

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Letitia H. Verdin, Circuit Court Judge

C.A. No.: 2016-001058

Justin T., a minor, by and through his parent,  
Caren D. Taylor .....Appellant(s)

v.

Richland County School District One,  
and Percy Mack..... Respondent(s)

APPENDIX TO RECORD ON APPEAL

Caren D. Taylor 2139 Oak Street Columbia, SC 29204 (803) 765-2107  <i>Appellant</i>	Dwayne T. Mazyck, S.C. Bar No. 70240 CHILDS & HALLIGAN, P.A. PO Box 11367 Columbia, SC 29211 (803) 254-4035  dmazyck@childs-halligan.net  <i>Attorney for Respondent</i>
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Justin T., a minor, by and through his parent,  
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Richland County School District One,  
and Percy Mack..... Respondent(s)

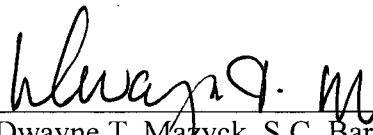
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**CERTIFICATE OF COUNSEL**

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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.

CHILDS & HALLIGAN, P.A.

  
\_\_\_\_\_  
Dwayne T. Mazyck, S.C. Bar No. 70240

1301 Gervais Street, Suite 900  
P.O. Box 11367  
Columbia, SC 29211  
(803) 254-4035  
Attorney for Respondent

Columbia, South Carolina

  
**Richland One**  
South Carolina's Capital Schools  
District Hearing Office  
Lyon Street Student Services Center

Ms. Sharon D. Minnieweather  
District Hearing Officer

January 16, 2014

Ms. Caren Taylor  
2295 Byrnes Drive  
Columbia, South Carolina 29204

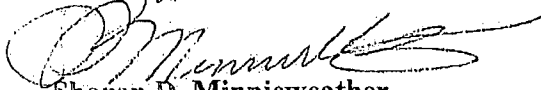
RE: Justin T. Taylor, Gr. 10th

Dear Ms. Taylor:

This letter is to inform you that the Board of School Commissioners for Richland School District One met in executive session and voted in open session on January 14, 2014 to uphold the decision made by the Hearing Office.

Accordingly, Justin is eligible to remain at the Richland One Evening High School while on the District-Level Probation Contract through May 29, 2014. If you have any questions regarding this final disposition, you may contact the District Hearing Office at 231-6926 at your convenience.

Sincerely,



Sharon D. Minnieweather  
District Hearing Officer

SDM

cc: Board of School Commissioners  
Dr. Percy Mack, Superintendent  
Ms. Yvonne R. Murray-Boyles, Johnson, Toal & Battise, P. A. Attorneys at Law  
Ms. Susan Williams, Legal Counsel  
Mr. Richard McClure, Principal, A. C. Flora High School



Ms. Sharon Minnieweather  
District Hearing Officer

District Hearing Office  
Lyon Street Student Services Center

December 11, 2013

Ms. Caren Taylor  
2295 Byrnes Drive  
Columbia, South Carolina 29204

RE: Justin T. Taylor, Gr. 10th

Dear Ms. Taylor:

This letter is to acknowledge that the Hearing Office has held a conference with you and Justin T. Taylor regarding his/her placement on a District Level Probation Contract through the close of the school year (May 29, 2014).

Accordingly, Justin is eligible to report to the Evening High School effective December 11, 2013, while placed on a District-Level Probation Contract through May 29, 2014.

Further, any violations of the Richland One Discipline Code, may result in a written recommendation to the Hearing Office for expulsion for the remainder of the school year.

Sincerely,

Sharon D. Minnieweather  
District Hearing Officer

SDM/vag

cc: Mr. Kerry Abel, Coordinator, Evening High School  
Mr. Richard McClure, Principal, A.C. Flora High School



Ms. Sharon Minnieweather  
District Hearing Officer

District Hearing Office  
Lyon Street Student Services Center

December 10, 2013

Ms. Caren Taylor  
2295 Byrnes Drive  
Columbia, South Carolina 29204

**CORRECTION: Date of Contract Signing**  
**RE: Justin T. Taylor, Gr. 10th**

Dear Ms. Taylor:

The expulsion hearing of, Justin T. Taylor, was conducted on November 25, 2013, pursuant to S.C. Code Ann. 59-63-240 (1976, as amended). After a careful review of the evidence and testimony presented, I have concluded that Justin is guilty of the following Level II offense: - I - Sexual Misconduct.

**THEREFORE**, the administration's recommendation of expulsion with an alternative will be upheld.

**ACCORDINGLY**, Justin will be assigned to the Evening High School, effective November 25, 2013 through May 29, 2014, while on a District Level Probation Contract. You may contact the Evening High School at 738-7574 upon receipt of this letter to schedule an interview/assessment appointment.

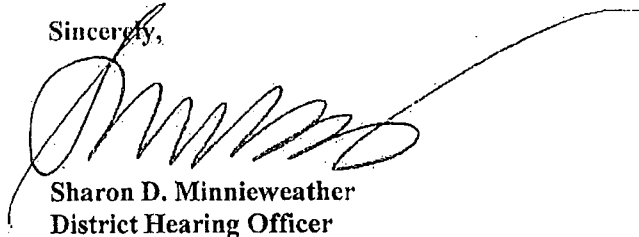
**FURTHER**, Justin will be scheduled to sign a District Level Probation Contract in the Hearing Office on Monday, December 16, 2013 between the hours of 2:30 pm – 4:30 pm. Both the parent/guardian and student should be present for the contract signing. Failure to keep this appointment will result in Justin being removed immediately from school until this meeting takes place.

**FINALLY**, it is strongly recommended that Justin seek enrollment into a program to address issues and concerns surrounding the Hearing Board violation.

Ms. Caren Taylor  
December 10, 2013  
Page Two

Please be advised that you have the right to appeal this decision to the Superintendent of Schools, provided that written notice of appeal is sent to Dr. Percy A. Mack, Richland County School District One, 1616 Richland Street, Columbia, South Carolina 29201. You will have 15 days to notify the Superintendent's Office in writing of your request. Your appeal may then be heard by the Board of School Commissioners, and if so you will be notified of the date and time. Appeals will normally be limited to the established record and no new testimony will be allowed, unless the Board of School Commissioners desires to hear additional testimony.

Sincerely,



Sharon D. Minnieweather  
District Hearing Officer

SDM:wcyj

cc: Mr. Richard McClure, Principal, A.C. Flora High School  
Mr. Kerry Abel, Coordinator, Evening High School  
Ms. Toni Kelly-Campbell – Coordinator – Social Work Services



**Richland One**  
South Carolina's Capital Schools  
Hearing Office

Sharon Minnieweather  
District Hearing Officer

December 6, 2013

Ms. Caren Taylor  
2295 Byrnes Drive  
Columbia, South Carolina 29204

RE: Justin T. Taylor, Gr. 10th

Dear Ms. Taylor:

The expulsion hearing of, Justin T. Taylor, was conducted on November 25, 2013, pursuant to S.C. Code Ann. 59-63-240 (1976, as amended). After a careful review of the evidence and testimony presented, I have concluded that Justin is guilty of the following Level II offense: - I - Sexual Misconduct.

**THEREFORE**, the administration's recommendation of expulsion with an alternative will be upheld.

**ACCORDINGLY**, Justin will be assigned to the Evening High School, effective November 25, 2013 through May 29, 2014, while on a District Level Probation Contract. You may contact the Evening High School at 738-7574 upon receipt of this letter to schedule an interview/assessment appointment.

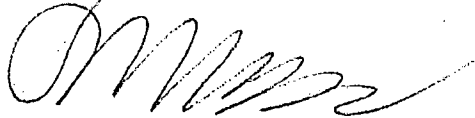
**FURTHER**, Justin will be scheduled to sign a District Level Probation Contract in the Hearing Office on Thursday, November 12, 2013 between the hours of 2:30 pm – 4:30 pm. Both the parent/guardian and student should be present for the contract signing. Failure to keep this appointment will result in Justin being removed immediately from school until this meeting takes place.

**FINALLY**, it is strongly recommended that Justin seek enrollment into a program to address issues and concerns surrounding the Hearing Board violation.

Ms. Caren Taylor  
December 6, 2013  
Page Two

Please be advised that you have the right to appeal this decision to the Superintendent of Schools, provided that written notice of appeal is sent to Dr. Percy A. Mack, Richland County School District One, 1616 Richland Street, Columbia, South Carolina 29201. You will have 15 days to notify the Superintendent's Office in writing of your request. Your appeal may then be heard by the Board of School Commissioners, and if so you will be notified of the date and time. Appeals will normally be limited to the established record and no new testimony will be allowed, unless the Board of School Commissioners desires to hear additional testimony.

Sincerely,



Sharon D. Minnieweather  
District Hearing Officer

SDM:wcej

cc: Mr. Richard McClure, Principal, A.C. Flora High School  
Mr. Kerry Abel, Coordinator, Evening High School  
Ms. Toni Kelly-Campbell – Coordinator – Social Work Services



Ms. Sharon Minnieweather  
District Hearing Officer

District Hearing Office  
Lyon Street Student Services Center

November 21, 2013

Ms. Caren Taylor  
2295 Byrnes Drive  
Columbia, South Carolina 29204

RE: Justin T. Taylor, Gr. 10th

Dear Ms. Taylor:

This letter is to inform you that, Justin T. Taylor, has been recommended for expulsion. The recommendation was made by Mr. Richard McClure Principal, of A.C. Flora High School. The reason for this recommendation is as follows:

**Level II – I – Sexual Misconduct**

A hearing before the Richland County School District One District Hearing Officer has been scheduled for Monday, November 25, 2013, at 10:00 a.m. at the Lyon Street Student Services Center located at 1310 Lyon Street, Columbia, SC 29204.

Prior to and during the hearing, you will have the right to review all statements. You may, if you choose, be represented by a lawyer. The District Hearing Office will decide whether or not the recommendation of the administration should be upheld. You will be notified of the District Hearing Office's decision within 10 school days after the hearing. You will have the right to appeal the District Hearing Office's decision to the Board of School Commissioners.

Please complete the attached Response Form and return it in the self-addressed envelope within 48 hours of the scheduled hearing date. Your failure to do so could result in the hearing taking place whether or not you are in attendance, or in the hearing being postponed.

Sincerely,

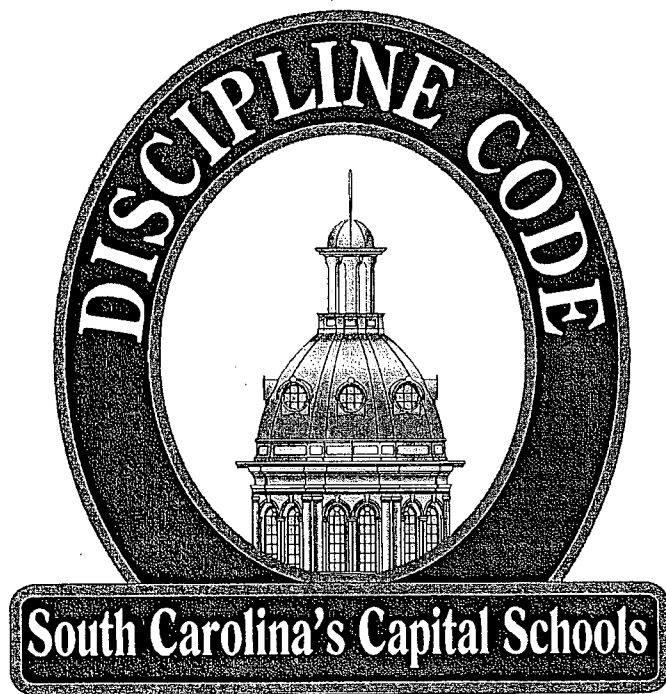
A handwritten signature in black ink, appearing to read "Sharon D. Minnieweather", is written over a long, thin horizontal line that extends across the page.

Sharon D. Minnieweather  
District Hearing Officer

SDM/wcj

cc: Mr. Richard McClure, Principal, A.C. Flora High School

# Richland One



## Richland County School District One

Board of School Commissioners  
Adopted & Revised  
June 16, 2009

Revised for Policy Updates  
June 2012

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**Richland County School District One**

**Board of School Commissioners**

Mr. Dwayne Smiling — Chairman  
Mr. Aaron Bishop — Vice Chairman  
Mrs. Susie Dibble — Secretary/Treasurer  
Mr. Jamie Devine — Parliamentarian  
Mr. Vince Ford  
Ms. Barbara Scott

**MISSION STATEMENT**

Richland One will prepare every student to be a successful, contributing citizen in a global society by providing an effective and high quality education.

**Superintendent of Schools**

Dr. Percy A. Mack  
1616 Richland Street  
Columbia, South Carolina 29201

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**LEVEL 2 OFFENSES**

In cases where a student's presence on campus or on the school bus would create a disruption to the educational process, OR violations of Other Weapons, Liquor Law, Drugs, or Sexual Misconduct have occurred, the principal **WILL** refer the student to the Hearing Office for expulsion procedures, suspend the student until an expulsion hearing has been held and refer to local law enforcement. In all other cases of Level II Offenses, the principal, designee or via collaboration with the Office of Transportation, **MAY** suspend a student for not more than (10) days out of school or off school vehicles, and **MAY ALSO** refer the student to the Hearing Office for expulsion procedures and the appropriate law enforcement agency to determine what other legal steps are appropriate.

At the hearing officer's discretion, one of the following District Level Sanctions (listed from least to most severe) may be imposed:

- Written warning and return to school and/or resume riding school vehicles
- Probation contract and return to school
- Short-term placement (11-45 school days) in an alternative program
- Long-term placement (45+ school days) in an alternative program
- Expulsion

It should be further noted that bus transportation or transportation alternatives may be provided for students grades 6-12. Also, any student who commits a Level 2 Offense while enrolled in an alternative setting or on a Probation Contract shall be subject to expulsion procedures through the Hearing Office.

**\*A. Other Weapons.** A student may not handle, possess, or give to someone else any object that is or is a reasonable replica of or can be thought of as a weapon (e.g., knife, razor blade, bullets, box cutter, firecrackers, multi-fingered rings, metal knuckles, etc.).

**\*B. Liquor Law Violation.** A student may not use, possess, handle or be under the influence of any amount of alcohol.

Penalty (PK-12; 1st Offense) = Must complete an appropriate counseling program while enrolled in an interim educational placement

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Penalty (PK-5; 2nd Offense) = Must complete an appropriate counseling program while enrolled in an interim educational placement

Penalty (6-12; 2nd Offense) = An educational placement will be considered after completion of a rehabilitation program

Penalty (PK-12; 3rd Offense) = Will be treated as a Level III Offense; expelled at least 365 calendar days.

**\*C. Drug Possession.** A student may not handle, possess, or be under the influence of any amount of marijuana, crack, cocaine, hallucinogenic drugs, or any other controlled or illegal substance.

Penalty (PK-12; 1st Offense) = Must complete an appropriate counseling program while enrolled in an interim educational placement

Penalty (PK-5; 2nd Offense) = Must complete an appropriate counseling program while enrolled in an interim educational placement

Penalty (6-12; 2nd Offense) = An educational placement will be considered after completion of a rehabilitation program

Penalty (PK-12; 3rd Offense) = Will be treated as a Level III Offense; expelled at least 365 calendar days.

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Note: The Hearing Office will determine the location of the interim education placements (on-site or off-site) for offenses B (Liquor Law) and C (Drug Possession) pursuant to state and federal laws.

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**D. Other Unlawful Activities.** A student may not disrupt, either intentionally or unintentionally, the orderly operation of the school by his involvement in any unlawful activities. Some examples of such behavior include but are not limited to, the following:

- Possessing or selling bogus or look-alike drugs
- Distributing unauthorized material
- Possession of obscene material or drug paraphernalia
- Bullying (e.g., ethnic slurs, humiliating publicly, taking possessions)
- Violation of the Acceptable Use Policy (see Section X)

- 
- E. Physical Assault on a Student.** A student may not intentionally, recklessly, or maliciously cause or attempt to cause bodily injury to another student. This includes horseplay that results in bodily injury. This does not include incidental bodily contact.
- \*F. Threats.** A student may not make a serious threat (written, verbal or non-verbal) to do bodily harm to another person, members of his family or damage to his personal property.
- G. Vandalism/Theft.** A student may neither willfully nor maliciously damage, steal or destroy property belonging to another, including school or private property.
- H. Habitual Disregard for School / Bus Rules.** Repeated occurrences of not following school / bus rules regardless of efforts to correct such behavior.
- \*I. Sexual Misconduct.** A student may not engage in sexual behavior which includes consensual intercourse, sexual harassment, groping or indecent exposure.
- J. Assisting With or Encouraging Rule Violations.** Any student who by his presence or actions assists or encourages another student or group of students to violate or attempt to violate any district or school rule will also be held responsible for the violation. Some examples of behavior that would be considered a violation are: (1) encouraging others to fight or continue fighting by yelling or taunting, and (2) assisting with or purposely observing sexually improper actions.
- \*K. Fighting.** A student may not engage in the exchange of mutual, physical contact, with or without injury.
- \*L. Trespassing.** No student may come on the property of any school in the district, other than the one he attends, without the prior approval of the principal or for activities open to all students of the district. While under suspension or expulsion, a student may not come on the property of any school without prior approval of the principal.
- \*M. Material Disruption.** A student's behavior or presence may not materially or substantially disrupt the orderly operation of school day or any school activity, even if this behavior occurs outside of the normal school setting. When behavior occurs outside the school setting,

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the district will determine whether such conduct may adversely affect the educational process or endanger the health, safety or morals of the remaining students and/or employees in the school district. An example of such behavior would be a student's involvement in a felony that occurred after school hours.

- N. Possession of Gang-Related or Other Inappropriate Written Materials.** A student may not possess, distribute, or display any written material that may affect the orderly operation of school and / or school bus or endanger the safety of any student, employee, or any visitor of the district.
- 

The Hearing Office may choose to append (upgrade) any Level II offense to a Level III offense. In these cases, a parent/guardian will be notified in writing of the expulsion procedures and the students due process rights. The Hearing Office may choose to amend (downgrade) any offense to a lesser offense.

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#### **LEVEL I OFFENSES**

All Level I Offenses will be handled at the building level by the principal or his designee and include, but are not limited to, the following:

- A. Horseplay (This does not include bodily injury.)
- B. Refusal to Obey (e.g. dress code, ID violation, etc.)
- C. Disrespectful and/or Inappropriate Remarks or Gestures/Bullying (e.g., mocking, name calling, teasing, taunting)
- D. Class Cutting or Excessive Tardies
- E. Failure to Identify Self upon Request
- F. Use/Possession of tobacco products/paraphernalia
- G. Disruption of Class /Activity or Making Excessive Noises
- H. Possession of Electronic Devices
- I. Profanity
- J. Missing Detention or In-School Suspension
- K. Inappropriate Touching or Display of Affection between students

ENCY I.D.  
0400400

CITY OF FOREST ACRES  
INCIDENT REPORT

CASE NUMBER  
11 - 13 - 1796

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM						
1. 11D - FONDLING - FORCIBLE				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	53		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.						
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE									
1 FALCON DRIVE, FOREST ACRES SC				29206	99									
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.						
11/19/2013	1200		11/19/2013	1230	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME						
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
ROBERTS, TROY				#1 ST	J	S	O	U	W	M	00	N	(803) [REDACTED]	[REDACTED]
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.							
[REDACTED]				COLUMBIA	SC	29209	99							
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE			
[REDACTED]				#1 ST	J	S	O	U	W	F	[REDACTED]	[REDACTED]		
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
5-8	110	BRO	BRO											
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.							
[REDACTED]				COLUMBIA	SC	29209	99							
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN -														
VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.														
<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED <input type="checkbox"/> J - This Jurisdiction <input type="checkbox"/> S - State <input type="checkbox"/> O - Out of State <input type="checkbox"/> U - Unknown														
<input checked="" type="checkbox"/> SUSPECT	SUBJECT NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES	
<input type="checkbox"/> RUNAWAY	JUSTIN T				B	M	[REDACTED]	N	[REDACTED]	6-2	220	BLK	BRO	
<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.													
<input type="checkbox"/> WARRANT	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.						
<input type="checkbox"/> ARREST	[REDACTED]				BLYTHEWOOD	SC	29016	99						
<input type="checkbox"/> JAIL	SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK.				ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
<input type="checkbox"/> MONS	DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE:				TOTAL # ARRESTED		11/19/2013 1200		[REDACTED]					

Offenses:  
FONDLING - FORCIBLE

On Today's date the Complainant, father of the Victim, came to the School, with the Victim, to report an Incident which took place the previous day. According to the Victim she had French III Class with the Suspect (Steven Keller- Teacher). During a class exercise the Victim walked up to the desk where the Suspect was sitting. She stated he pulled the belt loop of her jeans with his left hand and stuck his right hand down her pants. She pulled away and he did not release. She pulled away a second time and walked off. Charges will be forthcoming pending the completion of the investigation and consultation with the family court solicitor.

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
TYPE (GROUP)							TOTAL VALUE
Stolen							
Stolen/Forged							
Stolen/Damaged							
Recovered							
Seized							
Stolen							
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> EX-CLEAR UNDER 18	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER <input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
LIEUTENANT RUSSELL W. SHUMARD		11/19/2013	4083	LIEUTENANT RUSSELL W. SHUMARD		11/19/2013	4093
SCSD DAVID ADAMS		11/19/2013	S1552	FOLLOW-UP INVESTIGATION OFFICER			
				<input type="checkbox"/> YES <input type="checkbox"/> NO			

040

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
CITY OF FOREST ACRES

STATEMENT

DATE: 11/20/15  
TIME:  
CASE#

Personally appeared before me, this date, an officer duly authorized to administer oaths in this state, comes one

803- [redacted], who resides at [redacted]  
Home Telephone #: [redacted] Business Telephone #: [redacted] Cell/Pager #: [redacted]

State: DL # [redacted] Social Security #: [redacted] Date of Birth: [redacted]

The following is a sworn statement under oath by the above named individual:

I was in french class, doing a group activity. I went up to JUSTIN T [redacted]'s desk (he was sitting). He pulled the belt loop of my jeans with his left hand and stuck his right hand down my pants palm facing my jeans. I pulled away and he didnt release, so I pulled away again and walked off. I went to two girls [redacted] and [redacted]. And told them what had happened. I sat back down in my desk and went to my fourth block class when it was time to leave.

Q: Was there any restriction when he stuck his hand in your pants?

A: no

Q: As far as you know were there any witnesses to your account of this event?

A: ~~that~~ no one that I know of saw it happen.

Q: Do you have any fears of this person going forward?

A: Yes, just of what he could potential do to me or someone else (family).

This statement was made in the presence of [redacted] an employee of the Forest Acres Police Department. I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth; the whole truth, and nothing but the truth, so help me god. I received a copy of this statement at [redacted] hours on 11/20/15.

Sworn to and subscribed before me  
This day of [redacted]  
Notary Public for South Carolina  
My Commission Expires: [redacted]

Signed: [redacted]

Witness: [redacted]

Witness: [redacted]

Page [redacted] of [redacted]

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS

Justin T. Taylor, a minor, by and through )  
his parents Caren D. Taylor and Carl )  
Gibson, )

C.A. No. 2014-CP-400-0993

Plaintiffs, )

**DEFENDANT'S MEMORANDUM OF LAW  
IN SUPPORT OF MOTION TO DISMISS**

vs. )

Richland County School District One, and )  
Percy Mack, Superintendent in his official )  
Capacity, )

Defendants. )

**I. PROCEDURAL HISTORY AND STATEMENT OF FACTS**

This matter began as a recommendation for expulsion based on Justin Taylor allegedly committing a violation of Richland School District One's ("District") Discipline Code section IV (I) Sexual Misconduct which includes consensual intercourse, sexual harassment, groping or indecent exposure. Justin was charged with simple assault by the Forest Acres Police Department for the incident that occurred at A.C. Flora High School on November 19, 2013. Justin was suspended and recommended for expulsion on November 20, 2013, by Mr. Richard McClure, Principal of A.C. Flora High School, as a result of his violation of the District's Discipline Code. The expulsion hearing before the District's Hearing Officer was held on Monday, November 25, 2013. The Hearing Officer placed Justin at Richland One Evening High School in lieu of expulsion. Justin and his family appealed the decision to the Board. The Board heard the appeal on Tuesday, January 14, 2014. The Board upheld the administration's decision. This appeal follows.

## II. ARGUMENT

### A. **The decision of the administration and Board to transfer Justin Taylor in lieu of expulsion is not appealable to Circuit Court.**

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Under well-established South Carolina law, student suspensions are not subject to appeal to Circuit Court. The South Carolina Supreme Court considered this issue in the Davis v. School District of Greenville case. With regard to appeals of transfers to alternative schools in lieu of expulsion the Court held that transfers of students are governed by section 59-63-250, which provides:

"The Board or a designated administrator may transfer a pupil to another school in lieu of suspension or expulsion but only after a conference or hearing with the parents or legal guardian. The parents or legal guardian may appeal a transfer made by an administrator to the board."

The limited appeal provisions of Davis apply despite the fact that the matter began as a recommendation for expulsion. In Davis, the student was also initially recommended for expulsion. The District ultimately decided to assign the student to an alternative school in lieu of expulsion, as was done with the Plaintiff in this matter. In response to Davis, the Plaintiff's argument that the matter was appealable to Circuit Court because it began as a recommendation for expulsion, the Court held:

"Respondent contends, however, that because the proceedings began as expulsion proceedings, and the procedure initially followed by the District was pursuant to the expulsion statute, see § 59-63-240, he retains the full appellate rights outlined in that statutory section. Respondent further maintains that because the statutory language provides that the 'action of the board may be appealed to the proper court'-without regard to whether the action resulted in an actual expulsion-the circuit court properly found it had the power to review the Board's action in this case. We disagree."

Similarly, in this case, although Justin Taylor's case began as a recommendation for expulsion, because that recommendation ultimately was rejected, the decision to transfer him in lieu of expulsion is not appealable.

The court further held in Davis that:

"Section 59-63-250 expressly provides for discipline in the form of a transfer "in lieu of suspension or expulsion;" therefore, it plainly envisions the possibility that the student may be involved in expulsion proceedings prior to being transferred. The statute then specifically provides for only one level of appeal. Had the Legislature intended for a transferred student to have all the rights outlined in the expulsion statute, it could have provided specifically for that procedure in section 59-63-250. We therefore hold the Legislature intended that when a student is merely transferred, and not expelled, the review of the decision ends with the Board. See §59-63-250; Hodges v. Rainey, supra (the cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature).

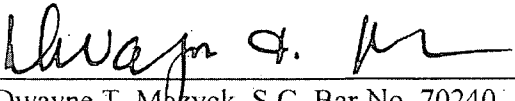
Indeed, a contrary interpretation would create a significant conflict between sections 59-63-240 and 59-63-250, allowing further appellate review of a transfer if the proceedings were initiated under the expulsion statute, but not of a transfer initiated under the transfer statute. Hodges v. Rainey, supra (statutes should be harmonized whenever possible to prevent an interpretation that would lead to a result that is plainly absurd); see also Aledo Indep. Sch. Dist. v. Reese, 987 S.W.2d 953, 958 (Tex. App. 1999) (where the court held that a student's transfer to an alternative education program was not an expulsion, in part because the applicable statutes provided no district court review for alternative placements but allowed further court review for expulsions). Thus, once the hearing officer rejected expulsion and imposed the sanction of transfer, the transfer statute became applicable. That section's appellate procedure simply does not provide for appeal of the Board's decision to the circuit court. See 59-63-250. Accordingly, the circuit court lacked subject matter jurisdiction to review the Board's decision."

For the above-stated reasons, Defendants submit that this court lacks subject matter jurisdiction in this matter and that, accordingly, the appeal should be dismissed.

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Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By:   
Dwayne T. Mazyck, S.C. Bar No. 70240  
dmazyck@childs-halligan.net

P.O. Box 11367  
Columbia, South Carolina 29211  
(803) 254-4035

Attorney for Defendants

April 15, 2016

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

**RECEIVED**

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Letitia H. Verdin, Circuit Court Judge

C.A. No.: 2016-001058

Justin T., a minor, by and through his parent,  
Caren D. Taylor .....Appellant(s)

v.

Richland County School District One,  
and Percy Mack..... Respondent(s)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has served the following:

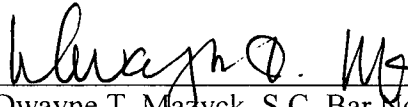
- 1. Respondents' Motion to Supplement the Record on Appeal; and
- 2. Appendix to Record on Appeal

by depositing a copy of the same in the U.S. Mail service, postage prepaid and addressed  
as follows:

Ms. Caren D. Taylor  
2139 Oak Street  
Columbia, SC 29204

This 3rd day of November, 2016.

CHILDS & HALLIGAN, P.A.

  
Dwayne T. Mazyck, S.C. Bar No. 70240  
dmazyck@childs-halligan.net

1301 Gervais Street, Suite 900  
P.O. Box 11367  
Columbia, SC 29211  
(803) 254-4035  
Attorneys for Respondent Richland County  
School District One