



Dale R. Folwell, CPA
State Treasurer of North Carolina
DALE R. FOLWELL, CPA

**Board of Trustees Meeting
In-Person/Webinar/Recorded
October 26, 2023
Minutes**

Convene Meeting

Welcome

The meeting of the North Carolina State Health Plan for Teachers and State Employees (Plan) Board of Trustees was called to order by Chair Dale R. Folwell, CPA, at 1:30 p.m. on Thursday, October 26, 2023. He welcomed board members and visitors and stated that the meeting was held in honor of Dr. Linda Combs, former North Carolina State Controller and Controller of the United States Office of Management and Budget. Dr. Combs passed away on October 19, 2023.

Aaron Vodicka, Plan Assistant General Counsel, was introduced as Acting Board Secretary for the meeting.

Roll Call for Attendance

Present: Dale R. Folwell, Kristin Walker, Melanie Bush, Wayne Fish, Peter Robie, M.D., Mike Stevenson, Cyrus Vernon, Kerry Willis, M.D.

Absent: Russell "Rusty" Duke

Oath of Office for New Members

Chair Folwell administered the ceremonial oath of office for new board members, Melanie Bush and Dr. Willis, along with Cy Vernon, who joined the board in September 2022.

Conflict of Interest

No conflicts of interest were noted. During a board meeting, members should notify the board chair if a conflict arises.

Reading of SEI Statements into Minutes Pursuant to the Ethics Act § 138A-15(c)

Statements of Economic Interest for Dr. Kerry A. Willis and Ms. Melanie Bush were read into the minutes (**attached**).

Introduction of New State Health Plan Staff Member

Ms. Laura Rowe was introduced as the Plan's Director of Contracts. Ms. Rowe has been with the Department of State Treasurer for several years as the Compliance Officer and joined the Plan in August 2023.

Consent Agenda (*Requires Vote*)

Chair Folwell noted the consent agenda items listed and called for a motion to approve the consent agenda items.

- Resolutions for Outgoing Board Members, Dr. Cherie Dunphy and Ms. Kim Hargett
- Minutes – July 27, 2023, Meeting
- Technical Correction for Rule on Enrollment Exceptions and Appeals
- Other Post-Employment Benefits (OPEB) Report Acceptance

Board Vote: Motion by Dr. Robie; second by Mr. Fish; roll call vote was taken; unanimous vote by Board to approve items on the consent agenda.

Mayor Maureen Copelof of City of Brevard, NC

Mr. Sam Watts, State Health Plan Executive Administrator, stated that Mayor Copelof was unable to attend the meeting, but would be invited to address the board at a future meeting.

Pharmacy Benefit Manager (PBM) Auditor Presentation

Mr. Joe Schauer and Ms. Christianna Moore, Myers and Stauffer, provided an overview of the company and the services they provide as the Plan's PBM auditor. Myers and Stauffer is a public accounting firm that provides services to state and federal agencies who manage government sponsored health care programs.

Core auditing services for the Plan include plan design accuracy, average wholesale pricing (AWP) accuracy, pricing guarantee accuracy, maximum allowable cost (MAC) list, rebates, and invoice reconciliation. Mr. Schauer and Ms. Moore provided details on each auditing service, including how often they occur, the primary goal of the audit and the data analysis methodology.

Board Comments and Questions Addressed:

In response to a question by a board member, Mr. Schauer stated that Myers and Stauffer does have a policy that requires staff to immediately report any type of personal relationship(s) with anyone in a company being audited.

As a board member, how will I know that the wholesale acquisition cost of a drug, which is the price to the distributor, is fair compared to the AWP which is significantly higher than the acquisition cost? One would need to know the negotiated price in the contract.

In essence, the auditing firm is verifying what the contract indicates the Plan should be paying without regard to the acquisition cost.

Who receives the report of the audit results and is the Board privy to that information? The Plan and PBM receive the information. Mr. Watts stated that the reports could be shared with Board members.

If a member is prescribed drugs while in the hospital, is that claim sent to the PBM? Most likely, it is not submitted to the PBM. However, in some cases, it could be submitted to the PBM as a paper claim, where it's incorporated into the electronic claims database.

What is the Plan's overall pharmacy spend per year? The gross spend is approaching \$1.6 billion. On a net level it's just shy of \$1 billion.

Public Comments

A Plan member discussed her experience with weight loss drugs and asked the Board to not exclude such drugs.

Ms. Emily Weaver, a nurse practitioner, requested the Board not exclude coverage of weight loss drugs.

Flint Benson, lobbyist for the State Employees Association of North Carolina, commended Treasurer Folwell and Mr. Watts for addressing options to eliminate the high cost of weight loss drugs. He added that increasing premiums for Plan members, to offset the cost of GLP-1s, is not an option that should be considered.

A Plan member stated that the weight loss drug has helped her and asked the Board to not exclude coverage of weight loss drugs.

Financial Report

Calendar Year-to-Date (CY) August Financials

Mr. Matthew Rish, Sr. Director, Finance, Planning & Analytics, stated that Plan revenue increased slightly compared to projections. Net claims payments were approximately \$52 million higher than projected and total plan expenses were also higher by approximately \$45 million. The ending cash balance was \$91 million less predicted.

Mr. Rish provided the Calendar Year-to-Date August 2023 report compared to CY August 2022. He stated that in CY 2023, the Plan paid close to \$112 million for two of the weight loss drugs. Total expenses were approximately \$214 million more compared to CY 2022 and the net income loss in 2023 was \$247 million more than in 2022. The cash ending balance was approximately \$170 million less than in August 2022.

Board Comments and Questions Addressed: Approximately 4% of the Plan's members are using weight loss drugs. Mr. Watts stated that federal government doesn't allow coverage of weight loss drugs for those in Medicare Advantage plans.

In response to a question as to how much the Plan pays for drugs, Mr. Rish stated that the amount the Plan pays for individual drugs after rebates isn't entirely clear. The Plan receives quarterly rebate checks.

Benefits with Escalating Costs

GLP-1 Weight Loss Drugs: The Plan has covered GLP-1 drugs for weight loss since January 2015. Saxenda was on the prescription drug formulary and Wegovy was added in October 2021. Over the past three years, the Plan's cost of GLP-1s for weight loss increased from approximately \$3 million per month to over \$14 million per month in 2023, before the manufacturer rebates.

Gender Dysphoria: Mr. Rish presented costs relating to gender dysphoria between July 2022 – August 2023. The total medical costs paid by the Plan, to date, is approximately \$1.352 million. Pharmacy claims paid by the Plan, to date, is approximately \$715,000. The total number of unique members is 470.

Top 25 Drugs: Mr. Rish presented examples from the list of the top 25 drugs taken from the CY 2022 report. He noted that the gross spend for the top 25 drugs in 2022 was \$762 million. This equates to 48% of the total spend. As a comparison, the cost in CY 2019 was \$460 million or 39% of the total spend. The increase for the top 25 drugs in that 3-year period was 66%.

Board Comments and Questions Addressed:

In response to a question as to how the items on the “Benefits with Escalating Cost” were chosen, Mr. Rish responded that the pharmacy trend was higher than projected in these areas. He noted that there are pockets within medical spend that are higher than projected. However, medical spend, in general, is much closer to projections than pharmacy spend, which currently is exceeding projections by 2-3%.

Other Post-Employment Benefits (OPEB) Summary

Mr. Rish reported that, as of June 30, 2023, the estimated value of health care costs for current and future retirees was \$29.8 billion. He stated that the Retiree Health Benefits Trust Fund (RHBTf) was created to offset the OPEB liability and pay for retiree health care. The RHBTf is funded by a percent of the salary of employers and pays for retiree health coverage based on premiums approved by the State Health Plan Board of Trustees.

Mr. Rish summarized the OPEB risks, stating that if the OPEB was prefunded, the liability would be reduced. Funding depends on a percentage of salary employees, but coverage was closed to new hires as of January 1, 2021. If this type of funding continues, employers will eventually have to pay into the RHBTf and no employees would be eligible for benefits.

Additional risks to the OPEB discussed were minimal funding from Appropriations, Employers leaving Retiree Health Coverage, such as the current potential for UNC Health and ECU Health to pull out of both the Retirement and Health Plans. In addition, risks include the continued increases in health claims costs for retirees.

State Budget Update

Mr. Rish reviewed the impact of the of the State Budget on the Plan, saying that the Budget allowed for less than the Plan requested by \$50 million in FY24 and by \$190 million in FY25. However, the Plan believes it was funded at a reasonable level.

Glucagon-Like Peptide-1 (GLP-1s) (Weight Loss Drugs)

Mr. Watts provided background information on the coverage of weight loss drugs for Plan members. Currently, 23,215 Plan members use GLP-1s for weight loss compared to 2,795 users in mid-2021, which is a 731% increase. The age range of members taking these drugs is 12 to 83 and the average age is 47.

Mr. Watts stated that Plan staff discussed ways in which the Plan could cover these drugs, while also trying to solve the financial problem. While understanding the impact some members are experiencing, the cost to cover the drugs is prohibitive. After the current 40% rebate, the net cost per user per year is approximately \$9,269. Member premiums in 2023 totaled approximately \$7,320, which equates to a deficit of \$1,949 per user per year, providing they had no other claims.

With the existing approval of GLP-1s, and assuming no market shortage, the Plan’s net cost, before rebates and member cost shares, is projected to be \$297 million in 2024. With an estimated 40% rebate and no immediate savings expected in medical costs, the projected net cost to the Plan in 2024 is \$170 million. Mr. Watts noted that the Plan is spending more on GLP-1s than cancer, chemotherapy, and arthritis. Chair Folwell noted that the Plan is delving into how the GLP-1s are being prescribed.

Mr. Watts briefly reviewed the manufacturer sales of Wegovy and Saxenda. Novo Nordisk, the Denmark-based manufacturer of Wegovy, reported a 32% operating profit increase during the first 6 months of 2023, compared to the first 6 months in 2022. During the same period, Wegovy sales in North

America increased 344%. The State Health Plan spent \$52.3 million on the two drugs during that time period, accounting for 2.6% of all Novo Nordisk sales in the United States. Of particular note, the cost of Wegovy per month in Germany is \$328 and \$296 in the Netherlands.

Sonya Dunn, Plan Integration Manager, and Jenny Vogel, Plan Clinical Pharmacist, presented a review of GLP-1 coverage in other states, which revealed that other state health plans have already implemented cost-saving measures. As of September 1, Texas ceased coverage of Wegovy and Saxenda, at least until the manufacturers are willing to adjust pricing. Connecticut only covers semaglutide only if prescribed by a specific company that provides anti-obesity specialists, along with an online app aimed at helping members manage weight loss and making lifestyle changes. The state of Michigan increased the member cost share for these drugs. Several other state health plans cover these drugs for diabetes treatment, but not for weight loss. Other states cover these drugs for both diabetes and weight loss, but all are implementing or enhancing prior authorization programs or other procedures to limit the use for weight loss.

Ms. Dunn and Dr. Vogel provided options the Plan has considered regarding the use of GLP-1 medications for weight loss. The Plan's recommendation is that "members will be able to access the medication at the Plan's discounted rate, but they will be responsible for the full cost." The medications would still be available for the treatment of diabetes. In addition, the exclusion for GLP-1 Medications for Weight Loss Coverage was brought to the board for a vote.

Board Comments and Questions Addressed: How much would the member premiums increase to offset costs? A surcharge of \$48.50 would be added to subscribers in both the 70/30 and 80/20 plans.

Are there other funding options to consider rather than premium increases? The General Assembly could provide additional funding, but they aren't likely to fund an additional \$48 per member per month.

Chair Folwell stated that he wants Novo Nordisk to charge the U.S. the same as what they charge for the drugs in Denmark.

A board member stated that Medicaid uses several options, such as contract renegotiations and utilization management programs, the latter of which wasn't included in the presentation. The Segal document shared with the board mentioned a couple of options, including rebates. Could the Plan implement any of them? Mr. Watts stated that the Plan would not be able to save enough, and that Segal can't dictate what the PBM should do. He also stated that the Plan isn't privy to the contract between CVS Caremark and Novo Nordisk. He reiterated that the Plan put forth a lot of effort to find a way to cover these drugs for weight loss, but the math simply doesn't work. It was noted that Medicaid is making a push to cover the GLP-1 drugs.

Chair Folwell noted that Medicaid receives both state and federal funding, and also that Medicare does not cover the GLP-1 drugs for weight loss.

One board member asked about studies purporting to show a 20% reduction in cardiovascular events when taking GLP-1s. If they help with other diseases, wouldn't the long-term benefits result in reduced medical costs? Staff replied that there isn't enough data at this point to support that conclusion.

A request was made for the Plan to share the financial analysis on GLP-1 coverage with the board.

Mr. Watts stated that the Plan would lose the rebates on these drugs if the Plan implemented any limitations on coverage. The Plan would have to renegotiate the contract to change that.

Would CVS Caremark still receive the manufacturer's rebate but not pass it on to the Plan? The current contract has a guaranteed rebate amount, but if utilization decreased, so would the rebate.

What is the administrative cost to the Plan to administer these drugs? There is no set fee for administering GLP-1s. The CVS Caremark administrative fee includes a number of services provided to the Plan and is not charged for an individual claim.

Can Plan members get a 90-day supply or are they limited to a 30-day supply? At this point, the CVS Caremark system can't support a 30-day prescription. With some notice, system changes could be made but, most likely, not by 1/1/24.

How many members take the drug and then discontinue using it? Chair Folwell stated that some may stop using it because of an adverse reaction. Others may just decide they no longer want to use it. The number of members who discontinue use would require further analysis.

What is the number of prescriptions being filled per month? Since members can get a 60- or 90-day prescription, additional analysis would be required in order to provide the number of prescriptions filled.

If the board isn't prepared to vote today, can the drug be moved from the formulary until a decision is made? No. It would need to go through the Pharmacy & Therapeutics Committee before being removed from the formulary.

Perhaps all of the high-cost drugs should be purchased directly from the manufacturers. Another option is to determine the medical necessity for these drugs or take a person's risk factors into consideration.

In response to a question, the Plan's current contract with CVS Caremark ends in March 2025.

Chair Folwell concluded the discussion by stating that if the manufacturer would agree to sell the drug to the Plan for \$300, he would immediately accept that. He then posed the question as to whether the Plan could impose a moratorium on users until a decision is made. A Plan staff member noted that doing so would affect the Plan's pharmacy rebates.

Following a short discussion, Chair Folwell called for the following motion: *To protect the fiscal solvency of the Plan for current and future members and safeguard the goal of lowering member and family premiums, I move that the Plan exclude benefits coverage of GLP-1, GIP-GLP-1 agonists, and other similar new molecular entities when used for the purpose of weight loss for new users starting January 1, 2024; and further direct staff to pursue other administrative solutions to solve this problem.*

Board Vote: Motion by Dr. Willis; second by Dr. Robie; roll call vote was taken; unanimous vote by Board to approve the motion to protect the fiscal solvency of the Plan for current and future members and safeguard the goal of lowering member and family premiums, I move that the Plan exclude benefits coverage of GLP-1, GIP-GLP-1 agonists, and other similar new molecular entities when used for the purpose of weight loss for new users starting January 1, 2024; and further direct staff to pursue other administrative solutions to solve this problem.

Executive Session

Board Vote to Move into Executive Session: Motion by Mr. Vernon; second by Dr. Willis; roll call vote was taken; unanimous approval by Board to move into executive session pursuant to G.S 143-318.11(a)(1) and (a)(3) and Chapter 132 to consult with legal counsel regarding the matters of *Blue Cross and Blue Shield of North Carolina v. State Health Plan*; *Lake v. State Health Plan*; and *Kadel v. Folwell* (G.S. 143-318.11(a)(1) and (a)(3))

The Board met in executive session with Plan Executive Administrator Sam Watts, Department General Counsel Ben Garner, Assistant General Counsel Aaron Vodicka, and Assistant General Counsel Joel Heimbach. Mr. Garner, Mr. Vodicka, and Mr. Heimbach discussed with the Board the contested case titled *Blue Cross and Blue Shield of North Carolina v. State Health Plan* in the Office of Administrative Hearings and the cases titled *Lake v. State Health Plan* and *Kadel v. Folwell*.

Return to Open Session

Board Vote: Motion by Dr. Willis; second by Mr. Vernon; roll call vote was taken; unanimous approval by Board to return to open session.

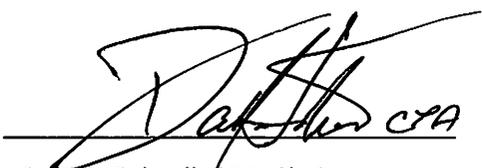
Adjournment

Chair Folwell called for a motion to adjourn.

Board Vote: Motion by Ms. Bush; second by Mr. Stevenson; vote was taken; unanimous vote by Board to adjourn.

The meeting was adjourned at 5:20 p.m.

Minutes submitted by: Joel Heimbach, Secretary

Approved by:  CPA
Dale R. Folwell, CPA, Chair

**Board of Trustees of the State Health Plan
for Teachers and State Employees**

October 26, 2023 Meeting

Agenda Item: Reading of SEI Statements into Minutes pursuant to the Ethics Act § 138A-15(c)

The following packet contains Statement of Economic Interest (SEI) evaluations issued by the State Ethics Commission. These are being provided for Board members' review and for recording in the meeting minutes pursuant to the requirements of the State Government Ethics Act. Members are encouraged to review the evaluation letters to inform them of any conflicts of interest that may have been identified.

The SEI Evaluations for the following are being provided for review:

- Dr. Kerry Willis
- Melanie Bush



STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

PHONE: 919-814-3600

Via Email

September 11, 2023

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

**Re: Evaluation of Statement of Economic Interest Filed by Dr. Kerry A. Willis
Appointee to the State Health Plan Board of Trustees**

Dear Senator Berger:

Our office has received **Dr. Kerry A. Willis'** 2023 Statement of Economic Interest as an appointee to the **State Health Plan Board of Trustees (the "Board")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The State Health Plan insures more than 720,000 state employees, teachers, retirees, current and former lawmakers, state university and community college personnel, state hospital staff and their dependents. The State Health Plan Board of Trustees ("the Board") is statutorily charged with approving the benefits programs, premium rates, co-pays, deductibles, coinsurance maximums, and large contracts for the Plan. The Board also oversees administrative reviews and appeals and is charged with developing and maintaining a strategic plan.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Willis is the President of Open Water Medical and Atlantic Integrated Health whose business could intersect with the Board. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving these entities come before the Board for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Mary Roerden, SEI Unit
State Ethics Commission

cc: Dr. Kerry A. Willis
Laura Rowe, Ethics Liaison

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

PHONE: 919-814-3600

Via Email

August 31, 2023

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

**Re: Evaluation of Statement of Economic Interest Filed by Ms. Melanie Bush
Prospective Appointee to the State Health Plan Board of Trustees**

Dear Governor Cooper:

Our office has received **Ms. Melanie Bush's** 2023 Statement of Economic Interest as a prospective appointee to the **State Health Plan Board of Trustees (the "Board")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The State Health Plan insures more than 720,000 state employees, teachers, retirees, current and former lawmakers, state university and community college personnel, state hospital staff and their dependents. The State Health Plan Board of Trustees ("the Board") is statutorily charged with approving the benefits programs, premium rates, co-pays, deductibles, coinsurance maximums, and large contracts for the Plan. The Board also oversees administrative reviews and appeals and is charged with developing and maintaining a strategic plan.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Ms. Bush would fill the role of an at-large member on the Board. She is employed by the North Carolina Department of Health and Human Services and insured by the State Health Plan. As such, she has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should issues involving her benefits come before the Board for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

A handwritten signature in cursive script that reads "Mary Roerden".

Mary Roerden, SEI Unit
State Ethics Commission

cc: Melanie Bush
Attachment: Ethics Education Guide