| | |
|---|---|
| STATE OF SOUTH CAROLINA ) | IN THE COURT OF COMMON PLEAS |
| ) | |
| COUNTY OF SPARTANBURG ) | SEVENTH JUDICIAL CIRCUIT |
| ) | Civil Action No. 2015-CP-42-1688 |
| Dedra H. Kiser, ) | |
| ) | |
| Appellant, ) | |
| ) | |
| vs. ) | **ORDER** |
| ) | |
| Spartanburg School District 7, ) | |
| ) | |
| Respondent. ) | |
| ) | |





This matter is before the Court upon the Appellant's Notice of Appeal filed pursuant to Section 59-25-480 of the South Carolina Teacher Employment and Dismissal Act ("TEDA"), S.C. Code Ann. §§ 59-25-410 *et seq.* Appellant, Dedra H. Kiser ("Kiser"), appeals the decision of the Spartanburg School District 7 Board of Trustees (the "School Board") to immediately terminate her employment with the School District.

A hearing was held on November 2, 2015. Appellant was represented by David E. Rothstein of Rothstein Law Firm, PA. The School District was represented by Kenneth W. Nettles, Jr., and Kenneth E. Darr, Jr., of Lyles, Darr & Clark, LLP. Upon consideration of the briefs and arguments presented at the hearing, the record of the dismissal hearing before the School Board, the School Board's written decision, and the applicable law, the Court affirms the School Board's decision.

## I. FACTS

Spartanburg School District 7 (the "School District") employed Kiser as a math teacher at Spartanburg High School ("SHS") and as an assistant coach for the girls' cross-country team. On Friday, September 26, 2014, Kiser was entrusted with driving seven members of the girls'

RKK

cross-country team to Charleston for a meet. She drove a Suburban owned by the School District. The students were ages thirteen to seventeen years old. Three of the students attended SHS (the "SHS Students"), and the others attended SHS Freshman Academy or middle school.

A South Carolina Highway Patrol ("SCHP") officer stopped Kiser at approximately 5:00 p.m. on Interstate 26 outside of Charleston after multiple 911 calls by other drivers reporting her reckless and dangerous driving. During the traffic stop, Kiser was arrested for driving under the influence and child endangerment. The seven students were taken into protective custody and detained by law enforcement for at least four to five hours while their parents drove from Spartanburg to Charleston to pick them up.

After conducting an investigation of the matter, including an interview with Kiser, the School District's Superintendent, Dr. Russell Booker, notified Kiser by letter dated September 29, 2014, of his recommendation to the School Board that her employment be terminated immediately for conduct manifesting evident unfitness for teaching. Dr. Booker's recommendation was based on "the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." Dr. Booker also notified Kiser of her right to request a hearing before the School Board.



At Kiser's request, the School Board held a dismissal hearing on March 18, 2015. The School District was represented by counsel and introduced exhibits and testimony from Dr. Booker and the SHS Principal, Jeff Stevens, among others, to substantiate the grounds for Dr. Booker's recommendation for immediate termination. Kiser and her attorney were present for the entire hearing. Kiser was afforded the opportunity to cross-examine the School District's witnesses, to present her own testimony, witnesses, and evidence, and to present all available



RKK

defenses. In addition to the testimony and exhibits presented at the hearing, the School Board reviewed both parties' pre-hearing briefs and the SHS Students' deposition transcripts.

After the hearing and deliberation in executive session, the School Board voted unanimously to uphold Dr. Booker's recommendation for immediate termination. On March 27, 2015, the Board issued a written decision setting forth its findings of fact and conclusions. On April 27, 2015, Kiser filed a Notice of Appeal of the School Board's decision.

## II. STANDARD OF REVIEW

The standard applicable to judicial review of a school board's decision terminating a teacher is limited to a determination of whether the decision is supported by substantial evidence in the record. Laws v. Richland County School Dist. No. 1, 270 S.C. 492, 495, 243 S.E.2d 192, 193 (1978); Kizer v. Dorchester County Vocational Educ. Bd. of Trustees, 287 S.C. 545, 550, 340 S.E.2d 144, 147 (1986). 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 School Board reached or must have reached to justify its action. Id. On appeal, the circuit court cannot substitute its judgment for that of the school board. Id.; *see also* Felder v. Charleston County School Dist., 327 S.C. 21, 489 S.E.2d 191 (1997) (circuit court erred in reversing the school board's decision terminating teacher since the determination was supported by substantial evidence in the record).

## III. LAW/ANALYSIS

### A. Substantial Evidence

State law specifically vests school boards with the power and duty to discharge teachers when good and sufficient reasons for so doing present themselves. S.C. Code § 59-19-90(2). It is undisputed Kiser entered into a valid continuing Contract for Professional Service with the





RKK

School District that was in full force and effect at the time of the incident resulting in her termination. Kiser admits she was under a continuing contract of employment. As such, the termination of Kiser's teacher employment was governed by TEDA, S.C. Code Ann. § 59-25-410 to 530.

The School Board terminated Kiser for conduct manifesting an evident unfitness for teaching. TEDA provides for the immediate removal of any teacher whose conduct manifests evident unfitness to teach. S.C. Code Ann. § 59-25-430 ("Any teacher may be dismissed at any time... who shall otherwise manifest an evident unfitness for teaching."); Kizer, 287 S.C. at 550, 340 S.E.2d at 147 ("[T]he officially enunciated public policy of this State is to provide for immediate removal of those whose conduct manifests evident unfitness.").

The statute sets forth a non-exclusive list of examples of conduct manifesting an evident unfitness to teach, "such as, *but not limited to*, the following: persistent neglect of duty; willful violations of rules and regulations of the Board; 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." S.C. Code Ann. § 59-25-430 (emphasis added); Hall v. Board of Trustees of Sumter County School Dist. No. 2, 330 S.C. 402, 406, 499 S.E.2d 216, 219 (Ct. App. 1998) ("Section 59-25-430 sets forth a non-exclusive list of examples of unfitness for teaching."). Whether conduct manifests an evident unfitness for teaching that warrants immediate removal as a teacher is a judgment committed to the school board's discretion.



1. Substantial Evidence Supports The School Board's Decision

The School Board terminated Kiser for conduct manifesting an evident unfitness for teaching based on her failure to exercise good judgment and reasonable care by driving at dangerous speeds and failing to maintain proper control of the vehicle in complete disregard for



RKK

the safety and welfare of the seven students entrusted to her care. The Court finds that there is substantial evidence in the record to support the School Board's decision to immediately terminate Appellant for conduct manifesting an evident unfitness for teaching.

Dr. Booker testified that it was a primary and essential function and expectation of Kiser's job as both a teacher and a coach to at all times protect the safety and well-being of students entrusted to her care. Kiser's contract, her written job responsibilities, and the School District's staff conduct policies, required her to at all times exercise good judgment, exercise a reasonable standard of care for the supervision and protection of students, and to carry out her assigned duties and responsibilities with conscientious concern and attention toward her own and the School Board's legal responsibility for the safety and welfare of students.

Kiser testified she drank three or four glasses of wine and stayed up until about 2:00 a.m. the night before driving the students to Charleston. That day, she woke up at 6:00 a.m., did not shower, performed "strenuous physical labor" all morning, and had almost nothing to eat or drink all day. Kiser admitted she was tired while driving to Charleston.

It is undisputed that the expectation was for the girls' and boys' cross-country teams to leave SHS at the same time and caravan to Charleston. However, immediately upon leaving the school, Kiser admittedly made two unauthorized detours, which separated the teams and put the girls' team at least twenty minutes behind schedule. First, at the girls' request, she drove to a student's house to pick up a CD player because the one in the Suburban did not work. Second, she detoured to her own house to get her e-cigarette charger.



According to all three SHS Students' accounts, Kiser was speeding, drifting off the road, and nearly hit another car. Before leaving Spartanburg, she hit a curb pulling out of the SHS parking lot, was speeding, and ran a red light. On Highway 56 – a two-lane "back road" – she



TJK

drove "really fast" and was drifting off the edge of the road. At one point, the passenger side mirror clipped a mailbox. On Interstate 26, Kiser was driving at speeds of 90 and 95 miles per hour or more. According to one SHS Student: "And so we were going so fast that she had to pull off the side of the road because if she hadn't we would have slammed full force into the car in front of us. We slid in right next to them. And it would have been really bad."

Kiser admitted she drove "aggressively and fast," she was "going along with the flow of traffic," and "at times I would see myself going 85, 90." She admitted she drifted off the edge of the road and drove on the rumble strips on both sides of the road. She also admitted that she "had to slam on brakes and go off to the right of the road" to avoid hitting a car in front of her.

Other drivers observed and were concerned about Kiser's erratic and dangerous driving. The School District submitted audio recordings of two 911 calls made by other drivers reporting Kiser's erratic, reckless, and dangerous driving on Interstate 26. Both callers reported the Suburban was "swerving all over the road," and one caller exclaimed: "I think she might be intoxicated to be honest with you – Oh, my God! They need to stop her!"

The School District also submitted the Affidavit of Raymond Richards, an off-duty police officer with the Goose Creek Police Department. Officer Richards also observed the Suburban on Interstate 26 swerving from side to side across the fog lines and center lines of traffic, drifting across and straddling the center line occupying two lanes, and slamming on the brakes and swerving into the emergency lane to avoid hitting the car in front of it. Based on his observations, Officer Richards also believed the driver might have been intoxicated.

It is undisputed that, as a result of the 911 reports, Kiser was stopped by a SCHP officer on Interstate 26 in Charleston County. Kiser testified, "*I knew I had hit the rumbles. I knew I had veered off there. I knew I had been speeding, so I thought I was getting a speeding ticket.*"





RKK

(emphasis added). However, rather than getting a speeding ticket, Kiser was arrested and charged with driving under the influence and child endangerment.

The SHS Students testified they were scared and shocked, and some of the girls cried. They were split up, put into police cars, and taken to SCHP headquarters. SCHP officials refused to release the girls to the School District's custody. Dr. Booker and the SHS Students testified the girls would be remanded to DSS custody if their parents did not pick them up. SCHP Call History Records confirm calls were made that same day to Charleston County DSS and Spartanburg County DSS concerning "6-7 children under the age of 17." The students were detained at SCHP headquarters four to five hours while their parents drove from Spartanburg to pick them up. The SHS Principal, who notified each student's parents, testified the parents "were shaken up."

Based on this record, reasonable minds could reach the same conclusion the School Board reached, justifying the immediate termination of Kiser based on her reckless and dangerous driving that endangered the safety and well-being of seven students, and ultimately resulted in the seven students entrusted to her care being detained in protective custody by law enforcement. The Court will not substitute its judgment for that of the School Board. Laws, 270 S.C. at 495, 243 S.E.2d at 193.



2. The School Board Had Wide Latitude To Consider And Weigh The Evidence

Kiser argues the School Board's decision should be reversed based on multiple evidentiary errors. School board hearings under TEDA are quasi-judicial administrative hearings in which the rules of evidence do not strictly apply. Calhoun v. Marlboro County School Dist., 2004 WL 6334910, *6 (Ct. App. 2004). As a quasi-judicial body, the School Board is afforded a wide latitude of procedure and in permitting the introduction of evidence in a teacher dismissal

hearing. Id.; Jacoby v. South Carolina State Bd. of Naturopathic Examiners, 219. S.C. 66, 90, 64 S.E.2d 138, 149 (1951) (an administrative or quasi-judicial body is allowed a wide latitude of procedure and not restricted to the strict rule of evidence adhered to in a judicial court). The admission or exclusion of evidence in general was within the School Board's discretion. On appeal, this Court is only concerned with the existence of evidence, and not its weight. Barrett v. Charleston County School District, 348 S.C. 426, 559 S.E.2d 365 (Ct. App. 2001) (noting in appeal of teacher's dismissal "we are only concerned with the existence of evidence and not its weight").



Kiser argues it was fundamentally unfair for the School Board to consider the Affidavit of Raymond Richards because he was not identified as a potential witness and, therefore, he could not be subjected to cross-examination by counsel. It should be noted that the hearing record reflects the introduction of a witness affidavit by counsel for Kiser without objection and an uncontested representation by School District counsel to the School Board that the parties had agreed in advance that affidavits could be introduced at the hearing. Even if the School Board improperly considered the affidavit without cross-examination, it was a harmless error that does not warrant reversal of the School Board's decision. The affidavit was cumulative of other competent and substantial evidence of Kiser's reckless and dangerous driving, including the SCHP incident report (which contained Officer Richard's name and a summary of his comments to the SCHP officer), 911 audio recordings, and the SHS Students' testimony, all of which was received into evidence without objection. Calhoun, 2004 WL 6334910, n. 4 (even assuming the admission of hearsay evidence was erroneous, the error was not prejudicial in light of the non-hearsay evidence supporting the board's decision not to renew teacher's contract); State ex rel. Medlock v. Nest Egg Soc. Today, Inc., 290 S.C. 124, 348 S.E.2d 341 (Ct. App. 1986) (asserted



RKK

error in admitting affidavits into evidence made no difference in the outcome and was harmless as a matter of law). Even if the affidavit is disregarded, there is still substantial evidence in the record to support the School Board's decision.

Kiser's argument that the School Board gave too much weight to the SHS Students' written statements is not well-founded. Prior to the hearing, Kiser's attorney deposed all three SHS Students and had the opportunity to examine each of them at length regarding her written statement. At the hearing, the SHS Students' statements and deposition testimony were received into evidence without objection. There is no evidence in the record establishing that any student's written statement or sworn deposition testimony describing Kiser's driving at excessive speeds of 85 to 95 miles per hour, drifting and swerving all over the road, and nearly slamming into another car was "obviously influenced" by her parents, news reports, or any other factor. To the contrary, *Kiser admitted* to speeding, drifting, and almost hitting another car. The SHS Students' statements are also consistent with the 911 audio recordings and the SCHP incident report, all of which were admitted into evidence without objection. The School Board had wide latitude to weigh the credibility of the SHS Students' written statements and sworn deposition testimony.



In her Notice of Appeal, Kiser also complains the School Board disregarded her alibi witnesses' testimony that she was not intoxicated, and her evidence that she was a "model" classroom teacher. The School Board did not exclude any alibi witness testimony or any evidence of Kiser's performance as a classroom teacher. Kiser essentially argues her evidence is more credible and should have been given more weight, and asks the Court to reweigh the evidence. The weight of this evidence is a determination left solely to the School Board. Notably, the issue of intoxication was not presented as a ground for dismissal, and the School



RKK

Board expressly found in its written decision that "Kiser denies she was intoxicated or impaired on September 26." Additionally, as discussed in more detail below, TEDA does not preclude the School Board from considering conduct outside the classroom in determining whether good and sufficient grounds exist for dismissal. The School Board had wide latitude to weigh the testimony of Kiser's alibi witnesses and evidence of her classroom performance in reaching its conclusion.

In sum, the School Board's decision is supported by substantial evidence in the record, and its findings and conclusions are not clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. The Court cannot substitute its judgment for that of the School Board as to the weight of the evidence on questions of fact.

**B. The School Board's Decision Did Not Violate TEDA**

Appellant raises several grounds on appeal suggesting the School Board's decision violates TEDA. The Court finds the School Board's decision does not violate TEDA and, further, that the School District complied with TEDA's notice requirements.



1. The School Board Did Not Terminate Kiser For "Poor Driving"

Kiser's argument that her poor driving did not manifest an evident unfitness to teach because driving was not part of her teaching duties, and she is "a model classroom teacher," is self-serving and unavailing. Section 59-25-430 does not define or limit conduct manifesting an evident unfitness for teaching to classroom duties and performance. The statute plainly defines evident unfitness broadly in a non-exhaustive and non-exclusive manner that is clearly intended to encompass conduct outside of the classroom.

Consistent with the broad statutory language, the courts have upheld school board terminations of teachers under Section 59-25-430 based on conduct outside of the classroom and



RKK

unrelated to classroom performance. In Felder, 327 S.C. at 25-26, 489 S.E.2d at 193, the court found substantial evidence supported the school board's termination of a teacher for conduct manifesting an evident unfitness for teaching based on her insubordination in encouraging students to continue an unauthorized student protest despite the principal's instructions that students return to class. In Barrett, 348 S.C. at 436, 559 S.E.2d at 370, the court held that substantial evidence supported the school board's termination of a teacher because she manifested an evident unfitness for teaching based on her dishonesty in handling the proceeds from a Parent Teacher Student Organization ice cream fundraising account. In Hall, 330 S.C. at 410, 499 S.E.2d at 220, the court explicitly recognized "that a single act of disobedience could, under some circumstances, be sufficient to justify a teacher's termination *even though it was unrelated to that teacher's classroom performance*." (emphasis added). Thus, a school board's judgment as to what conduct manifests an evident unfitness for teaching is not limited to just teaching duties and classroom performance.



In this case, reasonable minds could agree that Kiser's conduct in driving a School District vehicle occupied by seven students at speeds of 85 to 95 miles per hour or more, drifting all over the road and off the road, hitting a mailbox, and swerving off the road to avoid a wreck, in blatant disregard for the safety of the seven students entrusted to her care, cannot be trivialized as "poor driving." *See* Hilliard v. Orangeburg County School Dist. Number Three, 300 S.C. 123, 386 S.E.2d 628 (Ct. App. 1989) (substantial evidence supported charge that teacher allowed student to be unsupervised in work area of welding shop, a blatant safety violation that could not be characterized as trivial). There is substantial evidence in the record to support the School District's determination that Kiser's lack of good judgment and reasonable care in endangering the safety of seven students adversely and materially affected her fitness as a teacher because she



RKK

cannot be entrusted with the supervision and protection of School District students, which is a primary and essential function of her job responsibility as a teacher. The School Board's decision does not violate the evident unfitness to teach provision of Section 59-25-430.

2. Kiser's Termination Was Not Premature

Kiser's argument that her termination was premature in violation of Section 59-25-430 is also without merit. Section 59-25-430 cites conviction of a violation of state or federal law as an example of conduct manifesting evident unfitness for teaching, and it provides that a teacher who is charged with a violation of the law which upon conviction may lead to or be cited as a reason for dismissal may be suspended pending resolution of the charge. S.C. Code Ann. § 59-25-430. However, Kiser's reliance on that provision of Section 59-25-430 is misplaced.

During the traffic stop, Kiser was arrested and charged with driving under the influence and child endangerment in violation of state criminal laws. However, neither the Superintendent nor the School Board cited Kiser's pending criminal charges as a ground for termination. The School District did not present any arguments or evidence to prove Kiser was guilty of driving under the influence or child endangerment in violation of any state law. Rather, Kiser's termination was due to the extreme danger that she put seven students in by her reckless and erratic driving in violation of the School District's policies and a primary responsibility of her employment – conduct which occurred *before* she was stopped by the SCHP officer and *before* she was arrested and charged with driving under the influence and child endangerment. As such, the School Board's decision was not premature in violation of Section 59-25-430.

3. The School District Complied With TEDA Notice Requirements

In her Notice of Appeal, Kiser vaguely contends the School Board relied on grounds for her termination that were not previously disclosed in violation of Section 59-25-460 of TEDA.





RKK

Kiser did not present any arguments on this issue in her appeal brief or at the appeal hearing. Kiser has not identified what grounds for termination she contends the School District did not disclose and to which she did not have an adequate opportunity to respond.

TEDA required that Kiser be given written notice specifying the cause of dismissal and the fact that a hearing before the board is available upon request. S.C. Code Ann. §§ 59-25-430 and -460; Smith v. Horry County Schools, 2014 WL 2969359 (Ct. App. 2014) (board's decision did not violate TEDA because teacher was given notice the superintendent had recommended her employment be terminated and she was afforded an opportunity to be heard prior to her dismissal). Dr. Booker's September 29, 2014, letter to Kiser satisfied the TEDA notice requirements. Specifically, Dr. Booker's letter notified Kiser he was recommending her immediate termination for conduct manifesting an evident unfitness for teaching "due to the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." Thus, Kiser received adequate notice of the grounds for dismissal.

The question thus becomes whether there is substantial evidence to support the finding of violations of which Kiser had notice. Hilliard, 300 S.C. at 126, 386 S.E.2d at 630. If any of the charges of which Kiser had notice are supported by substantial evidence, the School Board's decision to dismiss must be sustained. Id. As already determined, there is substantial evidence in the record to support the School Board's finding that Kiser recklessly endangered the safety and well-being of the seven students entrusted to her care in violation of multiple School District policies governing staff conduct with students.





RKK

**C. Kiser Was Afforded All Due Process Rights**

Appellant contends the School Board's decision violates her due process rights. The Court finds that neither Appellant's procedural, nor substantive due process rights were violated.

1. Procedural Due Process

In her Notice of Appeal, Kiser contends the School Board violated her right to procedural due process by refusing to issue deposition subpoenas as her attorney requested pursuant to TEDA, S.C. Code Ann. §§ 59-25-470, -490, -500, and -520. Kiser did not present any arguments in her appeal brief or at the appeal hearing to support this contention.

The Court finds Kiser's due process rights were not violated. TEDA provides any party may cause to be taken the depositions of witnesses in accordance with and subject to the same provisions, conditions and restrictions as a apply to the taking of like depositions in civil actions at law in the court of common pleas. S.C. Code Ann. § 59-25-490. Kiser sought to depose the three SHS Students who were in the Suburban and interviewed by the SHS Principal. The parties disagreed over the procedure for issuing deposition subpoenas to the SHS Students under TEDA, but the issue was ultimately resolved by Consent Order in which the parties agreed Kiser's counsel was authorized to issue the subpoenas. Kiser was not denied the opportunity to depose the SHS Students, and she did not suffer any prejudice due to any alleged refusal by the School Board to issue deposition subpoenas. Kiser's attorney deposed all three students prior to the School Board hearing. The full transcripts from all three depositions were submitted to and reviewed by the School Board prior to the hearing. Additionally, both parties submitted excerpts from the SHS Students' deposition transcripts to the School Board during the hearing, without objection.





RKK

2. Substantive Due Process

Kiser contends the School Board deprived her of her right to substantive due process by allowing its decision to be swayed by public pressure and inaccurate media portrayals of her arrest, rather than the facts presented during the hearing. The Court disagrees.

Dr. Booker testified that he was not swayed by public pressure or media reports, but rather conducted an investigation before issuing his recommendation, which he based on the SCHP incident report, the SHS Students' accounts, and Kiser's admissions during their meeting. Kiser had the opportunity to cross-examine Dr. Booker about his decision to recommend her termination. There is no evidence in the record that Dr. Booker was more concerned with assuaging public outcry than affording Kiser her statutory rights under TEDA. Kiser received all notices and the opportunity for a hearing before the School Board, which is all that TEDA required.

The School Board had broad discretion to consider and weigh the evidence that news of "the Spartanburg High Coach" being arrested was reported throughout the school community and state, which brought discredit to the School District and its ability to maintain community confidence in its ability to protect its students. Kiser did not object to the news reports or move that they be excluded from evidence, and she was not prejudiced by the news reports. She was afforded the opportunity to discredit the media reports, and the School Board heard her testimony that she believed she was unfairly portrayed in the media. However, there is no evidence that any news reports were false, but rather the reports that Kiser was arrested while driving the girls' cross country team, and that the students were detained by law enforcement until their parents arrived, are corroborated by substantial evidence. Even if the Court were to ignore the media reports, there is still substantial evidence to support the School Board's





RKK

decision. There is no competent evidence in the record to establish Dr. Booker or the School Board arbitrarily and capriciously based their decisions on media reports or public pressure.

## IV. CONCLUSION

There is substantial evidence in the record supporting the School Board's decision to terminate Kiser for conduct manifesting an evident unfitness to teach. Courts will not interfere with the exercise of discretion by school boards in matters committed by law to their judgment unless there is clear evidence the board has acted corruptly, in bad faith, or in clear abuse of its powers. Singleton v. Horry County School Dist., 289 S.C. 223, 227, 345 S.E.2d 751, 753 (Ct. App. 1986). The court finds that there is no evidence that the School Board acted corruptly, in bad faith, or in clear abuse of its powers. Therefore, the School Board's decision is affirmed.

AND IT IS SO ORDERED.

R. Keith Kelly
Circuit Court Judge

November 23, 2015
Spartanburg, South Carolina

2015 NOV 23 PM 4:45