

LAW OFFICES OF  
**DUANE K. BRYANT**

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ATTORNEY AT LAW

June 15, 2017

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

RECEIVED

JUN 20 2017

City Manager's Office

Mr. Jim Westmoreland  
City of Greensboro  
Post Office Box 3136  
Greensboro, North Carolina 27402-3136

Re: *Distribution of Fines to the Guilford County Board of Education*

Dear Mr. Westmoreland:

I refer to the above-referenced. This law firm represents the Guilford County Board of Education (Board of Education). I am writing to notify you that the Board of Education has become aware that the City of Greensboro has collected certain fines and has not distributed those fines to the Board of Education. These fines include, but may not be limited to, fines collected by Guilford County on behalf of the municipality as late list penalties on property taxes.

As you are aware, pursuant to Art. IX § 7 of the North Carolina Constitution, a local board of education is entitled to receive the proceeds of all penalties, forfeitures, and fines received by a local municipality. See also *Shavitz v. City of High Point*, 177 N.C. App. 465, 630 S.E.2d 4 (2006). The municipal officer overseeing the funds must remit these proceeds to the school finance officer within ten (10) days after the close of the calendar month within which the funds were received or collected. N.C. Gen. Stat. § 115C-437. A municipality is entitled to retain ten percent (10%) of the proceeds to off-set the cost of collection. *Id.* However, in the case of the late list penalties described above, collection was performed by Guilford County, not the City of Greensboro.

Records of Guilford County and the Guilford County Schools indicate that City of Greensboro has not remitted the following late list penalties to the Guilford County Schools:

Fiscal Year 2012	66,120.58
Fiscal Year 2013	116,886.24
Fiscal Year 2014	97,219.65
Fiscal Year 2015	98,765.51
Fiscal Year 2016	144,733.52
<i>Total</i>	<i>\$523,725.50</i>

Mr. Jim Westmoreland

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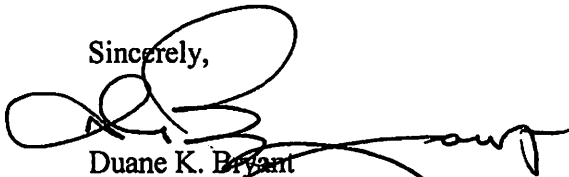
June 15, 2017

Accordingly, on behalf of the Guilford County Board of Education, I am writing to request that the City of Greensboro remit all proceeds from fines and forfeitures collected since July 1, 2014 to Angie Henry, Finance Officer for the Guilford County Schools, no later than June 25, 2017. If you do not remit the payments to which the Guilford County Board of Education is entitled by June 25, 2017, the Board will find it necessary to file a complaint for statutory and constitutional violations against you, the City of Greensboro, and any other necessary parties, seeking to recover damages arising out of these violations.

Alternatively, enclosed you will find a tolling agreement, whereby the Statute of Limitations governing the Board of Education's claims would be tolled pending resolution of this matter. If we receive an executed tolling agreement by June 25, 2017, the Board of Education will await to file suit in the hopes of resolving the matter through discussion and negotiation. Please feel free to email the executed tolling agreement directly to me at: [duanekbryantlaw@gmail.com](mailto:duanekbryantlaw@gmail.com).

If you have any questions or wish to discuss these issues further, please contact me at (336) 887-4804. Thank you for your prompt attention to this matter.

Sincerely,



Duane K. Bryant

DKB/spb

Enclosure

cc: Ms. Angie Henry, Chief Financial Officer  
Guilford County Schools

JUN 20 2017

## TOLLING AGREEMENT

City Manager's Office

WHEREAS, the Guilford County Board of Education ("the BOE") contends that it may have claims and causes of action against the municipality indicated on the signature line below ("Municipality") relating to the remittance of fines and forfeitures ("the Claims"); and

WHEREAS, the parties desire to toll the running of all Time-Based Defenses.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the covenants and undertakings set forth herein, the parties agree as follows:

1. The Parties hereby agree that all Time-Based Defenses to the Claims are tolled. The tolling period begins on the effective date of this Tolling Agreement and continues until this Agreement is terminated by either party. Upon the termination of the tolling provisions of this Agreement, the time periods for the Time-Based Defenses shall begin to accrue or run again, provided that under no circumstances may the Tolloed Period be counted or used in asserting any Time-Based Defense.

2. For the purposes of this Agreement:

- a. "Time-Based Defenses" means any and all defenses based in whole or in part on the expiration or running of time periods for the institution of legal proceedings relating to the Claims, including but not limited to statutes of limitations, statutes of repose, and the doctrine of laches.
- b. "Tolloed Period" shall mean the period from June 9, 2017 through the thirtieth day after either party sends the notice of termination referenced in Para. 3 below, inclusive.
- c. Effective Date means the date that the Municipality executed this Tolling Agreement, as indicated on the signature line below.

3. The tolling provisions of this Agreement may be terminated by either party by the sending of a written notice of termination to the other party via certified mail or overnight delivery to the address appearing under the signature below. The termination of the tolling provisions of this Agreement shall be effective on the thirtieth day following the sending of the notice to the other party.

4. Nothing in this Agreement shall affect the ability of the BOE to bring an action against Municipality. The intention of the parties is to toll Time-Based Defenses, not to interfere with the institution of legal proceedings.

5. Nothing in this Agreement shall waive any claims as between any of the parties.

6. Nothing in this Agreement shall be construed as an admission of any fact or liability, and this Agreement shall not be admissible in any subsequent proceeding to prove any liability or claim. This Agreement will be admissible should either party attempts to assert any Time-Based Defenses in violation of this Agreement.

7. This Agreement shall not be construed in favor or against either party based upon the identity of the party preparing this Agreement.

8. This Agreement shall be construed under North Carolina law, notwithstanding any choice of law rule.

9. This Agreement may be executed in separate counterparts. The execution of a copy of this Agreement shall have the same force and effect as the execution of the original.

GUILFORD COUNTY  
BOARD OF EDUCATION

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(Signature)  
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(Name-Print)  
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(Title)  
\_\_\_\_\_  
(Mailing Address)  
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Date

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(Signature)  
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