

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

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Appellate Case No.: 2012-213509

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JACQUELINE SMITH.....Appellant

v.

HORRY COUNTY SCHOOLS.....Respondent

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APPENDIX TO RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT

Jacqueline Smith, )  
Complainant, )  
vs. )  
Horry County Schools, )  
Respondent. )

C.A. No. 2011-CP-26-3689

ANSWER AND RETURN

2011 MAY -4 PM 12:47  
CLERK OF COURT  
HARRIS HIGGINS-MARCO  
HORRY COUNTY

The Respondent, responding to the appeal of Appellant, would respectfully show unto the court:

The Respondent denies each and every allegation of the appeal of the Appellant herein.

Wherefore, the Respondent, having fully answered the appeal of the Appellant, prays that the same be dismissed with costs.

Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By: *Kathryn Long Mahoney*

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May 3, 2011  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

The undersigned of Childs & Halligan, P.A., hereby certifies that she has served the following counsel of record with the foregoing ANSWER AND RETURN by hand delivering a copy of same to the following on this 3 day of May, 2011:

W. Allen Nickles, III, Esq.  
Nickles & Solomon, PA  
1519 Richland Street  
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CLERK OF COURT  
ELANE HUGGINS-WARD  
MAY -4 PM 12:47  
PRIORITY

Sheri Wainscott  
Sheri L. Wainscott

in one or more specifically named school activities which will occur within the nighttime restriction period, thereby creating a transportation problem for the student.

After checking the SCDMV's website for the current regulation, the school official writing such a letter should:

- Require the parent to submit a written request for the letter;
- After writing a letter addressed to the SCDMV, have the letter notarized and give it to the parent (keep a copy and file it in the student's cumulative record along with the parent's written request);
- Should state the reason for the waiver in the notarized statement:  
[Example: Johnny Driver is a member of our high school marching band; therefore, he is required to participate with the band at evening sports events and band competitions];
- Avoid making any recommendation as to whether or not the SCDMV should grant a waiver;
- Have the principal or his/her designee sign or co-sign the statement (although the SCDMV only requires a "school official" to sign the statement).

*Legal reference.*

*State.*

*S.C. Code § 56-1-180 -- Special restricted licenses for certain minors.*

*Adopted: 7-1-04.*

### Grievances Filed by Students

The District has established a grievance procedure as a formal method for the positive and productive resolution of grievances concerning the treatment of students by District personnel. Grievances may consist of allegations of violations of District policies or legal rights including, but not limited to, harassment or discrimination based on race, sex, color, religion, national origin, age, disability, immigrant status, English-speaking status, or any other characteristic protected by applicable federal or S.C. law. The decision of the principal shall be final: (1) in matters concerning the lawful assignment of students to classes and/or teachers and (2) in grade disputes except that grade disputes are grievable within one month of the posting of a final grade (see "Grading and Academic Performance" and "Grievances Filed by Parents and Other Community Members").

A student (grievant) who wishes to file a grievance should comply with the following procedure:

1. The grievance should be brought to the attention of a teacher or administrator who will provide the student and/or his/her parent the opportunity to discuss a decision or situation which the student considers unjust or unfair.
2. If the grievance remains unresolved, the student, his/her parent, or the teacher or administrator may bring the matter to the principal's attention for consideration and action.
3. A student may bring a school-wide matter, when appropriate, to the attention of class officers or the student council for possible presentation to the principal.
4. If the matter remains unresolved after the procedure outlined above, the student may bring the issue to the Superintendent or his/her designee for consideration except the decision of the principal shall be final in matters concerning lawful non-selection of students for, and lawful dismissal of students from, extra-curricular activities such as, but not limited to, athletic teams, cheerleading, National Honor Society, mock trial teams, and clubs.
5. If the student is dissatisfied with the decision of the Superintendent or his/her designee, the student may file an appeal with the Board. Such an appeal must be in writing and filed with the Superintendent within ten working days following receipt of the decision of the Superintendent or his/her designee. The Superintendent will present the request for a grievance appeal to the Board at its next regularly scheduled meeting.

A grievance hearing before the Board lies within the sole discretion of the Board. The student will be notified within a reasonable time of the Board's decision regarding whether or not it will hear the appeal. Should the Board decide to hear the appeal, the meeting will be informal and non-adversarial.

A homeless student has additional rights if the Board's decision is unacceptable to him/her – see "Homeless Students."

#### **Title VI, Title IX, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act**

The grievance procedures set forth above are to be used to process student complaints based on alleged violations of Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, referred to collectively as "civil rights grievances."

In the event that a student files a grievance alleging violation of one of the above-referenced laws, the grievance shall be considered to be a "formal" grievance for purposes of these procedures.

With respect to alleged violations of Title VI, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the student, the student may appeal in writing to the District's Civil Rights Coordinator, Kenneth Generette, Staff Attorney, 335 Four Mile Road, Conway, SC 29526, telephone: 488-6700. With respect to alleged violations of Section 504 or the Americans with Disabilities Act, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the student, the student may appeal in writing to the District's Coordinator of Special Services, Mrs. Mollie Laut, Director of Special Education, 335 Four Mile Road, Conway, SC 29526, telephone: 488-6700. With respect to alleged violations of Title IX, if the response of the District-level administrator does not resolve the grievance to the satisfaction of the student, the student may appeal in writing to the District's Title IX Coordinator, Mr. Paul Hickman, Principal Specialist, 335 Four Mile Road, Conway, SC 29526, telephone: 488-6733.

If the student fails to appeal within 15 working days of receipt of the written response from the District-level administrator, the right to appeal is waived. If an appeal is made to any of the above-referenced Coordinators, the Coordinator may conduct further investigation, if necessary. The Coordinator shall hold a hearing with the student within 15 working days of receipt of the grievance, or within 15 working days of completion of any further investigation, if necessary. The Coordinator shall then render a decision on the matter in writing within 15 working days after the hearing is conducted.

After appeal to the appropriate Coordinator, a student may request a meeting with the Board for the purpose of discussing his/her grievance. The request must be made in writing to the Superintendent within ten working days of the Coordinator's response to the grievance. The Superintendent will, at the next regularly scheduled Board meeting, present the request that the grievance be heard, together with copies of all correspondence and responses from the lower administrative levels.

A grievance hearing before the Board lies within the sole discretion of the Board. The student will be notified within ten working days of the Board decision regarding whether or not it will hear the appeal. Should the Board decide to discuss the grievance with the student, the meeting will be informal and non-adversarial.

*Revised: 7-1-02; 7-1-03; 6-15-05; 2-17-06; 3-24-06; 6-19-06; 7-1-07; 7-1-09.*

### **Grievances Filed by Parents and Other Community Members**

Situations may arise in the operation of the District which are of concern to parents or other community members. Concerns should be resolved at the lowest possible level of decision making by the individuals closest to the concern; therefore, concerns are best dealt with through communication with the appropriate staff members, such as teachers, principals, and administrators. The decision of the principal shall be final: (1) in matters concerning the lawful assignment of students to classes and/or teachers and

1 MR. CURLEE: Ed Curlee, C-U-R-L-E-E.

2 MR. CURLEE - EXAMINATION BY MS. MAHONEY:

3 Q: Mr. Curlee, if you would, please state your  
4 name for the record.

5 A: Ed Curlee.

6 Q: What is your position with the District?

7 A: I'm the executive director for human resources.

8 Q: I wanted to see if you were listening. How  
9 long have you been executive director for human  
10 resources?

11 A: This is my fifth year.

12 Q: And how many total years of experience do you  
13 have in education and in what capacities?

14 A: I think this is my 33rd year in education and  
15 during that tenure I have served as a  
16 principal, assistant principal, executive  
17 director for secondary education and then my  
18 current position.

19 Q: In the interest of efficiency and the Board's  
20 patience, I'm going to cut right to the chase.  
21 When is the first time you had to deal with an  
22 issue involving Jacqueline Smith in the  
23 District, please?

24 A: The first time that I was involved with Ms.  
25 Smith would have been in the 2007-2008 school

1 year when Ms. Smith was employed at North  
2 Myrtle Beach Intermediate School.

3 Q: And what caused you to become involved with her  
4 at that point?

5 A: I was actually in communication pretty much  
6 throughout that year with the principal, Ms.  
7 Graham, concerning some issues that she was  
8 having with Ms. Smith's performance, Ms.  
9 Smith's, some of her behaviors or  
10 communication. There were several issues that  
11 she and I had talked informally about.

12 Q: And what did you then -- did you ever any  
13 direct contact with Ms. Smith during that 2007-  
14 08 school year about any of these concerns?

15 A: I did. Actually, we were trying to work with  
16 Ms. Graham. There were several issues that she  
17 was trying to address with Ms. Smith and she  
18 was attempting to meet with Ms. Smith and had  
19 attempted on several occasions to schedule a  
20 meeting with Ms. Smith. And Ms. Smith for  
21 whatever reason, there were reasons given that  
22 she had not met with the principal. And the  
23 reason for the meeting was to discuss a number  
24 of parent complaints that the administration  
25 was receiving and also to discuss some of the

1 issues that had been brought to the  
2 administration's attention. I went to the  
3 school at the direction of the then  
4 superintendent, Dr. Bobby Nalley, to make sure  
5 Ms. Smith knew that a meeting was scheduled  
6 with the administration and also I believe the  
7 curriculum coach. The purpose of that meeting  
8 was to address the concerns and to talk about  
9 strategies. And I had received word from the  
10 principal that there is still concern that Ms.  
11 Smith was not willing to meet.

12 Q: So what did you do then?

13 A: I went to the school to make sure that Ms.  
14 Smith understood that the importance of the  
15 meeting and that it certainly was the  
16 principal's prerogative to call a meeting. I  
17 actually went to her classroom along with the  
18 assistant principal, Mr. Prince, and had a  
19 conversation with Ms. Smith to make sure that  
20 she knew the importance of the meeting and also  
21 the fact that she really needed to be in the  
22 meeting that afternoon. And I delivered that  
23 message.

24 Q: How did Ms. Smith respond to that message?

25 A: Ms. Smith became upset with me. She told me

1           that she actually was not going to stay  
2           initially. Then she took out her cell phone  
3           and made a cell phone call and I asked her to  
4           put the cell phone up. That I just wanted to  
5           make sure that she understood while I was  
6           there. She did put the cell phone up finally  
7           and I explained to her the importance of the  
8           meeting and that it was really necessary for  
9           her to be a participant in the meeting. And  
10          tell her if she did not, it could be perceived as  
11          she was being insubordinate. I also shared  
12          with her that the principal had made several  
13          attempts to schedule the meeting  
14          unsuccessfully. She then went, after a brief  
15          conversation with me and Mr. Prince, the  
16          assistant principal, she went to the telephone,  
17          a land line, and picked it up and called  
18          someone. She talked briefly on the phone and  
19          then asked me to come to the phone. I  
20          explained to her that I was not there to have  
21          a conversation with anyone except her and that  
22          we needed to proceed with Ms. Graham with the  
23          meeting. She then talked on the phone briefly  
24          and hung the phone up and I asked her if there  
25          were any more questions and at that point in

1 time, I left and Ms. Graham and I believe the  
2 curriculum coach along with Mr. Prince, the  
3 assistant principal, proceeded with the  
4 meeting.

5 Q: What happened at the end of that meeting or  
6 shortly thereafter?

7 A: Ms. Graham called me later on that afternoon to  
8 let me know that Ms. Smith did come to the  
9 meeting. She did not participate. She refused  
10 to sit with the rest of the individuals in the  
11 meeting and when questions were put on the  
12 table, she would not respond or if she did, it  
13 was a yes or no answer, short answer. And Ms.  
14 Graham called me somewhat frustrated after the  
15 meeting because obviously nothing had been  
16 accomplished as far as what they had intended  
17 it for and that was discussion about concerns  
18 and developing strategies in how to deal with  
19 it. After she had called me, I contacted my  
20 supervisor, Mr. Riddle, and we had a  
21 conversation with Dr. Nalley and made the  
22 decision that based on the things that had  
23 taken place and Ms. Smith's response, that we  
24 placed her on administrative leave effective  
25 the next day. The next morning, I went back to

1 North Myrtle Beach Intermediate School and met  
2 with Ms. Smith the first thing in the morning  
3 and explained to her what we were doing from  
4 the administration's perspective and I'm  
5 talking about the District's administration,  
6 why we were doing it and also gave her  
7 communication at that time which did place her  
8 on administrative leave with pay while we  
9 conducted an investigation into some of the  
10 accusations and allegations that had been  
11 presented.

12 Q: Okay. Was that a pretty unusual measure to  
13 place a teacher on administrative leave?

14 A: Well, I won't say that it's unusual, but I will  
15 say that we don't place a lot of teachers on  
16 administrative leave but if it's like a very  
17 serious situation, obviously, and to be able to  
18 take that step I think to us is a very serious  
19 matter.

20 Q: Then if you would turn to tab ten, please.  
21 It's the black notebook - -

22 A: You said ten?

23 Q: -- in front of you, if you'd turn to tab ten,  
24 please.

25 A: That's the February 26 letter, is that correct?

1 Q: Correct. Before we talk about that, after Ms.  
2 Smith was placed on leave, what happened next?

3 A: Basically after Ms. Smith left that day, we  
4 then notified Mr. Hickman and Mr. Paul Hickman  
5 who works at the District Office, the  
6 administrative team who works with our  
7 department, the HR department, to conduct  
8 interviews. We contacted Mr. Hickman and asked  
9 him if he would to be in communication with Ms.  
10 Graham, that there were some concerns that had  
11 been shared with us about a teacher and  
12 identified the teacher and asked him at that  
13 point in time to conduct an investigation.

14 Q: And after the conclusion of all that, what  
15 happened with Ms. Smith's employment?

16 A: Actually, it was our decision for several  
17 reasons that we would move Ms. Smith and Ms.  
18 Smith was reassigned to Carolina Forest  
19 Elementary School and I believe that was in the  
20 latter part of February that we met with her  
21 and discussed the assignment. There were  
22 numerous reasons for the move, but the biggest  
23 concern we had at this point in time was the  
24 relationship, somewhat hostile relationship,  
25 that we perceived existed between the principal

1           and in this case, Ms. Smith. And that was  
2           somewhat confirmed by the investigation that  
3           Mr. Hickman had completed.

4       Q:    Behind tab ten, the letter dated February 26,  
5           2008, which you said that summarized the  
6           concerns we discussed with her and ultimately  
7           the reassignment?

8       A:    Yes, ma'am, that's the letter that I sent to  
9           Ms. Smith and that was after we actually met  
10          with Ms. Smith and discussed reassignment. I  
11          believe that was on the 20th or 21st of  
12          February and this letter basically summarized  
13          our concerns and also included some of the  
14          findings of Mr. Hickman's investigation.

15       Q:    And in February of 2008, who was the  
16           superintendent of Horry School District at that  
17           time?

18       A:    That would have been Dr. Bobby Nalley and he  
19           was serving as interim superintendent.

20       Q:    Dr. Elsberry wasn't here yet, is that correct?

21       A:    That's correct.

22       Q:    So the remainder of the 2007-08 school year,  
23           Ms. Smith was at Carolina Forest Elementary  
24           School. Was she assigned a class of students  
25           for the remainder of that school year?

1       A:     No, it was my understanding Ms. Smith was  
2             actually assigned to work with students on a  
3             pull-out basis. We actually felt that position  
4             and we had that position at a lot of schools  
5             initially, Ms. Smith, she was actually, based  
6             on my understanding, working with groups of  
7             students who were deficient in some areas and  
8             she was providing instruction to help mediate  
9             their deficiencies.

10       Q:     Where was Ms. Smith assigned to teach during  
11             the 2008-09 school year?

12       A:     After the conclusion of the year at that  
13             school, we assigned Ms. Smith to Ocean Bay  
14             Middle School. We actually made that  
15             assignment for several reasons. One, Ocean Bay  
16             Middle School was experiencing tremendous  
17             growth and they had several vacancies. Ms.  
18             Smith had also made a request the previous year  
19             that she would like to be considered for a  
20             transfer into the middle school grade area. I  
21             think at the time she specifically pointed out  
22             several years in the Conway area. Carolina  
23             Forest is not that far away. Carolina Forest,  
24             excuse me, Conway and we had vacancies there in  
25             ELA so we made the decision to assign Ms. Smith

1 to Ocean Bay Middle School as an ELA teacher.

2 Q: Now, was Ms. Smith placed on a formal  
3 evaluation for the 2008-09 school year when you  
4 assigned her to Ocean Bay Middle School?

5 A: She did leave, but she was not placed on a  
6 formal evaluation. There was an assistance  
7 plan that Ms. Graham had tried to put in place  
8 in the 06-07 year and I believe she did put  
9 that plan in place and part of Ms. Smith, I  
10 believe, when she was reassigned, part of that  
11 understanding was that she would have  
12 additional assistance when she moved to  
13 Carolina Forest but when she went to Ocean Bay  
14 Middle School, to answer your question, no.

15 Q: Was that an option to put her on formal  
16 evaluation?

17 A: Not really because putting someone on formal  
18 evaluation is a process and there are certain  
19 procedures that have to be followed. The fact  
20 that she was reassigned in February to Carolina  
21 Forest Elementary School and then reassigned  
22 again to Ocean Bay Middle School certainly  
23 would have disrupted the process of procedures.  
24 Normally we notify teachers when they receive  
25 their contract if they're going to be put on

1       A:     I can only give you my opinion.  Some of the  
2             concerns and complaints that we were having to  
3             me were not necessarily those that would be  
4             addressed by a formal evaluation.  A formal  
5             evaluation process through ADEPT in the South  
6             Carolina Department of Certification for  
7             teacher certification actually focuses on a lot  
8             of areas but some of the most important areas  
9             is what was taking place with instruction and  
10            those type activities.  The issues that we were  
11            dealing with Ms. Smith at that point in time  
12            were the concerns we had of perception of  
13            insubordination, her comments of whatever that  
14            she was making to parents , whatever those  
15            relationship pieces.  Those were the issues  
16            that we had.  So I'm not really sure that  
17            putting her on a formal evaluation would have,  
18            from my perspective, been the appropriate  
19            measure.

20       Q:     The 2008-09 school year, she's at Ocean Bay  
21             Middle School.  How did things go that year?  
22             Who was the principal, Connie Huddle?

23       A:     Connie Huddle was the principal and I believe  
24             after a week, possibly two weeks, Ms. Huddle  
25             called our office and said that she was having

1 numerous complaints from parents about one of  
2 her teachers and she didn't really know that  
3 much about the teacher. And she went on to  
4 share with me that the teacher was Ms.  
5 Jacqueline Smith. And I asked her basically  
6 what kind of concerns or complaints and she  
7 started out outlining to me, outlining to me  
8 the fact that students were not understanding  
9 assignments, the parents did not understand the  
10 grades and a lot of times grades were not being  
11 placed properly or not being reported. And I  
12 think there was some general confusion or I  
13 guess more than anything else students were  
14 going home and complaining they didn't know  
15 what to do and some of them even to the point  
16 that they were afraid to go to class. And Ms.  
17 Huddle shared these thoughts with me and we  
18 talked about them briefly and at that point in  
19 time, she shared with me what she was doing to  
20 address the concerns and that was to talk with  
21 Ms. Smith and certainly parents requested to  
22 set up conferences.

23 Q: After the conclusion of the 2008-09 school  
24 year, where did Ms. Smith teach after that?

25 A: Actually, Ms. Smith was, of course, at Ocean

1 Bay Middle for that year and then at the  
2 conclusion of that year, we actually had a  
3 conversation with Ms. Huddle, the principal,  
4 and talked about the things that had occurred  
5 that year. And there had been several  
6 situations that had occurred throughout the  
7 year, the students being moved from the class  
8 at parents' requests or whatever in an effort  
9 to try to help both Ms. Smith and certainly the  
10 parents with their expectations as far as  
11 school was concerned. Ms. Huddle and I  
12 discussed the possibility of putting Ms. Smith  
13 in some type of an assistance plan or  
14 evaluation for the next year. And at that  
15 point in time, the School District was  
16 developing and implementing a new language  
17 program and I'm sorry, I don't know the name of  
18 the program, but Ms. Huddle said that it was a  
19 very scripted program, one that required a lot  
20 of details and procedures that were in place  
21 that had to be followed and she thought it  
22 might be an excellent opportunity for Ms. Smith  
23 to work with that program at Ocean Bay Middle  
24 School. So she, after our discussion she then  
25 met with Ms. Smith and discussed that and let

1 her know that she was going to be putting her  
2 in charge of that program. That program also  
3 come with the idea she would be trained for the  
4 program as a program being put in, I believe,  
5 all the middle schools, not just Ocean Bay.  
6 Ms. Smith was very upset about the assignment.  
7 She wrote a lengthy letter saying that she  
8 didn't think it was fair and that she basically  
9 did not want to participate in that program or  
10 at least be the person responsible for that  
11 program. But anyway, she did. School started  
12 the next year, she was still at Ocean Bay  
13 Middle School at that point in time. Each  
14 time, and I'll be very brief, each year we look  
15 at the enrollment the first two weeks of school  
16 and Ocean Bay Middle School's enrollment had  
17 dropped substantially and Ms. Huddle had to  
18 reduce their staff in a couple of positions.  
19 And in looking at the process and procedures,  
20 Ms. Smith being one of those individuals that  
21 would be moved, we had a need for an ELA  
22 teacher at Conway Middle School. So on or  
23 around the second week of school when we were  
24 making some changes, Ms. Smith was moved to  
25 Conway Middle School.

1            somewhere along I shared that we've actually  
2            placed Ms. Smith in several different locations  
3            under different principals with different  
4            leadership styles. Students have some  
5            similarities but in different parts of the  
6            District but yet we were still seeing some of  
7            the initial problems that we had at North  
8            Myrtle Beach Intermediate School in all of the  
9            other locations as well. At this point in time  
10           after her being moved and this was the fourth  
11           time, four schools she had been in just four  
12           years, we were somewhat concerned as to what we  
13           could do. And during that time, we had various  
14           forms of assistance that had been given or  
15           offered to Ms. Smith to try to assist her in  
16           certainly becoming more effective to address  
17           some of the concerns that we were getting from  
18           the parents and complaints. But from my  
19           perspective in my dealings with Ms. Smith, Ms.  
20           Smith would never acknowledge that there were  
21           any issues. When I met with her, she  
22           consistently said that she was unaware of any  
23           problems, that if there were problems with  
24           parents, the parents should be sent to her and  
25           she would deal with it. But basically she was

1           aware that there were problems and if you'd  
2           look at the e-mails that were going back and  
3           forth between Ms. Smith and the administration,  
4           you'd know that she was aware that there were  
5           complaints coming in on a regular basis.  
6           Additionally, in talking with all three  
7           principals at different times in reference to  
8           send me the parents, follow up procedures,  
9           these were comments that Ms. Smith was making.  
10          That was tried, but what happened on numerous  
11          occasions that as soon as Ms. Smith met with  
12          them, the parent then would go call the  
13          principal and demand a meeting, in some cases  
14          demand the child to be taken out of the class.  
15          So for these reasons and the patterns that I  
16          mentioned earlier, and the fact that we had  
17          tried in this case four different schools and  
18          we we're still having these problems, I think  
19          you can see what our problems were as far as  
20          continuing with her employment.

21        Q:     Thank you. Please answer any questions Mr.  
22                Mazyck may have.

23        MR. CURLEE - EXAMINATION BY MR. MAZYCK:

24        Q:     Good afternoon, Mr. Curlee.

25        A:     Mr. Mazyck.

1 information. But I asked her about the parent  
2 concerns and she said that she wasn't aware of  
3 parent concerns except for the eight  
4 conferences that she had had since the  
5 beginning of the school year. And I asked her  
6 what she would have done -- what she could do  
7 differently, what could she change to address  
8 the concerns that the parents were expressing  
9 in the eight conferences that she was aware of  
10 and she said she didn't know of anything. That  
11 she was not aware of anything she could have  
12 done that would have changed the concerns that  
13 the parents had. And I asked her after the  
14 conferences, after she heard what they had  
15 shared, did she do anything differently, did  
16 she change her behavior, did she change her  
17 communication style and she said no, she did  
18 not change anything. And I was taken aback by  
19 that. I'll just have to be honest that it  
20 seemed -- it sounds like I'm being dishonest.  
21 I'd would like to reword that statement. She  
22 -- I was taken aback that she didn't realize  
23 that they -- she didn't see anything that she  
24 could have done differently to allay parents  
25 fears, to alleviate their concerns. She also

1           -- we also talked about the grades. I was very  
2           concerned about almost half of her students  
3           making D's or F's and her comment was I don't  
4           know why you consider that failing. A D is not  
5           a failing grade and I didn't feel like I was  
6           able to communicate with her that that is not  
7           acceptable. That when a teacher's students,  
8           when more than almost half of them make a D or  
9           an F, that is not acceptable. And I didn't --  
10          I didn't get any percepti on that Ms. Smith saw  
11          that that was a concern or an issue that she  
12          needed to address as a teacher and that was  
13          just unacceptable to me.

14        Q:    Let me ask you this quest ion.

15        A:    Okay.

16        Q:    Did she mention during this conference that she  
17              thought the district and school administration  
18              was not being fair in the ir investigation? If  
19              you'll turn back to the first page of your  
20              letter --

21        A:    Yes.

22        Q:    -- at the bottom of the paragraph.

23        A:    Yes.

24        Q:    What do you recall about that discussion?

25        A:    We talked briefly about Mr. Hickman's

1 investigation and, because she was alleging it  
2 was not fair, I suggested that maybe there were  
3 other people I needed to talk to. She felt  
4 like Mr. Hickman's investigation didn't go far  
5 enough or there were people that were not  
6 heard. Who else do I need to speak with and I  
7 requested that she give me names of people.  
8 And she gave me none that day but indicated  
9 that those would be forthcoming. As of today  
10 I've received no names of any individuals that  
11 I should talk with to learn more about the  
12 situation that existed at Conway Middle School.

13 Q: You can go back to where you were. I didn't  
14 mean to interrupt, sorry.

15 A: That's okay.

16 Q: Any other concerns from the conference that  
17 stood out to you?

18 A: The conversation with the Waccamaw Mental  
19 Health counselor was concerning to me and she  
20 indicated that it wasn't exactly like it was  
21 reported. So I gave her a chance to talk to me  
22 about that conversation and what happened  
23 during that conversation. And Ms. Smith  
24 indicated that she did make a call during class  
25 time, so I would have expected her to follow

1           that with a very urgent reason for making that  
2           call. And she indicated that she called  
3           because the student wasn't doing his work. I  
4           could not quite figure why you would stop class  
5           and go call a mental health counselor because  
6           the student wasn't completing their work. That  
7           just didn't resonate with me. When we talked  
8           about the confidentiality, her explanation was  
9           she turned her back to the class and she spoke  
10          silent -- spoke quietly. Obviously she was  
11          overheard because it was reported to the  
12          principal.

13        Q:     But did she acknowledge she made the call to  
14              the counselor during class time?

15        A:     Yes, she did.

16        Q:     Did she acknowledge that students were present  
17              in the room?

18        A:     Yes, she did. On the assistance plan, again,  
19              I was trying to determine does Ms. Smith know  
20              of something that would be helpful to her? Is  
21              there something we've overlooked. And when we  
22              talked about the assistance plan that Ms.  
23              Sordian had discussed with her and I asked her  
24              why she wrote at the bottom of that document  
25              that no plan was needed or no assistance was

1           needed, she said, I don't need any help. She  
2           indicated that she said that because there were  
3           no issues and there was nothing that needed to  
4           be provided to her. Again, very troubling to  
5           me. The allegations about yelling and raising  
6           her voice, Ms. Smith denied all of that and I  
7           didn't have anything to counter that with but  
8           I had hoped that if she had given me additional  
9           names of people that I could talk to that could  
10          verify what she was saying, that that would  
11          have been helpful, but she did not do that.  
12          The removal of students from her class was a  
13          pattern that was repeated at all three of the  
14          schools that she was in and that was what the  
15          parent that met with me expressed was the  
16          concern that she didn't want her child to  
17          remain in this class and be subjected to what  
18          she was subjected to in Ms. Smith's class. And  
19          I think that -- I think I've covered the main  
20          points from that meeting.

21        Q:     Okay. If you turn back to the bottom of page  
22               three, your last paragraph there, halfway down  
23               the paragraph it begins with additionally,  
24               could you read that section, please?

25        A:     Additionally, the documentation establishes

1           that much of the conduct described in the  
2           letter you received on February 26, 2008,  
3           regarding your performance at North Myrtle  
4           Beach Intermediate School is reoccurring in  
5           your treatment of parents, students and members  
6           of the administration at Conway Middle School.

7           Q:    Is there any question in your mind that this  
8           letter that ultimately formed the basis of your  
9           termination recommendation was including her  
10          conduct at North Myrtle Beach Intermediate  
11          School, Ocean Bay Middle School and Conway  
12          Middle School?

13          A:    No, there was no question that all three  
14          schools were included.

15          Q:    And does a lot of this paragraph refer to the  
16          other schools as well?

17          A:    Yes, I mentioned Ocean Bay Middle School also.

18          Q:    After meeting with Ms. Smith on December 1st  
19          when you had this conference with her where you  
20          reviewed those concerns, after reviewing  
21          appropriate information based on everything you  
22          knew at that point to your own direct knowledge  
23          did you reach a conclusion regarding what your  
24          recommendation would be regarding Ms. Smith's  
25          continued employment?

1 A: No, sir.

2 Q: Did anybody, I guess up until October of 2010,  
3 tell you that you're in danger of losing your  
4 livelihood?

5 A: Yes.

6 Q: That's what happened in October of 2010?

7 A: Uh-huh (affirmative response).

8 Q: In years past, had that happened? Now, Ms.  
9 Smith, looking through these other items I see  
10 contracts for several years and they start back  
11 in 1999-2000. Is that when you first came to  
12 work here?

13 A: To the district.

14 Q: And they asked you each year if you wanted to  
15 return and you said yes?

16 A: Uh-huh (affirmative response).

17 Q: Did you mean it?

18 A: Yes, I did.

19 Q: And you see that the contract goes through and  
20 all the way up to this year. Now, if your  
21 principal at any of these schools had wanted to  
22 put you on a special evaluation, is there a  
23 process in this district that they could have  
24 done that?

25 A: Yes.

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

**APPEAL FROM COUNTY  
Horry County Court of Common Pleas**

**Honorable Benjamin H. Culbertson, Circuit Court Judge**

**Appellate Case No.: 2012-213509**

JACQUELINE SMITH.....Appellant(s)

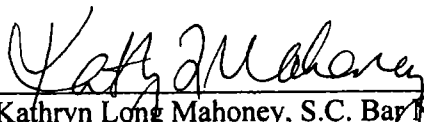
v.

HORRY COUNTY SCHOOLS..... Respondent(s).

**CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that the Appendix to the Record on Appeal contains all additional materials proposed to be included by Respondent and not any other materials.

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