

STATEMENT OF FACTS

Complainant files this complaint against Respondent James "Jamey" Falkenbury for violations of [G.S. 138A-B 31\(a\) 36\(a-b\)](#) of North Carolina's State Government Ethics Act.

1. Respondent is Co-Director of the Office of Government and Community Affairs at the North Carolina Department of Instruction (DPI) where he serves as a legislative liaison and is subject to the provisions under G.S. 138A-31(a) and 36(a-b) of North Carolina's State Government Ethics Act.
2. [120C-100 \(15\)](#) of North Carolina statutes defines "Liaison" personnel as:
Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as outlined in that individual's job description, include lobbying legislators or legislative employees.
3. DPI oversees the state's K-12 public school system, charter schools, and certain pre-K programs under the direction of Superintendent Catherine Truitt. According to its website, the DPI administers state and federal public-school funds totaling nearly \$11 billion/year.
4. Respondent's wife, Amanda Falkenbury, is a lobbyist for Jason Deans + Associates located in Raleigh, North Carolina. [120C-100 \(19\)](#) of NC's General Statutes defines a "lobbyist" as:
An individual who engages in lobbying for payment and Contracts for payment for lobbying - influencing legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.
5. Jason Deans + Associates promises clients that its lobbyists will "maintain ongoing offensive strategies while being prepared to go on the defensive." From its website:
"We also know what it's like to dive in front of a moving train and slow it down when no one thought it was possible. We don't take outcomes for granted, and we are ready for anything."
6. Mrs. Falkenbury is registered with the NC Sec. State as a lobbyist for two educational companies: Stride INC., and Waterford Institute and a school-based behavioral health company Eastpointe. [EXHIBIT A](#)
7. Mrs. Falkenbury has been a registered lobbyist for Stride INC. since 2015. Stride INC. provides the technical infrastructure and curriculum services for the North Carolina Virtual Academy Charter School. The DPI oversees the North Carolina Virtual Academy. [EXHIBIT B](#)
8. Stride INC features a curriculum based in "Culturally Relevant Teaching", commonly called "Critical Race Theory" (CRT). CRT is controversial and is being hotly contested by parents around the country. The North Carolina House Republican members recently passed a bill to make teaching CRT illegal in the state's schools. [EXHIBITS C & D](#)

- 9. Stride INC’s curriculum is delivered through a Social Emotional Learning (**SEL**) pedagogy which focuses on “equity,” mindsets, and **CRT**. Superintendent Truitt and the public have been critical of **SEL** programs that deceptively focus on blending **CRT** with psychiatric programming. [EXHIBIT E](#)
- 10. Stride INC’s curriculum uses **SEL** surveys to collect student data to deliver educational content. Surveys have become unpopular with parents because they are utilized by school districts and the DPI to collect private mental health data of children, often without parental consent or notification. [EXHIBIT F](#)
- 11. The second education company in Mrs. Falkenbury’s lobbying portfolio is the Waterford Institute who offers a state-funded virtual Pre-K program called UPSTART and a PreK- 2nd grade reading program in Guilford County. Like Stride INC., Waterford Institute’s programming is based in **CRT**, **SEL** and uses surveys to deliver educational content. [EXHIBITS F-G](#)

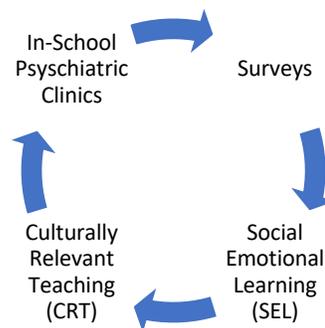
Stride INC. & Waterford Institute’s Pedogeological Elements



- 12. Mrs. Falkenbury has been a registered lobbyist for Eastpointe since 2016. Eastpointe provides ten counties in North Carolina with in-school psychiatric services which also relies on **surveys** and **SEL** for identifying patients and for delivery of clinical services. [EXHIBIT H](#)

EDUCATION FIRST ALLIANCE / SLOAN RACHMUTH

- 13. Education First Alliance (EFA) is an organization of parents, teachers, and students formed in January 2021 to restore student achievement and moral development in the state’s public school. The group uses investigative journalism, information programs, and action to educate the public. Sloan Rachmuth is an investigative journalist and EFA’s President. [EXHIBIT I](#)
- 14. Since April, EFA members from across the state sent nearly 5,000 communications to DPI and to legislative members to demand defunding and dismantling the system they call DPI’s “*Child Spying Program*” made up of 1) Surveys, 2) Social Emotional Learning (**SEL**), 3) Culturally Relevant Teaching (**CRT**), and 4) in-school psychiatric clinics run by NCHHS. [EXHIBIT J](#)



Cycle of “Child Spying Program”

15. Since March, EFA's President Sloan Rachmuth has aggressively advanced EFA's defunding the "Child Spying Program" priorities by appearing on national radio and TV programs, conducting live training sessions, and producing investigative news stories.
16. If EFA is successful, the regulatory and budgetary climate in North Carolina will become inhospitable for three of Mrs. Falkenbury's clients (half of her client roster) because they are targets of EFA's "Child Spying Program" campaign. In other words, a positive outcome for EFA's efforts will result in a negative outcome for Mrs. Falkenbury and for her employer, Jason Dean + Associates.

COMPLAINT

Respondent James Falkenbury used his position at the most powerful education agency in the state, the DPI, to take official actions to protect his spouse's clients and employer in violation of G.S. 138A-31(a) and 36(a-b), which prohibit him from participating in taking official actions with a reasonably foreseeable financial benefit, especially if the benefit might impair his independence of judgment in furtherance of the acts.

17. From the DPI while using his title around April 21, the Respondent allegedly contacted the principals of Americans for Prosperity (AFP) to get a volunteer pictured on EFA's website sanctioned from full-time employment with AFP because of his association with the group. AFP was led to believe that if its employees associated with EFA or Rachmuth in the future, it would lose access to the Superintendent and to the DPI. As a result, EFA lost an integral member of its minority outreach team and the loss of a potential partner group AFP. This official action was taken days after Rachmuth went on a state-wide speaking tour to rally citizens to defund **CRT** in schools.
18. The Respondent falsely claimed to communicate from the DPI while using his title on June 1. Falkenbury sent an email designed to discredit and degrade EFA and Rachmuth to a state-wide audience of politicians, journalists, community leaders, as well as to close friends and colleagues of Rachmuth. James Falkenbury sent the email from his personal email account while falsely claiming that he was representing Superintendent Truitt. Part of that (attached) email read:

"As you receive any other information from this fringe group, please do not hesitate to reach out to our team directly if something doesn't sound right. Knowing these people personally that are behind these emails, their purpose is to fundraise first and then market themselves to lift up their profiles second. If they were not receiving donations for these purposes, they would be muckraking something else to make a buck. They are using fear and misinformation to stay relevant and confuse the general public and elected officials."

19. The Respondent's attack came the same day EFA began its public campaign to stop DPI's "Child Spying Program:" surveys, **SEL**, and **CRT**. In its communications, EFA explained that invasive psychiatric surveys that could lead to unnecessary diagnosis and treatment by in-school psychiatric clinics, like the one operated by his wife's client Eastpointe Health. The Respondent's attack occurred the day EFA asked for 10K signatures on the state's Federal

Grant register demanding taxpayer money stop flowing into all programs using surveys, **SEL** and **CRT**— programs like Stride, INC, and the Waterford Institute, clients of the Respondent's wife.

20. The Respondent's June 1 email was full of defamation and misdirection. For example, Falkenbury insisted that EFA was lying about the nature of DPI-supported surveys; however, he attached copies of the surveys along with a letter from Pitt County Schools' lawyer who confirmed that surveys were given to students without proper parental notification, and that those surveys were paid for by Federal money dispersed from the DPI. In other words, James Falkenbury knew that he was being deceptive and, thus, he was acting in bad faith. [EXHIBIT K](#)
21. Respondent James Falkenbury's June 1 email, complete with the imprimatur of the DPI, was couched as an official communication to the community to counteract supposed lies. Superintendent Truitt has, however, denied authorizing Falkenbury to send this email to the community on her behalf demonstrating that the communication was not made in furtherance of his duties at DPI. Moreover, even if the Superintendent did ask the Respondent to "correct the record," in this instance he should have removed himself from taking official action against EFA because his "impartiality might reasonably be questioned" due to conflict of interest with his wife's clients and employer. Others at the DPI are equally qualified to issue public statements. [EXHIBITS L,M](#)
22. From the DPI while using his title, the Respondent reportedly persuaded GOP leaders in several counties to cancel and to de-platform Sloan Rachmuth by feeding them false and defamatory information about EFA. James Falkenbury's actions resulted in Rachmuth being barred from open events after she received invitations. He recently urged a county GOP to rescind Rachmuth's invitation to hear the Superintendent speak, and then he influenced a decision by the venue's owners to have Sheriff deputies stand guard at the event to prevent her entry. It is not known if the Respondent has orchestrated the canceling of other activists.
23. From the DPI while using his title, the Respondent has contacted elected officials, religious leaders, journalists, and donors to discredit Rachmuth immediately after EFA events with them are publicized. Falkenbury has alleged that EFA members are not concerned parents and teachers; instead, they are political actors paid "six-figure salaries," who deliberately lie and defraud. James Falkenbury has never offered a modicum of evidence to support any of these claims. The Respondent's attacks coincide with EFA's calls for to defund the same programs that his boss, the Superintendent, also publicly oppose. Meanwhile his wife is lobbying to fund with taxpayers' money.

SUMMARY

Respondent James Falkenbury has weaponized his position as legislative liaison at the DPI to intimidate, discredit and ultimately to destroy his wife's most significant competitor: Education First Alliance - made up of thousands of activists and led by investigative journalist and mom, Sloan Rachmuth. James Falkenbury's wife gets paid six figures to "dive in front of a moving train and slow it down" to protect her education clients from adverse changes in the regulatory climate. Since EFA's leader and activists are that "moving train," it is understandable, however unethical, that James

Falkenbury took official actions both inside and outside of the DPI using his position to protect his wife's clients and her employment.

JUNE 1 EMAIL

From: Jamey Falkenbury <jfalkenbury@gmail.com>

Sent: Tuesday, June 1, 2021 4:03 PM

To: Mark.cavaliero@wakegop.org

Subject: Fwd: Response to Misinformation about Superintendent Truitt and DPI

Superintendent Truitt asked that I send this email to you. Let me know if you ever need the facts about what she/we are doing.

Best.

Jamey Falkenbury

Subject: Response to Misinformation about Superintendent Truitt and DPI

Good afternoon General Assembly Members and staff,

Hope you all had a great weekend. Over this weekend you received a very disturbing email from a fringe group that claims to be telling the truth about what is happening in public education, unfortunately that is not the case with their most recent email blast and continues their trend of misinformation. What you received are borderline conspiracy theories and the mudding of facts with fiction. Let me set the record straight on what is actually happening at the Department of Public Instruction.

Here are the statements shared via email blasts this weekend by this fringe group, which many of you and your constituents were on:

- 1 “Students are given invasive surveys to determine, in part, gender and mental health issues and children can be referred by schools for medical treatment WITHOUT parental notification.”
- 2 **We are very unclear with what this statement is in reference to. While we continue to monitor any surveys that DPI is requesting or are currently in the field at the state level, I will comment on two that we know of and neither do what is being alleged.**
Youth Risk Behavior Survey: the one that our Center for Safer Schools has requested, if funding is provided, is a nationwide survey done through the CDC. None of the data collected can be traced back to a specific student and the survey gives a snapshot of what is going on at the state level. What the survey does is monitors six categories of health-related behaviors that contribute to the leading causes of death and disabilities among youth and adults, including –

Behaviors that contribute to unintentional injuries and violence
Sexual behaviors related to unintended pregnancy and sexually transmitted diseases, including HIV infection
Alcohol and other drug use
Tobacco use
Unhealthy dietary behaviors
Inadequate physical activity

Statewide Student Survey Pilot Program: This survey, which we are planning to use ESSER III money for, is being used in counties throughout our state. The purpose of the survey is to glean information about student engagement and connection in their school community—important things given the isolation of thousands of students during the pandemic. We are wanting to pilot this survey for the rest of the state in order to collect student reports of engagement and connection in the school community and to provide additional supports to students who may need them, particularly after this COVID-19 school year. I've included a letter (see attached) that this fringe group received from Pitt County regarding the same student survey DPI is looking into. Pitt's attorneys refute all the claims the fringe group is making on what this survey actually does. **You can also see the exact questions that are part of the survey.**

2. "Superintendent Truitt is asking the State School Board for \$325K in taxpayer funds to pay for Critical Race Theory teacher training and lays out plans to spend \$400K in federal funds for the same purpose."

The Department would like to extend our current contract with the platform operator for our Open Education Resource platform (\$325k). Unclear what the \$400k this group is referring to. The OER platform serves as the repository for all resources that the department and teachers share with one another. Under Catherine Truitt's predecessor's tenure as Superintendent, there have been inappropriate items on this platform, but they have been removed as soon as we uncovered them. One such example was a continuing education credit course with Culturally Responsive Teaching that included some tenant of critical race theory. This course was signed into contract under the previous Superintendent, as well as 1619 curriculum which was posted on the OER prior to Superintendent Truitt taking office. As a department we continue to clean up the OER platform and eliminate biased curriculum or information as we find it. At the same time, we are also setting up new processes to ensure that these types of items don't even show up on the website in the first place.

"The DPI is recommending that the State's Gifted student classes be eliminated because there are too many white and Asian students in the program."

This claim is so disingenuous and ridiculous to its core. WE ARE NOT proposing the elimination of the State's Gifted classes because there are too many white and Asian students in the program. What we are proposing are some slight changes to the criteria using best practices by other states and counties in North Carolina (Gaston and Johnston being two) which have increased overall participation of black and brown students. We are proposing multiple opportunities for students to demonstrate their potential while personalizing learning rather than having all students receive the same content at the same time and same pace. We are trying to not only recognize

students who come with easily recognizable gifts and talents but also are encouraging our schools and administrators to create environments to recognize and develop talents not yet tapped. It is despicable that someone/some group would equate bringing more children of color into Gifted Education as tantamount to eliminating the program.

As you receive any other information from this fringe group, please do not hesitate to reach out to our team directly if something doesn't sound right. Knowing these people personally that are behind these emails, their purpose is to fundraise first and then market themselves to lift up their profiles second. If they were not receiving donations for these purposes, they would be muckraking something else to make a buck. They are using fear and misinformation to stay relevant and confuse the general public and elected officials. Please know that Superintendent Truitt fights daily to set the record straight with constituents to prevent these lies from spreading, we'd appreciate you doing the same.

All the best,

Jamey Falkenbury

Director of Government Affairs

Office of Superintendent Truitt