Again, no actual cash moved.

Fourth, on January 29, 2007, the athletic department used the amount of these “non-public” funds to pay off the baseball boosters’ note at Compass, with a check in the amount of \$323,608.18.⁶¹

While perhaps a clumsy method of accomplishing its goal of removing the burden on the baseball boosters, we find nothing unlawful, unethical or – as an accounting matter – irregular about the steps taken. There seems to be no dispute that the booster club expenses reimbursed were expenses that could have been properly paid for, in the first instance, with “public” funds. As a result of the payment to Compass, the total number of dollars in the Hoover system bank account decreased, but the Board could have decided, in the first instance, to pay directly for a new hitting facility. The fact that the facility came first and payment later is unusual, but not necessarily improper.

⁶⁰ The booster clubs at issue were the Soccer Club, the Finish Line Club (track), the Dugout Club (baseball), the Takedown Club (wrestling) and the Touchdown Club (football).

⁶¹ The difference (\$192,894.38) between the reimbursable expenditures identified and the ultimate payoff amount to Compass remained as reimbursements in the various booster club accounts.

b. Vendors of Class Rings and Championship Rings

Some witnesses raised concerns about possible improprieties regarding the selection of vendors for class rings and athletic-championship rings. The two competing vendors were Jostens and Balfour.

Although each vendor seems to have its partisans, and despite the fact that feelings run remarkably deep on this question, we did not find sufficient, credible evidence that any improper or unlawful activity occurred with regard to rings.

D. Propst's personal life

Early on we became aware of some potential issues relating to Coach Propst's personal life. Our initial view was that we would pursue such questions to the extent they might have played any role in providing preferential treatment to football players or affected the management and control of HHS's football program. However, while the investigation has progressed, there have been accusations, publicly reported and widely-discussed, regarding these matters; and, indeed, public comments by school and city officials have indicated broader concerns in view of the leadership and role-modeling of a head football coach. We have made no independent effort to investigate these accusations except to the extent they have arisen during the normal course of our work. We recite in this segment of the report what we have learned about these accusations.

1. Propst and Martin

At a conference on October 11, 2005, then-Superintendent Connie Williams, along with then-Principal Sandra Spivey, met privately with Coach Propst and 9th grade Assistant Principal Carol Martin.⁶² Williams stated that she knew Propst and Martin

⁶² According to Williams, on October 10, 2005, she informed the Board of Education in executive session about her suspicions and her plan to meet with Propst and Martin.

were not merely good friends but indeed had been having an affair over the prior months, and said this must stop immediately. Williams states that she did not press them for a confirmation or denial of her accusations, and they did neither.

In separate interviews during this investigation, neither Propst nor Martin acknowledged that such an affair had ever occurred. Martin was adamant, however, that her relationship with Propst – whatever it was – did not in any way affect how she did her job as Assistant Principal.

Given time and monetary constraints, we have not attempted to pursue the question of whether in fact Propst and Martin were more than good friends, and we cannot express with any degree of certainty an opinion whether there was an “affair” between the two. We do note that many members of the faculty were aware of the close relationship of Propst and Martin and of Martin’s open advocacy on behalf of several football players that went beyond her responsibilities as 9th grade Assistant Principal. Moreover, Williams’s accusations, while not based on conclusive evidence,⁶³ were hardly baseless.

Two additional comments.

First, so far as we have been able to determine, any such affair – if indeed one ever existed – did not continue after the October 2005 conference.

Second, we do, perhaps surprisingly, accept Martin’s insistence that her relationship with Propst – whatever it was – had nothing to do with her support of football players and other athletes. Elsewhere in this report we criticize Martin for crossing the line in her zeal, but we are convinced this was the result of her own personal attitudes and style, and not because of any relationship with Propst.

⁶³ Williams largely based her accusations on the suggestive comments in numerous emails between Propst and Martin and on a report that Martin had supposedly confessed the affair to a colleague.

2. Propst's "second" family

It is widely reputed in St. Clair County, where Propst formerly was a head football coach at Ashville, that he has had for many years a not-so-secret second family, now residing in the Pell City area. Propst's bank account records – which he allowed us to review, though not obligated to do so – reflect that he has been providing financial support for this family. In our interview with him during this investigation – which occurred after newspaper reports of such accusations – he declined to make any comment about this matter, stating simply that he had dealt with it with the persons involved.

We have not attempted to fully explore these accusations. From what we have learned from several reliable sources, we believe they are true.

We have, however, attempted (within the self-imposed time and monetary constraints) to ascertain whether this relationship has spilled over in any way into the football program or academic life at HHS. About all we have learned is that Propst's friend may have attended an out-of-state HHS football game, that she may have assisted Propst by making deposits for a private bank account for his income from the Nike Coach of the Year Clinics that he runs for football coaches, and that she has received payments from one of Propst's private bank accounts. We have not attempted to confirm the rumors that on many of the days Propst was supposedly absent from the HHS campus he was in St. Clair County.

According to news reports, former principal Bishop has stated that in late Spring 2007 he told Superintendent Andy Craig about rumors concerning Propst's second family and, in essence, was told by Craig not to pursue the matter. During his interview with us as part of the investigation, Craig stated that, shortly before, he had heard these rumors

from then-Athletic Director Jerry Browning;⁶⁴ that he called Bishop; and that Bishop said he had checked this with Propst, who insisted the rumors were untrue. Craig denies telling Bishop to turn a “blind-eye” to this problem. While we have no way to directly evaluate the disagreement in the accounts given by Bishop and Craig, we can say that throughout this investigation we have been impressed with Craig’s reliability, honesty, and candor and that, indeed, at the outset of the investigation Craig told us about this rumor as a possible topic we might want to explore.

⁶⁴ Browning indicated he had telephone records that would circumstantially support the rumor.

V. CONCLUSION

Most of this report looks at certain “grading problems” at Hoover High School – instances where a grade may have been changed without the teacher’s approval, or where a teacher may have given (or been asked to give) preferential treatment to a student by allowing make-up of missed assignments and quizzes and in allowing re-taking of exams.

These problems relate to the grades of a handful of students, all football stars (or potential stars). Interestingly, with a couple of exceptions, they were not attributable to pressure from the football coaches but to actions by administrators and academic counselors.

The incident that has attracted the most media attention – that involving a change of STUDENT #1’s Algebra II grade – is also perhaps the least egregious. As we have noted, this grade change was simply the result of innocent human error, and was not a devious effort to inflate an athlete’s grade.

Most of the other incidents relate to the grades of STUDENT #2, a star football player classified as a Special Education student needing special support outlined in an approved Individualized Education Program. During his years at HHS, Assistant Principal Carol Martin and Counselor Terrie Borie became so engrossed in trying to shepherd STUDENT #2 through the academic challenges that, by his senior year, they had in essence lost their objectivity and self-restraint. Though well-intentioned, their constant and unrelenting requests to teachers to allow make-ups, extend deadlines, retake exams, etc. – frequently beyond any accommodations justified by his IEP – became a signal that the teachers had a responsibility to see that STUDENT #2 got the grades he needed. This implicit pressure was particularly significant for a non-tenured teacher wanting to return the following year.

The fact that the problems we have identified involve the grades of only a few students should not be taken as minimizing their significance. We did not thoroughly investigate the grades of all athletes, or even all football players. We interviewed only a small percentage of the teachers, and we do not claim to have found every instance of improper or questionable conduct in this report. It is possible there are other occurrences similar to those discussed in this report.

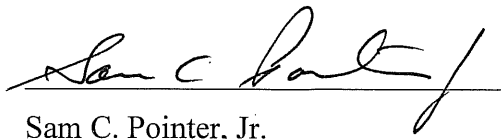
Central to the academic integrity at any high school is the principle that students receive a fair grade based on their performance in the class, without preferential treatment except as may be called for under an approved IEP for Special Education students. While special support and assistance may be needed by – and properly provided to – students who are academically challenged by the high school curriculum, it is important that such efforts be adequately controlled to guard against a student’s grades being inappropriately inflated.

The report also describes how, in the 2006-07 school year, the administrative control and oversight of the football program at HHS suffered as a result of difficulties and disagreements between Principal Bishop and Athletic Director Browning. As we have noted, there were at least two violations during the 2006 football season of rules of the Alabama High School Athletic Association, for which Coach Propst must accept responsibility. But equally disturbing is the failure of HHS’s administrators to timely report these violations to the AHSAA, for which Principal Bishop must accept responsibility.

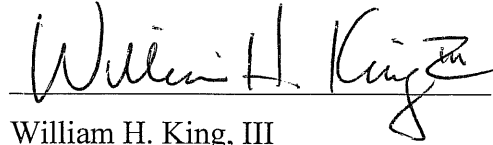
We have also discussed certain issues relating to Coach Propst's outside income – though in one sense this is really a non-issue since under his contract his income from such activities is not restricted and is not subject to reporting.

Finally, we understand that HHS athletics has grown into a big business over the past decade. With such growth, the need for tighter administrative controls necessarily follows. We understand that a new policy for grade changes is already in place. The Board may also want to consider the following:


- Putting controls in place so that any undue pressure or influence related to grading or academic performance by student athletes can be minimized, if not eliminated. The Board may also consider providing alternative avenues for reporting any problems in this area to the Superintendent's Office.
- Emphasizing to the appropriate administrators their obligation to monitor and report AHSAA violations, with failures to report treated as matters of significance and consequence.
- Providing a mechanism whereby the contracts of all athletic head coaches are reviewed and/or revised so as to clearly indicate acceptable guidelines for outside income and to provide for the public disclosure or reporting of any such amounts. The contracts should also make clear their expected on-site "work-hours."
- Requiring payment for any use of HHS facilities for athletic camps and some measure of public accounting of funds generated through the use of HHS facilities.
- Requiring all income associated with athletic camps and television ventures to be treated the same as sports booster clubs with similar reporting and accounting requirements.



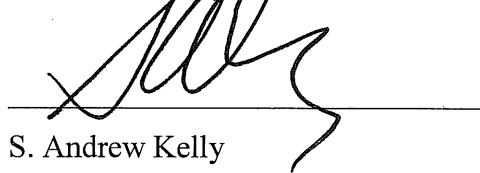
Sam C. Pointer, Jr.



William H. King, III



Jackson R. Sharman, III



S. Andrew Kelly