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**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Honorable Circuit Court Judge Deadra L. Jefferson  
Circuit Court Case No. 2025-CP-10-00921

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Court of Appeals Case No. 2025-002194

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Corel Lenhardt,

Appellant,

v.

Charleston County School District,

Respondent.

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**APPELLANT'S INITIAL BRIEF**

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Charleston, South Carolina  
February 18, 2026

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## **STATEMENT OF THE ISSUES ON APPEAL**

- I. WHETHER THE RECORD LACKS SUBSTANTIAL EVIDENCE TO ESTABLISH “GOOD AND JUST CAUSE” FOR IMMEDIATE DISMISSAL AS REQUIRED BY TEDA.**
  
- II. WHETHER THE CIRCUIT COURT EXCEEDED ITS LIMITED SCOPE OF JUDICIAL REVIEW UNDER TEDA.**
  
- III. WHETHER THE DISTRICT MISINTERPRETED TEDA AND VIOLATED APPELLANT’S DUE PROCESS RIGHTS BY:**
  - 1. taking the position the hearing transcript was not part of the “record” and failing to provide a copy to the Board for review;**
  
  - 2. allowing the Superintendent to deliberate with the Board in a closed executive session outside Appellant’s presence; and,**
  
  - 3. failing to notify Appellant of the Board’s consideration of her matter despite Appellant’s express request for notice and a public hearing.**

## **STATEMENT OF THE CASE**

This appeal arises from the Charleston County School District Board of Trustees' (the "Board") termination of Appellant Corel Lenhardt, Ph.D., a certified educator/administrator, following proceedings conducted under the South Carolina Teacher Employment and Dismissal Act ("TEDA"), S.C. Code Ann. §§ 59-25-410 et seq. After the administrative hearing, the Hearing Officer recommended Appellant's termination not be upheld. However, the Board, after receiving additional information from the Superintendent during executive session, did not follow the Hearing Officer's recommendation and voted to terminate her employment.

On August 30, 2024, the Superintendent of the Charleston County School District ("the Superintendent" or the "District") issued a written notice recommending Appellant's dismissal for alleged policy violations and related accusations. (Termination Letter dated Aug. 30, 2024). After receiving such notice, Appellant timely requested a hearing to challenge the recommendation. (Hearing Request Letter dated Sept. 11, 2024). A TEDA evidentiary hearing was conducted on December 20, 2024, before a Hearing Officer selected from a pool of officers appointed by the Board. (Administrative Hearing Transcript, Dec. 20, 2024). No Board members attended the December 20, 2024, hearing. On January 10, 2025, the

Hearing Officer issued a written Report and Recommendation (“R&R”). (R&R dated Jan. 10, 2025). As required by statute, the Hearing Officer’s R&R “contain[ed] findings of facts and conclusions of law” presented to the Board. (S.C. Code Ann. § 59-25-460(A)(2)). On January 21, 2025, the Superintendent submitted a written response to the R&R. (District Response to R&R). On the same date, Appellant requested the Board adopt the Hearing Officer’s Report and Recommendation or have a public hearing on the matter.<sup>1</sup> Appellant also requested the Board 1) have access to the full transcript to review the record and exhibits presented during the December 20, 2024, hearing; and 2) have the Hearing Officer present to answer any questions the Board may have. (January 21, 2025, Email). Appellant’s requests were denied.

On January 27, 2025, the Board voted to uphold the Superintendent’s decision for dismissal. The Board issued its written Order on January 31, 2025. (Board Order dated Jan. 31, 2025). Appellant timely appealed the Board Order to the Court of Common Pleas in Charleston County, pursuant to TEDA. (Notice of Appeal filed Feb. 19, 2025).

The Circuit Court held a hearing on April 10, 2025. (Circuit Court Hearing Transcript, Apr. 10, 2025). On July 15, 2025, the Circuit Court affirmed the Board’s

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<sup>1</sup> Board Policy allows a District employee to request the matter be taken up in open session. (District Policy BE).

termination decision. (Circuit Court Order dated July 15, 2025). Appellant timely moved for reconsideration under Rule 59(e), SCRCP. The Circuit Court denied reconsideration by Order dated October 23, 2025. (Order Denying Motion to Reconsider, dated Oct. 23, 2025). Appellant filed a Notice of Appeal to the South Carolina Court of Appeals on October 27, 2025.

## STATEMENT OF FACTS

### A. The Teacher Employment and Dismissal Act (“TEDA”)

South Carolina law grants administrators on annual or multi-year contracts the same rights as teachers regarding discipline, termination, and appeals.<sup>2</sup> The United States Supreme Court recognized that public school teachers have a property interest in continued employment and, commensurate with that property interest, the state must provide notice and an opportunity to be heard before a teacher may be deprived of the right to continued employment. *Young v. Charleston Cty. Sch. Dist.*, 397 S.C. 303, 307, 725 S.E.2d 107, 109 (2012) (citing *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 578 (1972)). There are two avenues that can be taken with respect to ending teacher’s “continuing contract.”<sup>3</sup> One avenue includes dismissal

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<sup>2</sup> See, S.C. Code Ann. § 59-24-15 (“Certified education personnel who are employed as administrators on an annual or multi-year contract will retain their rights as a teacher under the provisions of Article 3 of Chapter 19 and Article 5 of Chapter 25 of this title but no such rights are granted to the position or salary of administrator. Any such administrator who presently is under a contract granting such rights shall retain that status until the expiration of that contract.”)

<sup>3</sup> Appellant’s status as an administrator on a “continuing contract” is not in dispute. S.C. Code Ann. § 59-26-40(J) (“A continuing contract teacher shall have full procedural rights that currently exist under law relating to employment and dismissal”).

after warning and “opportunity to correct,” while the other provides for immediate dismissal without warning or opportunity for correction. Each of these methods is intended to address different circumstances related to an educator’s actions or performance.

**B. Termination After Warning and Opportunity to Correct (S.C. Code Ann. § 59-25-440).**

“Our General Assembly permits the termination of a teacher's employment -- without affording a reasonable time for the teacher to rectify the offending behavior -- *only under certain narrow circumstances.*” *Hall v. Bd. of Trs.*, 330 S.C. 402, 405, 499 S.E.2d 216, 218 (Ct. App. 1998)(emphasis added). “Other deficiencies or shortcomings, however, *must be addressed by giving the teacher notice and a reasonable time for improvement.*” *Hall v. Bd. of Trs.*, 330 S.C. at 406 (emphasis added). Pursuant to S.C. Code Ann. § 59-25-440, whenever a supervisor has concerns about a teacher/administrator, the supervisor must bring the concern to the attention of the teacher/administrator involved in writing. The supervisor must also make a reasonable effort to assist the teacher/administrator to correct whatever appears to be the cause of concern and allow reasonable time for improvement.<sup>4</sup>

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<sup>4</sup> See S.C. Code Ann. § 59-25-440 (“Whenever a superior, principal, where applicable, or supervisor charged with the supervision of a teacher finds it necessary to admonish a teacher for a reason that he believes may lead to, or be cited as a reason for, dismissal or cause the teacher not to be reemployed he shall: (1) bring the matter in writing to the attention of the teacher involved and make a reasonable effort to assist the teacher to correct whatever appears to be the cause of potential dismissal or failure to be reemployed and, (2) except as provided in § 59-25-450, allow reasonable time for improvement.”).

“Unless we are to attribute inconsistency to the legislature, the two sections in question must speak to different categories of grounds for dismissal.” *Adams v. Clarendon Cty. Sch. Dist.*, 270 S.C. 266, 273, 241 S.E.2d 897, 900-01 (1978) “Section 59-25-430 identifies what is subject to its provisions, namely, an evident unfitness for teaching.” *Id.* “It logically follows, then, that § 59-25-440 must address those deficiencies or shortcomings other than those which manifest an evident unfitness for teaching but which do, nevertheless, constitute improper performance of employment duties.” *Id.*

**C. Immediate Termination Without Notice or Opportunity to Correct (S.C. Code Ann. § 59-25-430).**

TEDA also allows for immediate dismissal of a teacher without notice only in narrow circumstances. “Although the Teacher Employment and Dismissal Act contemplates ‘evident unfitness for teaching’ to encompass a broad variety of deficiencies, *the Act was also intended to prevent the abuse of a school board’s power of termination.*” *Hall v. Bd. of Trs.*, 330 S.C. at 407 (emphasis added). “The Employment and Dismissal Act was not so much intended to limit this power as it was intended to prevent its abuse.” *Adams*, 270 S.C. at 272. “Consistent with this requirement, South Carolina’s appellate courts have upheld immediate termination only where evidence of unfitness for teaching was ‘undeniably and abundantly present.’” *Hall*, 330 S.C. at 407.

A teacher may be dismissed at any time who fails or is incompetent, “to give instruction in accordance with the directions of the superintendent, or who shall otherwise manifest an evident unfitness for teaching.” S.C. Code Ann. § 59-25-430. Pursuant to the statute, “[e]vident unfitness for teaching is manifested by conduct such as, but not limited to, the following: persistent neglect of duty, willful violation of rules and regulations of district board of trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics.” *Id.* This avenue for termination of a teacher’s employment is clearly intended to remove a teacher who has engaged in conduct that shows an evident unfitness for teaching.

However, “...when a teacher's conduct does not demonstrate unfitness for teaching of the type contemplated by the previously cited decisions, procedural safeguards must be followed to allow the teacher reasonable time to correct the problem.” *Hall*, 330 S.C. at 408. “This delineation is an important one. As noted in *Johnson* [*v. Spartanburg Cty. Sch. Dist. No. 7*, 314 S.C. 340, 343, 444 S.E.2d 501, 503 (1994)], ‘there must be a distinction between the cases, or it renders the legislature's intent to create procedural safeguards for educators a nullity.’” *Hall*, 330 S.C. at 408.

#### **D. Dismissal of Appellant, Corel Lenhardt**

Appellant was hired as an assistant principal at R.B. Stall High School (“Stall”) in 2016. (Lenhardt Resume). Like all Stall assistant principals, her duties included supervising a group of teachers, observing classes, and completing teacher evaluations in the “SCLead system.” (Hearing Transcript, p. 12:14–25; p. 13:9–25). Appellant’s supervisor was the school’s principal, Stephen Larson (“Larson”). At no time during her employment at Stall was Appellant ever disciplined, coached, placed on a performance improvement plan, or given any warning her performance was an issue. (Exhibit 3 Hearing Transcript, p. 23:15–19).<sup>5</sup>

On March 22, 2024, Appellant suffered a traumatic brain injury while helping break up a fight between two students in a hallway. (Hearing Transcript, p. 137:4-4; p. 468:20–25). During the incident, she fell backward and hit the back of her head on a concrete wall corner. (Hearing Transcript, p. 370:11-25; Still images of Surveillance Camera). Appellant was taken to the emergency room the same day and was diagnosed with a concussion. (Hearing Transcript, p. 371:6-12). She was placed on leave by her doctor and, on or about March 25, 2024, Appellant applied for workers’ compensation benefits as well as leave under the FMLA. (Hearing Transcript, p. 372:9-23).

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<sup>5</sup> Mr. Larson affirmed he never gave Dr. Lenhardt a written reprimand or letter of admonishment about alleged performance issues; Both Mr. Larson and others acknowledged that no documented corrective measures appear in her personnel file prior to spring 2024.

Around April 8, 2024, while she was out on leave, Larson began an investigation into issues related to Appellant’s evaluations of teachers and her use of leave. (Hearing Transcript, p. 29:3-31:2). Although that investigation began in April 2024, the investigation into alleged performance concerns traced back as far as the 2017–2018 school year. (Exhibit 5 - Larson Concerns memo). Although she was not Appellant’s supervisor, another assistant principal, Virginia Sayer, participated in the investigation, as she had a role in ensuring teacher evaluations were entered and “closed out” in the reporting system (Hearing Tr. P. 172:24-73:3). Unaware she was under investigation, Appellant was summoned to meet with District representatives on August 16, 2024. (Hearing Transcript, p. 63:16-64:18, 364:16-17, 367:14-24). This meeting was scheduled while Appellant was still on leave. (August 9, 2024, Email Dr. Lenhardt to Remain Out of Work).

Expecting to discuss her requested accommodations and return-to-work plan, Appellant was surprised by questions about her performance and attendance. (Hearing Transcript, p. 394:11-395:18). Since she was not prepared to address these topics, Appellant asked that any concerns be provided in writing and she memorialized that request in an email with her attorney copied for the District to see. (August 16, 2024, Email with Christmas Firm copied). On Saturday, August 17, 2024, the District emailed questions to Appellant’s personal email but did not copy or otherwise send them to her attorney. (Hearing Transcript, p. 262:14-264:17);

(August 16, 2024, Email to District Including Counsel for Lenhardt). Notably, the District was aware Appellant was represented by counsel and was still out on leave due to her injuries. However, the District did not notify Appellant’s counsel of the meeting, work with counsel for Appellant to schedule the meeting, or send the “post-meeting” written questions to Appellant’s counsel. (Hearing Tr. P. 262:10-264:17).

Thirteen days later, and while she was still out on leave, Appellant was presented with a letter from the Superintendent on August 30, 2024, recommending the immediate termination of her employment (the “Termination Letter”) (August 30, 2024, Termination Letter). The Termination Letter identified two reasons for the decision to terminate Appellant’s employment: 1) “falsifying evaluation documents,” and 2) “misrepresenting leave.” (August 30, 2024, Termination Letter).<sup>6</sup>

Appellant timely requested a hearing before the Charleston County School District Board of Trustees. (September 11, 2024, Letter Requesting TEDA Hearing). The Superintendent elected to assign a hearing officer to conduct the hearing and determine the facts of the matter. Attorney Amy L. Gaffney, Esq., was selected as the Hearing Officer. A hearing was held on December 20, 2024, and lasted over

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<sup>6</sup> The Termination Letter includes a “catch all” phrase stating the termination recommendation was based on “these and other reasons.” Although unclear what the “other reasons” were, the Letter identifies “collusion with a subordinate” and “refusal to participate in an investigation” as other concerns the District had.

eight hours with nine witnesses and twenty-two exhibits introduced. No Board members attended any portion of the hearing. On January 10, 2025, the Hearing Officer issued a Report and Recommendation (“R&R”) concluding there was not substantial evidence to support terminating Appellant’s employment and the Superintendent’s termination recommendation should not be adopted. (January 10, 2025, Report and Recommendation) Specifically, the R&R held:

NOW THEREFORE, the undersigned Hearing Officer, having heard and considered the testimony of witnesses presented during a hearing on December 20, 2024, and having reviewed the evidence offered in the course of such hearing, and based on the foregoing, hereby recommends to the Charleston County School District Board of Trustees that the termination letter dated August 30, 2024, recommending the termination of [Appellant] Corel Lenhardt, not be upheld. (January 10, 2025, Report and Recommendation at page 16).

On January 21, 2025, the Superintendent submitted a written response to the Board regarding the Hearing Officer’s R&R. (District Response to R&R). In turn, Appellant asked the Board for a public hearing, or to adopt the R&R. (January 21, 2025, Request for a Hearing). Appellant also asked the Board to have a copy of the transcript available to review. The Superintendent opposed Appellant’s requests. It also informed the Board that “there is no requirement that the Board have the entire transcript available” and that it would be “impossible” to produce a transcript and have each Board member read it by February 10, 2025. (January 22, 2025, Email to Chairman Grybowski From Counsel for the Superintendent). Appellant informed the Chairman of the Board that the Board should have a copy of the transcript because

it is required to preserve a record of the hearing, but Appellant will supply it if needed. (January 22, 2025, Email to Chairman Grybowski From Counsel for the Board).<sup>7</sup> The Board offered no response to Appellant.

#### **E. Board of Trustees' Vote on Appellant's Employment**

On January 22, 2025, Appellant emailed the Superintendent's counsel and the Board Chair to see if her matter would be heard at the January 27, 2025, meeting since the agenda made no mention of it. (January 22, 2025, Email to Chairman Grybowski Requesting Notice; January 27, 2025 Board Meeting Agenda). Appellant also requested the Superintendent and the Board to inform her, "if an amended agenda has been published or if the matter will be addressed at another time." (January 22, 2025, Email to Chairman Grybowski Requesting Notice). Neither the Superintendent nor the Board responded to Appellant's request.

On January 29, 2025, Appellant again requested notification of when her matter would be addressed. (January 29, 2025, Email to Chairman Grybowski Following Up on Request for Notice). Only then did the Superintendent inform her that the Board had already voted on her employment recommendation at the January 27, 2025, meeting. (January 29, 2025, Reply Following Up on Request for Notice).

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<sup>7</sup> Appellant did not have a copy of the transcript at the time but was willing to contact the court reporter and order a rushed copy, if needed. Appellant ordered the transcript on her own on January 29, 2025, after learning the Superintendent did not order a copy and the Board voted on the matter without informing Appellant. (Appellant's Transcript Order Request).

The Board voted against adopting the Hearing Officer’s R&R and decided to uphold the termination recommendation. (January 29, 2025, Email to Counsel for Dr. Lenhardt Regarding Board Vote). Notably, Appellant was never informed of the change to the agenda, even after she requested to be notified when the matter was going to be placed on the January 27, 2025, agenda. In addition to the District’s intentional refusal to provide Appellant with notice, the amended agenda did not identify Appellant’s matter was added to the January 27, 2025, meeting. Instead, the amended agenda only included “Personnel Matter – Teacher Appeal.” (January 27, 2025, Amended Agenda, Charleston County School Board of Trustees Meeting).

The Board considered Appellant’s matter during executive session at the January 27, 2025, meeting without a hearing or any public discussion, as Appellant requested.<sup>8</sup> Even more alarming is the fact that the Superintendent and others representing her interests were allowed to provide the Board with additional information, including a factual summary of the hearing, the Superintendent’s personal opinions of the Hearing Officer, and legal conclusions outside the presence of Appellant or the public.

Appellant made multiple attempts to obtain information regarding who was present during executive session on January 27, 2025. However, the Superintendent

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<sup>8</sup> The Board was required to review the evidence related to Appellant’s hearing in public under Board Policy BE.

refused to disclose who was present during the Board of Trustees' Executive session meeting, even after a formal request was made. (FOIA Request and Response). Moreover, counsel for Appellant informed the Superintendent she was going to make the claim parties were improperly present during the executive session meeting while discussions regarding Appellant were had. The Superintendent still refused to identify who was present during the executive session. (FOIA Request and Response). However, the Superintendent conceded she was present while the Board considered the matter during the executive session (Respondent's Memorandum to the Circuit Court). Moreover, the Superintendent has not denied she and others representing her position were also present during executive session and provided opinions to the Board.

On January 31, 2025, the Board issued an Order terminating Appellant's employment. (January 31, 2025, Board of Trustees Order). In its Order, the Board held,

After carefully considering the exhibits presented at the hearing, the factual findings and conclusions set forth in the report and recommendation of the hearing officer, the written response from Anita Huggins, and the email from [Appellant's] attorney, the Charleston County School District Board of Trustees voted 9-0 to reject the recommendation of the Hearing Officer and terminate Dr. Corel Lenhardt. (January 31, 2025, Board of Trustees Order).

Notably, the Board of Trustees did not, at any time, have the opportunity to review the transcript of December 20, 2024, hearing. The Superintendent ordered

the transcript of the hearing on February 19, 2025, nearly three weeks after the Board voted on January 27, 2025. Without the hearing transcript, it is unknown how the exhibits presented to the Board could have been placed in any context without seeking input from the Superintendent (who made the initial termination recommendation) or a person representing her position who attended the December 20, 2024, hearing. Notably, the Hearing Officer was not made available to the Board, even after Appellant requested the Hearing Officer be available to discuss her recommendation.

Additionally, the Board did not hold a hearing on the Superintendent's written response or deliberate in open session. Instead, the Board considered the matter during an executive session in which the Superintendent and, upon information and belief, a District attorney were present and provided additional information to the Board (Respondent's Memorandum to the Circuit Court). The Board's final Order reflects it reviewed the Superintendent's submission—although it contradicted the R&R's findings of fact and conclusions of law—after it considered additional information from the Superintendent during executive session without conducting a public hearing or allowing Appellant to respond.

Appellant timely appealed the Board's decision to the Court of Common Pleas. (Notice of Appeal to Circuit Court). The Circuit Court conducted a hearing on April 10, 2025, at which the parties presented arguments concerning the Board's

compliance with TEDA, the sufficiency of the evidence, and the procedural defects in the termination process. (April 10, 2025, Circuit Court Transcript).

By Order dated July 15, 2025, the Circuit Court affirmed the Board's termination decision. (July 15, 2025, Order). The Circuit Court Order includes findings of fact and conclusions of law that are inconsistent with the R&R and are not included in the Board's Order. Appellant moved for reconsideration under Rule 59(e), SCRPC, identifying specific errors of law and fact and emphasizing the Board's failure to consider the complete record. (July 22, 2025, Motion to Reconsider). The Circuit Court denied reconsideration by Order dated October 23, 2025. (October 23, 2025, Order). Appellant timely filed this appeal pursuant to TEDA.

## **STANDARD OF REVIEW**

### **A. Teacher Employment Dismissal Appeals**

Teacher employment dismissal appeals under TEDA are reviewed to determine whether the Board's stated grounds for dismissal are supported by substantial evidence and whether the decision was affected by an error of law. "The scope of review that applies to cases brought under the Teacher Employment and Dismissal Act is limited to whether the grounds given for termination of employment are supported by substantial evidence." *Hendrickson v. Spartanburg Cty. Sch. Dist. No. Five*, 307 S.C. 108, 110-11, 413 S.E.2d 871, 872-73 (Ct. App.

1992) (citing *Laws v. Richland Cty. Sch. Dist. No. 1*, 270 S.C. 492, 243 S.E.2d 192 (1978)). “Substantial evidence is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole would allow reasonable minds to reach the conclusion the administrative agency must have reached in order to justify its action.” *Id.* at 193.

The appellate court reviews the circuit court’s decision under the same standard applicable to the Board’s decision. *See Hall*, 330 S.C. at 410. “Judicial review of a school board decision terminating a teacher is limited to a determination whether it is supported by substantial evidence.” *Felder v. Charleston Cnty. Sch. Dist.*, 327 S.C. 21, 28, 489 S.E.2d 191, 195 (1997) (Toal, A.J., dissenting). “The court cannot substitute its judgment for that of the school board.” *Id.* (citing *Kizer v. Dorchester County Voc. Educ. Bd. of Trustees*, 287 S.C. 545, 340 S.E.2d 144 (1986); *Laws v. Richland County School Dist. No. 1*, 270 S.C. 492, 243 S.E.2d 192 (1978)).

However, “[the Court] may reverse an administrative decision if that decision was ‘clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record such that the substantial rights of a party have been prejudiced.’” *Hall v. Bd. of Trs.*, 330 S.C. 402, 405, 499 S.E.2d 216, 218 (Ct. App. 1998) (citing S.C. Code Ann. § 1-23-380(A)(6)(e)). “Moreover, this court may reverse an administrative decision if substantial rights of the appellant have been prejudiced

due to an error of law.” *Id.* (citing S.C. Code Ann. § 1-23-380(A)(6)(d); *Lark v. Bi-Lo*, 276 S.C. 130, 132-33, 276 S.E.2d 304, 305 (1981)).

### **B. Statutory Interpretation**

“Questions of statutory interpretation are questions of law, which the appellate courts are free to decide without any deference to the court below.” *In re Oxner*, 430 S.C. 555, 561, 846 S.E.2d 365, 369 (Ct. App. 2020) (citing *Buchanan v. S.C. Prop. & Cas. Ins. Guar. Ass'n*, 424 S.C. 542, 547, 819 S.E.2d 124, 126 (2018) (quoting *S.C. Prop. & Cas. Ins. Guar. Ass'n v. Brock*, 410 S.C. 361, 365, 764 S.E.2d 920, 922 (2014)); and *In re Manigo*, 398 S.C. 149, 157, 728 S.E.2d 32, 35 (2012) (quoting *Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 427, 699 S.E.2d 687, 689 (2010))) (“Statutory interpretation is a question of law subject to de novo review”).

### **C. Due Process Violations**

Appellate courts review the lower court's legal and constitutional conclusions with no deference to the circuit court. *Owens v. Stirling*, 443 S.C. 246, 264, 904 S.E.2d 580, 589 (2024) (citing *Callawassie Island Members Club, Inc. v. Dennis*, 425 S.C. 193, 198, 821 S.E.2d 667, 669 (2018) (“We review questions of law de novo.”); *Frasier*, 437 S.C. 625, 633-34, 879 S.E.2d 722, 766 (holding constitutional questions are questions of law which appellate courts review de novo)).

## ARGUMENT

### **A. THE RECORD LACKS SUBSTANTIAL EVIDENCE TO ESTABLISH “GOOD AND JUST CAUSE” FOR IMMEDIATE DISMISSAL AS REQUIRED BY TEDA.**

In this case, the Superintendent recommended the immediate termination of Appellant’s employment without giving her notice or the opportunity to correct any perceived issues. It is undisputed that Dr. Lenhardt was not informed of any deficiencies regarding her performance or use of leave prior to her recommendation for termination. It is further undisputed that no written warnings, notices, or concerns were brought to Appellant’s attention prior to her termination recommendation. Notably, Virginia Sayer, the assistant principal at Stall involved in the investigation, testified that it would have been a good idea to give Appellant some kind of opportunity to correct any perceived issues, but none of these issues were brought to Appellant’s attention. (Hearing Tr. P. 201:13-202:6).

Instead, Respondent takes the position that, under S.C. Code Ann. § 59-25-430, TEDA allows for the immediate dismissal of Appellant under the allegation she 1) “falsif[ied] evaluation documents,” and 2) “misrepresent[ed] leave.” (August 30, 2024, Termination Letter). Under these allegations, the Superintendent must show Appellant engaged in a “willful violation of rules and regulations” to warrant immediate dismissal. Further, TEDA requires that, after the evidentiary hearing and consideration of the record, the Board must determine whether the evidence shows

“good and just cause” for dismissal and render its decision accordingly. S.C. Code Ann. § 59-25-460. The Board’s decision must be supported by substantial evidence in the record. See *Hendrickson*, 307 S.C. at 110-11.

There is neither good cause nor substantial evidence to support the immediate termination of Appellant. The record does not contain substantial evidence that Appellant engaged in a willful violation of District policies to warrant her immediate termination under S.C. Code Ann. § 59-25-430.<sup>9</sup> Moreover, the Board-appointed Hearing Officer found Appellant did not commit any willful violation of District policies. (R&R dated Jan. 10, 2025). Further, the Board’s Order makes no finding of a willful violation, nor does the Board’s Order provide any basis for its decision to reject the Hearing Officer’s report and recommendation. Therefore, seeking immediate termination of Appellant under S.C. Code Ann. § 59-25-430 is improper because the record lacks a willful violation or an “evident unfitness for teaching.”

The Superintendent’s termination recommendation is based on two allegations: 1) Appellant falsified records; and, 2) Appellant misrepresented leave. (August 30, 2024, Termination Letter). Consistent with the findings of the Hearing Officer, the record lacks substantial evidence to support Appellant engaged in a willful violation of District Policy.

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<sup>9</sup> Further, Appellant’s termination under S.C. Code Ann. § 59-25-440 is unlawful because she was not provided notice and an opportunity to correct.

## 1. Appellant did not falsify evaluation records.

During the December 20, 2024, administrative hearing, Principal Larson testified he became suspicious after Appellant sent an email on April 9, 2024, notifying assistant principal Sayer that the teacher evaluations Appellant needed to “close out” in the system were ready to be closed. (Hearing Transcript, p. 28:11-30:15; 33:5-36:7). Larson testified he believed that, based on the April 9th email, Appellant had not met with several teachers and “fraudulently” signed off on evaluations. (Hearing Transcript, p. 28:11-30:15; 33:5-36:7). In a memo Larson drafted, he identified the teachers he claimed Appellant did not meet with. However, no teacher appeared at the hearing to support Larson’s claim and no evidence to support Larson’s claims was presented during the hearing.<sup>10</sup>

Instead, there is evidence in the record to support Appellant *did* meet with these teachers and *did not* engage in any fraudulent activity. First, Appellant’s April 9, 2024, email does not indicate she met with all the listed teachers on a single day. Larson claims he became suspicious when Appellant sent the April 9, 2024, email identifying six teachers whose evaluations were ready to be “closed out.” (April 9, 2024, Email From Lenhardt to Sayer). Larson testified that this email caused him to

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<sup>10</sup> Notably, the burden to initiate and introduce evidence to substantiate the charges is on the Superintendent. Therefore, Appellant is under no duty to “disprove” the Superintendent’s allegations. See S.C. Code Ann. § 59-25-470 (“The superintendent shall initiate the introduction of evidence in substantiation of the charges.”).

believe Appellant falsified having evaluation meetings with the teachers listed because she could not have completed them so quickly. However, Appellant's email was not intended to convey the evaluation meetings were held the same day. Rather, the email was intended to convey Appellant previously met with those teachers and their evaluations could be closed. (Hearing Tr. P. 385:6-386:13).

To further illustrate this point, another Assistant Principal, Amy Maziejka, sent a similar email the day prior to Appellant's April 9, 2024, email. (April 8, 2024, Email From Maziejka to Sayer). Just like Appellant, Maziejka's email used the same language to identify four teachers whose evaluations were "closed." (April 8, 2024, Email From Maziejka to Sayer). However, Maziejka's email did not raise any suspicions from Larson. Notably, both Appellant's and Maziejka's emails simply state the teacher's name and note "closed" next to them. There is no indication that either administrator held meetings with all of the teachers identified in the email on the same day. Notably, there is no requirement how the meeting should be conducted or the length of time each meeting should last. (Hearing Tr. P. 215:4-6; Creating and Completing Adept Observation). Moreover, it appears possible, and completely reasonable, that multiple teacher meetings could occur in a single day.

Second, Larson testified that another teacher, Alice Gaillard, told him that on April 8, 2024, Appellant called all remaining teachers that had not signed off on their final evaluation, including Gaillard herself, to stop by Appellant's office and meet

with her to conduct their evaluation meetings. (Hearing Transcript, p. 75:14-24); Exhibit 5 (May 22, 2024, Performance and Professionalism Concerns Memo, at the top of page 3). Specifically, Larson wrote, “Alcie Gaillard stated that on 4/8/24, Dr. Lenhardt called all remaining teachers that had not signed off on their final SLOs (including her) to stop by to sign off.” (May 22, 2024, Performance and Professionalism Concerns Memo, at the top of page 3). This is evidence that shows Appellant did meet with these teachers and Larson was aware Appellant was, at the very least, scheduling these meetings.

Third, Appellant testified she met with all the teachers she needed to evaluate and denied falsifying any documents. (Hearing Transcript, p. 383:11-25). Respondent provided no witness testimony or statements to support its claim Appellant falsified documents. These facts, in addition to the Superintendent’s failure to present any witness to corroborate Larson’s allegations, demonstrate a lack of evidence to support the Superintendent’s claim Appellant falsified documents.

**2. Appellant did not misrepresent her leave or engage in “collusion” with a subordinate.**

There is no evidence Appellant engaged in “collusion” as alleged by the Superintendent. Larson testified he believed Appellant colluded with a subordinate, Glenda McQueen, to misrepresent leave. Larson’s belief that Appellant and McQueen “colluded” to misrepresent leave is based solely on 1) the fact that Appellant told Larson she was going to Thailand, but did not inform him McQueen

was also going to Thailand; and 2) McQueen did not tell him why she was using personal leave. (Hearing Tr. P. 109:3-25). Larson testified he *purposefully* avoided questioning McQueen to determine if there was any such “collusion.” (Hearing Transcript, p. 94:5-22).

Notably, McQueen appeared at the December 20, 2024, hearing and testified that she did not discuss using leave with Appellant and did not collude with her in any way. (Hearing Transcript, p. 325:7-20). Respondent’s conclusion that Appellant “colluded” with a subordinate is based on speculation and nothing more. There is not substantial evidence to support the District’s allegation regarding collusion.

The Record also establishes Respondent’s claim Appellant misrepresented her leave is unfounded. When Appellant requested two days off in early March 2024, she did so after having a conversation with Larson that she was going on a family cruise (Hearing Tr. P. 40:10-12). Appellant had taken a similar cruise in the past and did not hide her intention or request from Larson. Appellant took the time off as stated and approved by Larson. Appellant keyed the leave as sick leave to account for her time after she returned to work, as was typical for such requests at Stall High. Larson approved her request as it was keyed. (Hearing Tr. P. 81:12-18). Appellant took no steps to hide the fact she attended a family event from Larson. Larson testified that *he reviewed and approved all of Appellant’s leave* (Hearing Tr. P.

74:3-6) *and he, himself, was mistaken about the kind of leave Appellant earned.*  
(Hearing Tr. P. 57:4-25).

The District's executive of employee relations is William Suggs. Mr. Suggs testified that the "most important aspect" of taking leave is getting a supervisor's permission (Hearing Tr. P. 290:10-23; 295:18-296:1). Appellant obtained that permission and did not do so under false pretenses. It is undisputed Appellant made clear she intended to take time off to attend a family cruise and obtained Larson's permission to do so. Appellant keyed the time in as "sick leave," but there is no evidence she acted in a manner to deceive Larson or her employer. Notably, there is nothing in the record to indicate Appellant's entry of "sick leave" was intentional. Appellant testified there are some types of leave that cannot be input by the employee. Moreover, it is uncontested that Appellant had personal business leave or was entitled to leave without pay. If Larson was truly concerned about Appellant's leave designation, he could have easily rejected her entry and asked her to place it under a different leave category. In reality, Larson had no issue with appellant's use of leave and knowingly approved it.

The next time Appellant requested time off was for a pre-planned trip out of the country. Appellant approached Larson in January 2024 to request time off for March 27 and 28. Appellant's trip coincided with the school's spring break from March 27, 2024, to April 6, 2024. Therefore, the only two days Appellant needed to

enter leave for were March 27 and 28 (Hearing Tr. P. 41:17-20). Here, Appellant specifically told her supervisor, Principal Larson, that she was going to take a day and a half off to prepare for her trip abroad. (Hearing Tr. P. 85:3-8). Prior to leaving for her trip, Appellant suffered her head injury and was placed on medical leave by her doctor from March 24, 2024, to April 7, 2024. (May 23, 2024, Email from Bowers to Suggs). Because Appellant was placed on medical leave by her doctor, she entered her time as sick leave. ***Suggs conceded that Appellant keyed her leave in appropriately for the time she was off March 27 and 28.*** (Hearing Tr. P. 300:1-7).

Appellant did not willfully violate any policy related to taking leave. The District concedes the leave Appellant took on March 27 and 28, 2024, was appropriately entered. (Hearing Tr. P. 300:1-7). Regarding the leave taken on March 7<sup>th</sup>, Appellant informed Larson what her plans were and obtained what the District considered the “most important” aspect of leave– getting Larson’s approval. Appellant did not obtain Larson’s permission in a fraudulent manner. Larson approved her leave in early March 2024, with the knowledge she intended to attend a family event.

Notably, Larson was confused about what kind of leave Appellant had, and he reviewed and approved all of the leave Appellant entered into the District’s system. (Hearing Tr. P. 459:13-23). Even further, Will Suggs, the District’s

executive director of employee relations was not sure how to read some of the leave authorization records (Hearing Tr. P. 289:15-290:1). Therefore, there is no evidence in the record Appellant committed a willful violation of District policies.

**B. THE CIRCUIT COURT EXCEEDED ITS LIMITED SCOPE OF JUDICIAL REVIEW UNDER TEDA.**

The scope of judicial review under the Teacher Employment and Dismissal Act (“TEDA”) is narrow. Appellate review must be confined to the grounds stated in the Board’s Order, and courts are prohibited from scouring the record or making independent evidentiary findings to support termination. *Shell v. Richland Cty. Sch. Dist. One*, 362 S.C. 408, 411, 608 S.E.2d 428, 429 (2005) (“The Court of Appeals erred in scouring the record and making its own independent evidentiary findings to support the termination.”). As stated above, “[j]udicial review of a school board decision terminating a teacher is limited to a determination whether it is supported by substantial evidence.” *Felder*, 327 S.C. at 25. “The court cannot substitute its judgment for that of the school board.” *Id.*

The Circuit Court’s Order does not review the Board’s Order. Instead, it “scour[s] the record,” assigns credibility to witnesses, assigns weight to evidence the Board’s Order does not consider, and made its own independent evidentiary findings to support termination. Rather than limiting its review to whether the Board’s stated grounds were supported by substantial evidence, the Circuit Court supplied its own

factual narrative to justify termination. These findings were neither made by the Board nor supported by the Hearing Officer's credibility determinations.

**1. Evaluation meetings allegedly completed within “24 hours.”**

The Circuit Court found that Appellant completed six evaluation meetings within a period of hours, implying dishonesty or fabrication. (Circuit Court Order dated July 15, 2025). This finding appears nowhere in the Board's Order. The administrative record instead shows that Appellant met with teachers on different occasions and later informed her supervisor that evaluations for multiple teachers had been submitted. No witness testified that the meetings occurred within an implausibly short time frame. The Hearing Officer did not find misconduct on this basis.

**2. Alleged fraudulent sign-off on evaluation meetings.**

The Circuit Court further found that Appellant fraudulently signed off on meetings with teachers. (Circuit Court Order dated July 15, 2025). This finding directly contradicts the hearing record. Not a single teacher testified that Appellant failed to meet with them, and no evidence established that any evaluation conference was fabricated. The Hearing Officer rejected this accusation, and the Board did not adopt a contrary finding.

### **3. Alleged fraudulent use of leave.**

The Circuit Court found that Appellant fraudulently used leave. (Circuit Court Order dated July 15, 2025). This finding was not made by the Board and is flatly contradicted by the record. It was undisputed that Appellant requested leave through proper channels and that her supervisor approved every request. The same supervisor conceded he mistakenly believed Appellant accrued vacation time. The Hearing Officer expressly rejected any finding of fraud.

### **4. Alleged use of leave without permission.**

Relatedly, the Circuit Court found Appellant took leave without permission. (Circuit Court Order dated July 15, 2025). The record shows the opposite: it is undisputed Appellant informed Larson of the reasons she requested leave and received approval. Appellant did not “dupe” Larson into permitting her leave. She informed him of the reasons she was requesting leave and he approved them. No evidence supports the court’s finding Appellant took leave without permission and the Hearing Officer made no such determination.

### **5. Allegation of ignoring her supervisor’s questions regarding leave.**

The Circuit Court found that Appellant ignored her supervisor’s questions regarding leave. (Circuit Court Order dated July 15, 2025). This finding is nowhere in the Board Order or the Hearing Officer’s R&R. Instead, the record reflects confusion surrounding leave accrual and communication during Appellant’s medical

recovery. The Hearing Officer did not find willful evasion or misconduct, yet the Circuit Court Order substitutes its own factual findings in place of the Board's and the Hearing Officer's.

**6. Alleged “collusion” with another teacher.**

The Circuit Court found that Appellant condoned improper use of leave time and colluded with another teacher regarding the use of leave or vacation time. (Circuit Court Order dated July 15, 2025). This finding is nowhere in the Board's Order and is directly refuted by sworn testimony. The teacher allegedly involved testified unequivocally that she never discussed leave with Appellant and that no collusion occurred. The Hearing Officer credited this testimony and the Board did not reject it. Notably, the Board *could not* reject the testimony because it did not have the record to review.

**7. Alleged dishonesty under oath.**

The Circuit Court found that Appellant was dishonest under oath. (Circuit Court Order dated July 15, 2025). This is an extreme credibility determination that the Circuit Court had no authority to make. Determinations of witness honesty are reserved to the factfinder who hears the testimony. The Hearing Officer did not find Appellant dishonest, and the Board did not make such a finding.

## **8. Alleged intentional failure to respond to written questions.**

Finally, the Circuit Court found that Appellant intentionally failed to respond to written questions. (Circuit Court Order dated July 15, 2025). The undisputed record shows Appellant was represented by counsel, the questions were not routed through her attorney, and the Superintendent was aware of her representation. The Hearing Officer did not find intentional noncooperation, and the Board Order makes no such alternative finding. The Circuit Court's Order rests on factual determinations the Board itself never made.

Each of these findings illustrates the same error: the Circuit Court independently resolved disputed facts and credibility issues that TEDA reserves to the Hearing Officer and the Board. Because the Circuit Court both misapplied the governing statute and exceeded its scope of review by making independent findings of fact, its order must be reversed. The proper remedy is reversal and reinstatement. Notably, remand to the Board to reconsider at this stage would not remedy the violation because its view of the matter has already been skewed by the Superintendent's presence during executive session.

The record shows Appellant did not commit any policy violations (willful or otherwise). Moreover, if the Board had access to the hearing transcript and was not directed by the Superintendent during executive session, it would have discovered these inconsistencies.

### **C. THE DISTRICT VIOLATED APPELLANT’S DUE PROCESS RIGHTS**

This case is not merely about whether substantial evidence supports dismissal. It is about whether the Board reached its decision through a process consistent with statutory and constitutional due process. TEDA grants the Board final decision-making authority, but it does not authorize final decisions reached through *ex parte* advocacy, without review of the evidentiary record, and without notice to the affected party. Further, TEDA does not authorize an unexplained rejection of the Hearing Officer’s factual findings and conclusions. See S.C. Code Ann. § 59-25-460(D) (“The board shall determine if the evidence shows good and just cause for the notice of suspension or dismissal...); *Hall*, 330 S.C. at 407 (“South Carolina’s appellate courts have upheld immediate termination only where evidence of unfitness for teaching was “undeniably and abundantly present.”).

“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Tall Tower, Inc. v. S.C. Procurement Review Panel*, 294 S.C. 225, 232, 363 S.E.2d 683, 686-87 (1987) (quoting *S.C. Nat’l Bank v. Central Carolina Livestock*, 289 S.C. 309, 313, 345 S.E.2d 485, 488 (1986), citing *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). “A demonstration of substantial prejudice is required to establish a due process claim.” *Id.* (citing *Palmetto Alliance v. S.C. Public Service Authority*, 282 S.C. 430, 319 S.E.2d 695 (1984)).

“Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950)). “An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Id.* (quoting *Milliken v. Meyer*, 311 U.S. 457; *Grannis v. Ordean*, 234 U.S. 385). “Questions frequently arise as to the adequacy of a particular form of notice in a particular case.” *Id.* (internal citations omitted).

Here, Appellant was denied procedural and statutory due process and subjected to substantial prejudice when 1) the Board did not have the transcript of the December 20, 2024, administrative hearing; 2) the Board relied on oral secondhand statements and summaries from the Superintendent in executive session; 3) the Board failed to deliberate in open session as requested; and, 4) the Board failed to provide Appellant with notice of the amended agenda as requested.

## 1. The Board’s “review” of the evidence without the hearing transcript.

Section 59-25-460(A)(2) mandates that the Board’s final decision be based on “consideration of the record, the report and recommendation, and any written submission of the superintendent and teacher.” The Circuit Court erred as a matter of law by endorsing the Board’s position that it was not required to review the December 20, 2024, hearing transcript.

In *Young v. Charleston Cty. Sch. Dist.*, 397 S.C. 303, 725 S.E.2d 107 (2012), the Supreme Court confronted a structurally similar process: the *Young* board delegated the evidentiary hearing to a smaller hearing body (a three-member board committee), but the full decision making quorum did not personally hear the testimony.<sup>11</sup> The Court held due process was violated because the quorum failed to engage in a “meaningful review of the evidence” presented at the hearing. Two facts drove the Court’s analysis: (1) **the quorum lacked the hearing transcript at the time it voted**; and (2) **the quorum’s reliance on an oral or secondhand summary was “inherently prone to bias.”**

This case presents the same structural defects identified in *Young*. TEDA’s modern structure intentionally places live testimony, evidentiary rulings, and

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<sup>11</sup> There are two items to note here: First, *Young* was decided before TEDA allowed the use of hearing officers. Therefore, the hearing was conducted by a committee of three members of the board. Second, *Young* involved the same school district board as Appellant (Charleston County School District). It should be noted that the District, in particular, should be aware of the decision in *Young*.

credibility determinations in the hands of a neutral hearing officer, who must issue a written Report and Recommendation. That written R&R is the functional equivalent of the “report” contemplated in *Young*. It is the vehicle by which the ultimate decisionmaker can review the evidence it did not personally hear. But here, the Board went further astray than the board in *Young*. Here, the evidentiary hearing was conducted by a designated hearing officer—the statutory factfinder charged with resolving credibility to convey the findings of fact and conclusions of law to the Board. Instead of the Board receiving a summary of the testimony from the hearing officer, it relied on the Superintendent and others representing her position were present at the hearing.<sup>12</sup> Inevitably, it was left to the Superintendent and her representatives to summarize the testimony and explain the exhibits since there was no transcript present. This process was inherently susceptible to bias and included additional information that was not part of the hearing officer’s report.<sup>13</sup>

Further, in *Young*, the Court found the quorum’s lack of a transcript prevented meaningful review. Here, the Superintendent affirmatively took the position that

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<sup>12</sup> “Partiality exists where, among others, an adjudicator either has *ex parte* information as a result of prior investigation or has developed, by prior involvement with the case, a ‘will to win.’” *Ross*, 328 S.C. at 69, 492 S.E.2d at 72.

<sup>13</sup> The Superintendent also had the opportunity to omit evidence that did not support her position. By way of example, the transcript shows Larson provided untruthful testimony. Larson testified there was no written document that would show an evaluation process for Appellant or any other administrator. (Hearing Transcript, p. 104:8-13). In short, Larson testified he did not conduct written evaluations with his administrators. However, Virginia Sayer, an administrator under Larson’s supervision testified she did receive written evaluations from Larson. (Hearing Transcript, p. 227:17-228:13).

there was “no requirement” the Board have “the entire transcript available” before acting. (January 21, 2025, Email to Chairman). In *Young*, the board’s decision was based on a deficient relay of what occurred. Here, the Board rejected a detailed and unbiased R&R without the only complete account of sworn testimony (the hearing transcript) and without identifying record-supported reasons to reject the hearing officer’s findings. Moreover, the Superintendent and her representatives were present during the executive committee meeting to provide the Board with her own one-sided summary of the hearing during executive session.

This is a direct violation of Appellant’s right to a fair review. In *Young*, the Court specifically stated:

Without a transcript to recount the evidence, and without the presence of Appellant or Appellant's counsel to represent her interest, the Board could not have properly considered the evidence. However, the Board's final order states, "After ***considering the evidence presented and the arguments of counsel***, the Board has determined that the recommendation to not renew [[a]ppellant's] contract for the 2009-2010 school year should be upheld." In our opinion, this is a disingenuous representation of the procedure that actually took place.

*Id.*, 397 S.C. at 309-10 (emphasis in original). On these facts, the Board’s decision is not a permissible exercise of final authority; it is a repudiation of the statutory fact-finding mechanism. *Young* makes clear that a board that did not hear the witnesses cannot simply announce that it “considered the evidence” while lacking the evidence itself. A conclusory statement that the Board “considered the evidence” cannot substitute for actual review of the evidentiary record, particularly

where the transcript did not exist at the time of the vote. Because the Hearing Officer's findings were derived from live testimony and credibility determinations the Board did not observe, the Board's unexplained rejection of those findings, especially without the hearing transcript, was arbitrary and capricious and cannot withstand substantial evidence review.

**2. The Board violated Appellant's due process rights by deliberating in executive session with the Superintendent, and others representing her position, who provided context and advocacy outside Appellant's presence.**

Procedural due process requires more than the opportunity to present evidence at an initial hearing; it requires that the ultimate decisionmaker reach its decision through a fair, impartial, and record-based process. *Tall Tower, Inc. v. S.C. Procurement Review Panel*, 294 S.C. 225, 232, 363 S.E.2d 683, 686–87 (1987). Where, as here, the decisionmaker did not personally hear the testimony, due process requires that the decision be based on the evidentiary record developed at the hearing and that the affected party be afforded a meaningful opportunity to know and respond to the information influencing the final decision. See, *Young v. Charleston Cnty. Sch. Dist.*, 397 S.C. at 309–10 (“Accordingly, we find that a meaningful review requires some showing that the Board made an informed decision based on the evidence presented by both parties. Anything less deprives school district employees the rights afforded them under TEDA to have a dismissal or non-renewal recommendation adjudicated by the Board.”).

Those requirements were not met in this case. After a full evidentiary hearing conducted by a neutral Hearing Officer—at which no Board members were present—the Board convened in executive session to deliberate Appellant’s appeal. During that executive session, the Superintendent and other District representatives who supported termination were present and provided the Board with factual summaries, explanations of exhibits, and evaluative commentary regarding the hearing officer.<sup>14</sup> Appellant was not present, had no notice the matter would be considered, and had no opportunity to hear, challenge, or respond to the information conveyed to the Board during deliberations. Moreover, Appellant specifically asked for the Board to deliberate in a public hearing as mandated by Board Policy BE. Appellant’s request was rejected and the Board deliberated in a private meeting along with the Superintendent.

This process violated due process in three interrelated ways. First, it impermissibly injected *ex parte* advocacy into the adjudicatory phase of the proceeding. South Carolina law prohibits decisionmakers in contested cases from receiving factual input or legal argument outside the presence of the parties. See S.C. Code Ann. § 1-23-360; *Ross v. Med. Univ. of S.C.*, 328 S.C. 51, 71, 492 S.E.2d 62

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<sup>14</sup> The extent of these conversations are not fully known to Appellant due to the secretive nature of executive session. However, it is clear that the Hearing Officer, Amy L. Gaffney, Esq. was removed from the list of Board-approved hearing officers after she issued the R&R in this case.

73 (1997).<sup>15</sup> Although TEDA proceedings are not governed wholesale by the Administrative Procedure Act, the constitutional principle within § 1-23-360 applies with equal force here: once the evidentiary record is closed, decisionmakers may not receive one-sided explanations or contextualization of disputed evidence without affording the opposing party notice and an opportunity to respond. The presence and participation of the Superintendent and others representing her position during deliberations compromised the requirement that Appellant receive a decision from a dispassionate tribunal. Due process is violated when individuals who participated in the investigation or prosecution of a case also participate—formally or informally—in the adjudicatory decision. *Garris v. Governing Bd. of the State Reinsurance Facility*, 333 S.C. 432, 446, 511 S.E.2d 48, 55 (1998). Here, the Superintendent was not a neutral advisor; she was the official who initiated the termination recommendation, opposed Appellant’s procedural requests, and advocated against adoption of the Hearing Officer’s Report and Recommendation. Allowing her and other District personnel to remain present and provide input during executive session

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<sup>15</sup> S.C. Code Ann. § 1-23-360 “Unless required for the disposition of *ex parte* matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate.” An agency member: (1) May communicate with other members of the agency; and (2) May have the aid and advice of one or more personal assistants.

deliberations unfairly tilted the decision-making process decisively in favor of termination.

Critically, Appellant was denied any means of knowing what information was conveyed to the Board, how the exhibits were characterized, or whether disputed testimony was summarized accurately. As Chief Justice Toal recognized in her *Felder* dissent, due process forbids such *ex parte* influence not because prejudice can always be proven, but because it cannot be disproven by the excluded party. *Felder v. Charleston Cnty. Sch. Dist.*, 327 S.C. 21, 28, 489 S.E.2d 191, 195 (1997) (Toal, A.J., dissenting) (quoting *Burgess v. Stern*, 311 S.C. 326, 330–31, 428 S.E.2d 880, 883 (1993)).<sup>16</sup> Here, unlike in *Felder*, this is not a case where *ex parte* influence is merely alleged. The Superintendent—the person who initiated the termination, opposed adoption of the R&R, and advocated against Appellant—was present during executive session deliberations. That is structural, not speculative, bias.

Second, the Board’s lack of a hearing transcript and reliance on the Superintendent and other District representatives to provide “context” to hearing exhibits underscores the absence of the evidentiary record itself. The Board did not have the hearing transcript, did not hear the witnesses, and did not have the Hearing

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<sup>16</sup> “It is rarely possible to prove to the satisfaction of the party excluded from the communication that nothing prejudicial occurred. The protestations of the participants that the communication was entirely innocent may be true, but they have no way of showing it except by their own self-serving declaration. This is why the prohibition is not against “prejudicial” *ex parte* communications, but against *ex parte* communications.” *Burgess v. Stern*, 311 S.C. 326, 330–31, 428 S.E.2d 880, 883 (1993).

Officer available to explain credibility determinations or evidentiary rulings.<sup>17</sup> As a result, any understanding the Board gained of the exhibits necessarily came from individuals aligned with the termination recommendation. As the Supreme Court cautioned in *Young*, when the decisionmaker did not hear the witnesses, reliance on oral summaries or secondhand explanations is “inherently prone to bias” and cannot substitute for review of the record itself. 397 S.C. at 309–10, 725 S.E.2d at 110.

Third, the Board’s rejection of Appellant’s request the Board review and deliberate in public violates Appellant’s due process rights under TEDA, S.C. Code Ann. § 30-4-70, and Board Policy BE. S.C. Code Ann. § 30-4-70 states:

(a) A public body may hold a meeting closed to the public for one or more of the following reasons: (1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; **however, if an adversary hearing involving the employee or client is held, the employee or client has the right to demand that the hearing be conducted publicly.** Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing. (emphasis added).

Further, Board Policy BE states, in part:

Board may go into executive session by a majority vote, and may include others at its discretion. Upon a vote to go into executive session, the chair must state the specific purpose of the executive session. Proper topics for executive session are: [...] **personnel matters, unless the**

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<sup>17</sup> Notably, Appellant specifically requested the Hearing Officer be made available to the Board. That request was rejected.

**employee wants the matter to be discussed in open session [...]**  
(emphasis added).

The Board's review of the record and subsequent discussion of the hearing and the documents related to Dr. Lenhardt's employment (especially in the presence of the Superintendent) was effectively a continuation of the December 20, 2024, hearing. Accordingly, the Board's review should have been conducted publicly at Lenhardt's request under TEDA, A.C. Code 30-4-70, and Policy BE. The Board's failure to conduct a public hearing violated Dr. Lenhardt's right to a meaningful opportunity to be heard and her right to a fair hearing. This point is underscored when considering the fact Dr. Lenhardt specifically requested a public hearing and to be notified when the Board would take up the matter, but was not informed of its placement on the agenda.

In the final analysis, the Board did not review the record and the Hearing Officer's findings; it received one-sided explanations and advocacy during closed deliberations from the very officials who sought Appellant's termination and without the hearing transcript. That process denied Appellant the opportunity to be heard "in a meaningful manner" and violated both statutory and constitutional due process.

**3. Appellant Was Denied Due Process When the District Failed to Notify Her of the Amended Agenda Despite Her Express Requests for Notice.**

Adequate notice is a foundational requirement of procedural due process. When a governmental body undertakes quasi-judicial action affecting a protected

property interest, due process requires notice reasonably calculated to apprise the affected party of the proceeding and afford a meaningful opportunity to be heard. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950); *Young v. Charleston Cnty. Sch. Dist.*, 397 S.C. 303, 725 S.E.2d 107 (2012). That requirement was not satisfied here. After the evidentiary hearing concluded, Appellant repeatedly and expressly requested notice of when the Board would consider her termination recommendation. Appellant asked to be informed if her matter would be placed on the Board's agenda and sought confirmation of when the Board intended to act. Despite these requests, the District did not notify Appellant that her appeal would be considered at the January 27, 2025, Board meeting.

Instead, the Board amended its agenda days before the meeting to include Appellant's case under a vague and generic executive-session entry, without identifying Appellant by name or otherwise signaling that her employment matter would be taken up. The amended agenda was not communicated to Appellant, even though the District knew she was represented by counsel, knew she was actively seeking notice, and knew that the Board's action would constitute the final administrative decision terminating her employment. As a result, Appellant had no notice at all that the Board would deliberate and vote on her termination recommendation.

Here, Appellant received no notice, despite explicitly asking to be informed. The failure to notify Appellant of the amended agenda deprived her of any opportunity to attend, observe, object, or otherwise protect her interests at this stage of the proceedings. The due process violation is compounded by the circumstances under which the Board acted. The Board convened in executive session, with the Superintendent and other District representatives present, and deliberated on Appellant's appeal without Appellant's knowledge, presence, or participation. Because Appellant was unaware the matter would be considered, she could not object to the composition of the deliberative body, could not insist that the Board confine itself to the evidentiary record, and could not respond to any contextual explanations or advocacy provided by District personnel during deliberations.

South Carolina courts have made clear that due process requires not merely a hearing at some point in the process, but notice and an opportunity to be heard at a meaningful time and in a meaningful manner. "The fundamental requirement of due process is the opportunity to be heard 'at meaningful time and in a meaningful manner.'" *Tall Tower, Inc. v. S.C. Procurement Review Panel*, 294 S.C. 225, 232, 363 S.E.2d 683, 686-87 (1987) (quoting *S.C. Nat'l Bank v. Central Carolina Livestock*, 289 S.C. 309, 313, 345 S.E.2d 485, 488 (1986)). When the final decision is made in a closed session on an amended agenda never disclosed to the affected

party—after that party expressly requested notice—the opportunity to be heard is illusory.

Nor can the District excuse its failure by pointing to the public availability of the agenda. Due process does not require an affected party to monitor Board postings or infer that her case might be buried within a generically worded agenda item. Where the District knew Appellant sought notice, knew when the agenda was amended, and knew the Board’s action would be dispositive, due process required actual notice, not silence.

The District will likely argue that the agenda was publicly posted and that Appellant had no right to attend the Board’s executive-session deliberations. Neither contention cures the due process violation. Due process does not require an affected party to guess that her matter will be considered by searching a generically worded agenda—particularly where, as here, Appellant expressly requested notice and the District knew her employment would be finally adjudicated at that meeting. Notice must be reasonably calculated to apprise the affected party of the proceeding, not merely technically available to the public at large. In *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314-315 (1950), the United States Supreme Court made clear that true notice, not technical or performative notice required to satisfy the government’s due process requirement:

An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably

calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.[...] ***But when notice is a person's due, process which is a mere gesture is not due process.*** The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected, [...] or, where conditions do not reasonably permit such notice, that the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes. ***It would be idle to pretend that publication alone, as prescribed here, is a reliable means of acquainting interested parties of the fact that their rights are before the courts.*** [...] The chance of actual notice is further reduced when, as here, the notice required does ***not even name those whose attention it is supposed to attract,*** and does not inform acquaintances who might call it to attention. In weighing its sufficiency on the basis of equivalence with actual notice, we are unable to regard this as more than a feint.

*Id.* (emphasis added). Appellant made clear and direct requests to be informed of when the Board was going to vote. (January 22, 2025, Email to Chairman Grybowski Requesting Notice). Here, Appellant was not provided with any notice whatsoever the Board intended to vote on Appellant's employment. Because Appellant was denied notice of the amended agenda and thereby excluded from the final decisional stage of the proceedings, the Board's action violated procedural due process and cannot stand.

Moreover, the Board denied Appellant's request for a public hearing on the vote. Notably, District Policy BE specifically requires the Board to conduct the deliberation on an employment matter publicly upon that employee's request. See CCSD Board Policy BE. Here, the Board cannot deliberate Appellant's employment matter in executive session pursuant to its policy and Appellant's request.

TEDA provides procedural protections, including notice and an opportunity to be heard. See S.C. Code Ann. § 59-25-460. Due process in teacher dismissal proceedings requires notice and a meaningful opportunity to be heard before an impartial decision-maker. Here, the record reflects Appellant repeatedly sought notice of when the Board would consider her matter and objected to consideration of the Superintendent's written response without a hearing and without the complete transcript. (Emails dated Jan. 21–29, 2025). Appellant also raised the absence of the complete transcript and exhibits for Board review. Further, Appellant's FOIA request seeking the identities of individuals present in executive session during the January 27, 2025, meeting was met with a response that no responsive documents existed. (FOIA response dated Feb. 26, 2025). This omission, together with the lack of meaningful notice and the procedural irregularities raised by Appellant, undermines confidence that the decision was made solely on the evidentiary record by authorized decisionmakers.

## CONCLUSION

For the reasons stated above, Appellant requests the Court reverse the decision of the Circuit Court and remand with the instructions to award Appellant back pay, actual damages, costs, and attorney's fees. Appellant further requests that, in the alternative to reinstatement, this Court instruct the Circuit Court to award Appellant front pay in the amount of two years after the date of dismissal. See, S.C. Code Ann. § 59-25-480(B) ("If the decision of the board is reversed on appeal, on a motion of either party the trial court shall order reinstatement and shall determine the amount for which the board shall be liable for actual damages and court costs. In no event shall any liability extend beyond two years from the effective date of dismissal.").

Respectfully submitted,

s/ Emmanuel J. Ferguson

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