

Report on the

**Board of Examiners in Counseling  
State of Alabama  
Birmingham, Alabama**

**October 1, 2016 through September 30, 2018**

Filed: January 3, 2020



**Department of  
Examiners of Public Accounts**

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*Rachel Laurie Riddle, Chief Examiner*





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Honorable Rachel Laurie Riddle  
Chief Examiner of Public Accounts  
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I submit this report on the results of the examination of the Board of Examiners in Counseling for the period October 1, 2016 through September 30, 2018.

Sworn to and subscribed before me this  
the 10<sup>th</sup> day of November, 20 19.

Kelly D. Mathea  
Notary Public

Respectfully submitted,

E. Christine Kilpatrick  
Examiner of Public Accounts

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Department of  
**Examiners of Public Accounts**

**SUMMARY**

**Board of Examiners in Counseling  
October 1, 2016 through September 30, 2018**

The Board of Examiners in Counseling (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-8A-1 through 34-8A-24. The Board licenses and regulates the private practice and profession of counseling in Alabama.

This report presents the results of an examination of the Board and a review of compliance by the Board with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Board properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Board. Our examination included determining compliance by the Board with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Board accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and they are summarized below.

**CURRENT FINDINGS**

- 2018-01 Relates to two Board members receiving compensation for which they were not entitled to receive.
- 2018-02 Relates to the composition of the Board not complying with the statutes.

- 2018-03 Relates to the Board not posting a vacancy notice at least forty-five days prior to the expiration of a term.
- 2018-04 Relates to the Board not having formal procedures in place to notify employees of the requirements of the Alabama Ethics Law.

**UNRESOLVED PRIOR FINDINGS**

All prior findings are resolved.

As reflected on Exhibit 3, a Board member received board member compensation in the amount of \$1,939.35 for which she was not entitled to. Official demand was made on the Board member to repay this amount and she declined to pay the amount. The Board member failed to appear at a meeting before the Chief Examiner to show just cause as to why these charges should be relieved; therefore, relief was accordingly denied as evidenced by the Order of the Chief Examiner contained in this report. The charges remaining due and unpaid, this report will be certified to the Attorney General for collection.

Board members and the Executive Director were invited to an exit conference held on November 7, 2019. Individuals in attendance were Gary Williams, Executive Director; Board members: Latofia Parker, Karole K. Ohme, Jennifer Brown and Keith Cates; along with Robin Hutcheson, Audit Manager; and E. Christine Kilpatrick, Examiner, from the Department of Examiners of Public Accounts.



Department of  
**Examiners of Public Accounts**

**COMMENTS**

**Board of Examiners in Counseling  
October 1, 2016 through September 30, 2018**

The Board of Examiners in Counseling (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-8A-1 through 34-8A-24. The Board is responsible for licensing and regulating the private practice and profession of counseling in Alabama.

The Board is composed of seven members appointed by the Governor from a list of qualified candidates submitted by the Alabama Counseling Association. The Board consists of two citizens from the general public, two counselor educators, and three private practice counselors. Appointments shall be made so that not more than one member from any congressional district is appointed to serve at the same time. Each member serves a five-year term and is ineligible for reappointment for a period of three years following completion of his or term.

The Executive Director, who is appointed by the Board, supervises the day-to-day operations of the Board. The Executive Director serves at the pleasure of the Board and is in the unclassified service of the State’s Merit System. The Board employs two full-time office assistants, who are State Merit System employees as well as a part-time computer consultant via contract.

The Board operates from Special Revenue Fund 409 maintained in the State Treasury. Operating funds are obtained from fees generated from the Board’s licensing and regulatory operations. The Board retains year-end fund balances for subsequent expenditure. The Board is subject to the State’s normal budgetary procedures and no funds can be expended except as appropriated and allotted.

Nonconsumable personal property in the custody of the Board was compared with the property records of the Property Inventory Control Division of the State Auditor’s Office. No discrepancies were found.

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*Schedule of State Legal  
Compliance and Other Findings*

***Schedule of State Legal Compliance and Other Findings***  
***For the Examination Period Ended September 30, 2018***

Ref. No.	Finding/Noncompliance
2018-01	<p><b><u>Finding:</u></b>  Two board members, who are also employees of state public universities, received \$300 per day board member compensation for each day spent in active service of the Board. One member received a total \$1,632.30 and one member received a total of \$1,939.35 from January 2018 through March 2019. As employees of state public institutions, the members were not entitled to the \$300.00 per day Board member compensation according to the <i>Code of Alabama 1975</i>, Section 36-6-3 and Attorney General Opinion 2010-061. When notified of the payments made in error, one member reimbursed the Board \$1,632.30.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-6-3 states, “Wherever the duties of more than one office, position, or employment shall be filled, performed, or discharged by one officer or employee, <b>such officer or employee shall only receive the salary named for the highest paid office, position, or employment</b> so filled, performed or discharged.”</p> <p>Attorney General Opinion 2010-061 states, “A person appointed to serve on the Board of Funeral Service, who is employed as a faculty member in a state junior college system, does not hold two offices of profit. Although a person may serve in the stated positions simultaneously, that person may only receive compensation at the rate named for the highest paying position.”</p> <p><b><u>Recommendation:</u></b>  The Board should verify the employment status of members to ensure they are legally entitled to receive board member compensation.</p>
2018-02	<p><b><u>Finding:</u></b>  The composition of the Board does not comply with the statutes. Currently, the Board has two members appointed from Congressional District 3 and two appointed from Congressional District 6.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-8A-4(f) states, “...After March 26, 2012, appointments shall be made so that not more than one board member from any congressional district may be appointed to serve at the same time.”</p> <p><b><u>Recommendation:</u></b>  The Board should ensure that board member appointments comply with the <i>Code of Alabama 1975</i>, Section 34-8A-4(f).</p>

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***Schedule of State Legal Compliance and Other Findings***  
***For the Examination Period Ended September 30, 2018***

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Ref. No.	Finding/Noncompliance
2018-03	<p><b><u>Finding:</u></b> The Board did not notify the Secretary of State of vacancies occurring as a result of the expiration of the terms of two Board members whose terms expired December 31, 2016; and two Board members whose terms expired December 31, 2017. The <i>Code of Alabama 1975</i>, Section 36-14-17 (d) states, “(1) The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy scheduled to occur on the board as a result of the expiration of a term at least 45 days before the vacancy occurs.”</p> <p><b><u>Recommendation:</u></b> The Board should notify the Secretary of State of vacancies occurring as a result of the expiration of members’ terms at least forty-five days before the terms expire.</p>
2018-04	<p><b><u>Finding:</u></b> The Board has no formal procedures in place to notify employees and applicants for employment of the requirements of the Ethics Law that prohibit a condition in which an employee of a regulatory agency is licensed by the agency, or has a family member who is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of a business regulated by the agency.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25-9(a) states, “Unless expressly provided otherwise by law, no person shall serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which he is associated.”</p> <p><b><u>Recommendation:</u></b> The Board should create formal procedures to notify employees and applicants for employment of the requirements of the Alabama Ethics Law.</p>

***Schedule of Cash Receipts, Disbursements and Balances***  
***For the Period October 1, 2016 through September 30, 2018***

	<b>2017-2018</b>	<b>2016-2017</b>
<b><u>Receipts</u></b>		
Licenses and Permits	\$ 546,940.00	\$ 510,278.33
Administrative Fines	250.00	
Total	<u>547,190.00</u>	<u>510,278.33</u>
<b><u>Disbursements</u></b>		
Personnel Costs	171,252.60	143,744.03
Employee Benefits	54,186.13	35,438.67
Travel, In-State	7,192.88	6,443.16
Travel, Out-of-State	2,473.91	8,550.78
Rentals and Leases	31,427.59	30,653.52
Utilities and Communication	11,732.53	9,657.89
Professional Services	55,747.11	76,418.76
Supplies, Materials, and Operating Expenses	10,421.45	9,337.94
Other Equipment Purchases		1,198.94
Total	<u>344,434.20</u>	<u>321,443.69</u>
Excess of Receipts Over Disbursements	202,755.80	188,834.64
Cash Balances at Beginning of Year	<u>1,810,518.15</u>	<u>1,621,683.51</u>
Cash Balances at End of Year	2,013,273.95	1,810,518.15
Reserve for Unpaid Obligations	<u>(39,714.97)</u>	<u>(44,459.35)</u>
Available Cash Balances at Year-End	<u>\$ 1,973,558.98</u>	<u>\$ 1,766,058.80</u>

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***Board Members and Official***  
***October 1, 2016 through September 30, 2018***

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<b>Board Members</b>		<b>Term Expires</b>
Hon. Oswaldo Hector Chavez	Chair	2019
Hon. Jennifer Brown, Ed.D.	Member	2022
Hon. Latofia Parker, Ph.D.	Member	2022
Hon. Anna Barksdale	Member	2022
Hon. Keith Cates, Ph.D.	Member	2021
Hon. Karole Ohme	Member	2021
Hon. Lynn Rice	Member	2019
Hon. Mark Leggett, Ph.D.	Member	2017
Hon. Beverly D. Kyser	Member	2017
Hon. Stacy Ikard, Ph.D.	Member	2017
Hon. Glenda Reynolds, Ed.D.	Member	2016
Hon. Joan Leary	Member	2016

**Official**

Florence Hemphill

Executive Director  
950 22nd Street N, Ste. 765  
Birmingham, AL 35203  
Phone (205) 458-8716  
[www.abec.alabama.gov](http://www.abec.alabama.gov)

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***Schedule of Charges***  
***October 1, 2016 through September 30, 2018***

<b>Person Charged</b>	<b>Date</b>	<b>Fund</b>	<b>Amount Charged</b>	<b>Amount Paid</b>
<b><u>Directly Charged to:</u></b>				
Anna Barksdale	02/14/2018 - 03/28/2019	Fund 0409	\$ 1,939.35	\$
Total Direct Charges			<u>\$ 1,939.35</u>	<u>\$</u>

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Amount Relieved By Chief Examiner	Amount Unpaid	Description of Charge
\$	\$ 1,939.35	Received payments for unallowable Board compensation.
<u>\$</u>	<u>\$ 1,939.35</u>	

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*Order of the Chief Examiner*

# **ORDER OF THE CHIEF EXAMINER**

**RE: BOARD OF EXAMINERS IN COUNSELING  
OCTOBER 1, 2016 THROUGH SEPTEMBER 30, 2018**

This matter of amounts due from a Board member was brought before me on the 31st day of July 2019, pursuant to the provisions of the *Code of Alabama 1975*, Section 41-5A-20. The Board member failed to appear before me on that date; therefore, I am of the opinion that the Board member has failed to show just cause why the amounts due should not be paid. Therefore, relief is denied.

Entered this the 12th day of November 2019.



**Rachel Laurie Riddle  
Chief Examiner**