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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

SC Court of Appeals  
83061

APPEAL FROM SUMTER COUNTY  
SUMTER SCHOOL DISTRICT BOARD OF TRUSTEES

Appellate Case Number 2017-000615

Sumter School District, ..... Respondent,

vs.

Stara S. McLeod, as Mother and Natural  
Guardian of R.J.S., a Minor Under  
Eighteen (18) Years of Age, ..... Appellant.

MOTION TO REINSTATE APPEAL

April 12, 2017

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Pursuant to Rule 240, South Carolina Appellate Court Rules, Appellant Stara S. McLeod, as Mother and Natural Guardian of R.J.S., a minor under eighteen (18) years of age, hereby moves before this Court for an Order reinstating Appellant's appeal to the South Carolina Court of Appeals from the decision of Respondent Sumter School District Board of Trustees upholding the determination made by the Hearing Panel and the Superintendent's transferring the Minor to an alternative school in lieu of expulsion. By Order filed March 31, 2017, and received by Appellant's attorney on April 3, 2017, this Court dismissed the appeal.

The appeal was dismissed upon the following grounds: S.C. Code Ann. § 59-63-250 (2004) (providing for the appeal for transfers made by an administrator to the board); *Byrd v. Irmo High Sch.*, 321 S.C. 426, 468 S.E.2d 861 (1996)(distinguishing the statutory procedure for suspensions and expulsions, and concluding that the statutes do not provide for suspensions to be appealable to the circuit courts absent clear language to the contrary); *Davis v Sch. Dist. of Greenville Cty.*, 374 S.C. 39, 46, 647 S.E.2d 219, 223 (2007)(finding circuit court lacked subject matter jurisdiction to entertain the Board's decision to transfer a student).

Because Appellant's Motion is based upon an underlying dispute of facts giving rise to the offense charged, and due to the fact that the Board of Trustees ("Board") failed to render a decision from the hearing held before it, she begs the Court's indulgence in allowing her to present her grounds for reinstatement of her appeal to the Court of Appeals and to accord her motion due consideration despite the fact that, on its face, the controversy may appear to be entitled to only a cursory disposition.

#### STATEMENT OF THE CASE

Appellant received a Notice of Suspension/Expulsion from the Sumter School District Administrative Office Annex dated January 4, 2017, informing her that the Minor was in the

process of being suspended from Ebenezer School for a period of ten (10) days. The reason for the suspension was stated as "Harrassment." The date of the suspension was given as "1/4/17 – 1/18/17." The following statement appeared in the section designated as "Rights."

As a parent or guardian you are requested to contact an administrator of this school within 48 hours of the date of this suspension notice for the purpose of arranging a conference. You must appear for a conference with the administrator prior to your child's re-entry in school. A proposed time and place for the conference is: Date \_\_\_\_\_ Time \_\_\_\_\_.

There was a check mark in the block labeled "Suspension Pending Expulsion Notice." The notice contained a warning that the Minor would be subject to further disciplinary action as well as being subject to the criminal charge of trespassing if she trespasses on any school ground, rides through a school ground, enters a school building or attempts to ride a School District school bus during the period of suspension. (*Notice of Suspension/Expulsion dated January 4, 2017, Appellant's Exhibit #1*)

Ebenezer Middle School sent a Notice of Expulsion Recommendation dated January 4, 2017, to Appellant informing her that the Minor had been recommended for expulsion for the remainder of the school year, and that she was suspended from school, effective 1/4/2017 to 1/18/2017. The reason given for the suspension and expulsion recommendation was as follows:

012 Harrassment-Category 4  
Accumulation of Offenses:                    YES                    NO X

The notice stated that an evidentiary hearing before the expulsion panel was scheduled for Thursday, January 12, 2017, at 9:30 A.M. at which she should present all testimony and evidence she wished to have considered by the expulsion panel, and that she may come to the hearing with legal counsel if she wished. She was required to give notice by telephone to a number provided at least 48 hours prior to the scheduled hearing if she planned to be represented by legal counsel and that failure to do so may result in postponement of the hearing. The notice advised that a

suspended student's presence on any Sumter School District property/bus or at any school-sponsored activity on/off campus will be subject to the criminal charge of trespassing. (*Notice of Expulsion Recommendation dated January 4, 2017, Appellant's Exhibit #2*)

The evidentiary hearing was held on January 12, 2017, and Appellant was represented at the hearing by counsel. Both sides presented evidence and had the opportunity to cross examine witnesses who testified.

By letter dated January 18, 2017, Respondent's Assistant Superintendent for School Services informed Appellant of the Panel's determination that the Minor did commit the offense for which expulsion was recommended and was in violation of Sumter School District Code of Conduct, JICDA-R. The letter stated that after review, the Superintendent had assigned the Minor to Brewington Academy in lieu of expulsion for the 2016-1017 school year and gave instructions concerning enrollment. The letter informed Appellant that Sumter School District would provide transportation for the Minor to attend the program and reiterated that the Minor is prohibited from entering any other Sumter School District school grounds or attending any other school activity on or off campus not sponsored by Brewington Academy. Appellant was advised that she had the right to make a request in writing to appeal the decision to the Board provided she did so within five (5) days of this notification and gave further instructions concerning an appeal. (*Letter from Dana Fall, Assistant Superintendent for School Services, dated January 18, 2017, Appellant's Exhibit #3*)

On January 20, 2017, Appellant's counsel sent a letter by fax and U.S. Mail to Respondent requesting a formal hearing before the Board. In a letter dated January 26, 2017, sent via certified and regular mail, Respondent's Superintendent advised counsel that the matter would be considered by the Board at the meeting on February 13, 2017, in executive session at

7:15 P.M. and that the Board would attempt to adhere to this scheduled time. The letter addressed the procedure for hearings on appeal and also enclosed Policy JKE and Administrative Rule JKE-R pertaining to expulsion of students. (*Letter from J. Frank Baker, Superintendent, dated January 26, 2017, Appellant's Exhibit #4*)

Appellant appeared with Counsel at the Board Meeting on February 13, 2017. In executive session, Appellant's Counsel presented her case to the Board. No decision concerning the appeal was announced at the Board Meeting. By letter dated February 14, 2017, and sent via certified and regular mail, Superintendent Baker informed Appellant's Counsel that "[t]he Board, at its meeting on February 13, 2017, took no action on this matter. Therefore, the disciplinary decision of the hearing panel is upheld." (*Letter from J. Frank Baker dated February 14 2017, Appellant's Exhibit #5.*) Appellant appealed the Board's lack of action and resulting upholding of the hearing panel's decision on her Appeal to the South Carolina Court of Appeals.

#### ARGUMENTS

Appellant would respectfully argue that this Court erred in dismissing her appeal and urges the Court to consider the following arguments with regard to the grounds for dismissal.

**1. S.C. Code Ann. § 59-63-250 (2004) (providing for the appeal for transfers made by an administrator to the board)**

Appellant does not question the reliance by the Court upon the two-sentence provision of Section 59-63-250, the final sentence of which provides: "The parents or legal guardian may appeal a transfer made by an administrator to the board." Appellant respectfully argues that S.C. Code Ann. § 59-63-250 (1976), as amended, is unconstitutional in that, as demonstrated in this case, it is used as a device to deprive the Minor of due process of law in violation of article

1, § 5 of the South Carolina Constitution and of Amendment XIV to the United States Constitution.

Appellant did appeal her transfer by the Superintendent to the Board; her attorney made the presentation to the Board on her behalf; the Board received the appeal; however, the Board failed to rule upon or act in any way at the final stage of the process provided by § 59-63-250. The decision being that because the Board failed to take action on the appeal, the disciplinary decision of the hearing panel is upheld.

Appellant was one of six students whose appeals came before the Board for consideration on February 13, 2017. The Superintendent recommended to the Board that the disciplinary decision of the hearing panel for each of the six students be upheld. By vote, the Board accepted the recommendation of the Superintendent for four of the six students and upheld the disciplinary decision of the hearing panel. The Board took no action with regard to the remaining two students and by default, the disciplinary decision of the hearing panel was upheld. The Board did not issue a decision concerning the Appellant beyond the statement in the letter to her counsel stating that because the Board took no action on her appeal, the disciplinary decision of the hearing panel was upheld. Upon request of Appellant's Counsel for the Respondent to identify the number by which the Minor was identified, he received a copy of the Minutes from February 13, 2017, meeting with student number two highlighted. Based upon this information, Appellant cites an excerpt from the Minutes reflecting consideration of her appeal by the Board as follows:

Upon recommendation of the superintendent that the disciplinary decision of the hearing panel be upheld for student number two, there was no motion. There was no alternative motion. The decision of the disciplinary hearing panel stands as is.

*(Minutes of Sumter School District Board of Trustees Regular Meeting Monday, February 13, 2017. Appellant's Exhibit #6)*

Appellant maintains the disciplinary panel committed error in its determination that the Minor did commit the offense for which expulsion was recommended in that the action she is accused of committing does not come within the charge of harassment as set out in the Respondent's policies.

The hearing panel recommended expulsion. The Superintendent changed the hearing panel's expulsion recommendation and assigned the Minor to Brewington Academy in lieu of expulsion. The distinction is that expulsion is controlled by § 59-63-240, which provides that "[t]he action of the board may be appealed to the proper court." However, the Minor's transfer to another school in lieu of expulsion is governed by § 59-63-250, which provides no legal remedy beyond an appeal to the Board.

Appellant presented evidence and testimony throughout the process and arguments before the Board that, in light of the facts in this case, the offense leveled against the minor by the Respondent was excessive, arbitrary, and did not conform to Respondent's published disciplinary policy; therefore she did not commit the offense charged. The Notice of Suspension/Expulsion issued by Administrator DeWit on January 4, 2017, gave the reason for suspension as "Harrassment." (*Appellant's Exhibit #1*) The Notice of Expulsion Recommendation dated January 4, 2017, signed by Administrator Barrineau stated the reason for suspension and expulsion recommendation as "012 Harrassment-Category 4."

The Respondent published a flyer entitled **Targeting Harassment, Intimidation, or Bullying**, Grades 6-12, which defined harassment in the following manner:

#### **What is Harassment?**

Harassment is also unwanted acts of aggression towards others. Under federal civil rights laws, harassment is unwelcome conduct demonstrated to others that is based on race, national origin, color, sex, disability or religion that is severe,

pervasive or persistent, and creates a hostile environment or an unsafe environment.

*(Sumter School District Flyer, Appellant's Exhibit #7)*

The Respondent's Code of Conduct classifies the offense of which the Minor is accused as "012 Harrassment-Category 4," and it is designated among the "most serious offenses" of the four categories of disciplinary offenses, including homicide and other serious criminal offenses.

*(Sumter School District Code of Conduct, page 3, Appellant's Exhibit #8)*

The Safe School Climate Act, § 59-63-120, Definitions, describes harassment in the following manner:

As used in this article:

(1) "Harassment, intimidation, or bullying" means a gesture, an electronic communication, or a written, verbal, physical, or sexual act that is reasonably perceived to have the effect of:

(a) harming a student physically or emotionally or damaging a student's property, or placing a student in reasonable fear of personal harm or property damage; or

(b) insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.

No evidence presented at the evidentiary hearing before the Hearing Panel in the form of written statements or sworn testimony reflect that the Minor's actions constituted harassment under the definitions of harassment set forth in the Respondent's flyer, its Code of Conduct or in § 59-63-120. Nevertheless, the Panel determined that the Minor did commit the offense for which expulsion was recommended, and that she was in violation of Sumter School District Code of Conduct, JICDA-R. Appellant asserts that the facts and circumstances in this case reveal that the Panel's determination is not supported by substantial evidence in this record.

Furthermore, no accumulation of offenses was involved that impacted this incident, and the Minor's other infractions were for violation of the Respondent's dress code. A review of her grades revealed that her grades were average and above in all of her classes. Except for being talkative, there were no negative comments recorded by her teachers.

The Superintendent assigned the Minor to Brewington Academy in lieu of expulsion for the 2016-2017 School Year. Under § 59-63-250, the immediate result of the transfer was that Appellant was barred from having the accusation against her and the penalty imposed upon her reviewed by the proper court. The long-term effect of the transfer includes, but is not limited to the following:

a. Except for attendance at Brewington Academy or events sponsored by Brewington Academy, the Minor was barred from any School District property/bus or any school-sponsored activity on or off campus. Therefore, the Minor was not allowed to attend any events on School District property in which her family members and friends were involved.

b. Brewington Academy is operated by the Respondent as an alternative school and characterizes itself as "the home of a second chance." (*Excerpt from Brewington Academy Student Handbook 2016 – 2017, Appellant's Exhibit #9*) Students enrolled at Brewington Academy have been deemed in need of a second chance after exhausting their opportunity to succeed in a traditional school setting. Hence, the negative connotations associated with the Minor's attendance at an alternative school will become a part of her permanent school record.

c. The Minor was performing well academically at Ebenezer Middle School. It remains to be seen how the transfer to Brewington Academy will affect her grades.

Appellant argues that the facts in this case do not constitute harassment as contemplated by the Respondent's Code of Conduct or the Safe School Climate Act. Therefore, the Respondent's allegation of harassment under the scenario here, the recommendation of Expulsion, and the subsequent transfer of the Minor to an alternative school is excessive and overly punitive in nature. However, the Appellant stands deprived of a chance to have a

substantive review of her case due to the limitations and ambiguity in the governing statute and the cursory handling of her appeal by the Board.

Section 59-63-250 is silent as to judicial review seeking legal redress beyond appeal to the board. The Board's failure to rule in this case reveals the susceptibility of this statute to be used to perpetuate serious miscarriages of justice. The ambiguity in this law leaves open to interpretation and speculation the availability of an appeal beyond the level of the board and in which judicial forum an appeal should be filed. Appellant suggests that the provision was intentionally crafted in such a manner as to unconstitutionally bar the Minor from pursuing her due process rights.

For example, § 59-63-240, included under the section addressing "Expulsion for remainder of year; hearings." states in pertinent part: ". . . The pupil may be suspended from school and all school activities during the time of the expulsion procedures. *The action of the board may be appealed to the proper court. . . .*" Unlike § 59-63-240, which provides direction for appeal "to the proper court," § 59-63-250, appears to imply that there is no further legal remedy beyond appeal to the board, and makes no reference to judicial review.

2. ***Byrd v. Irmo High Sch.*, 321 S.C. 426, 468 S.E.2d 861 (1996)(distinguishing the statutory procedure for suspensions and expulsions, and concluding that the statutes do not provide for suspensions to be appealable to the circuit courts absent clear language to the contrary)**

Notwithstanding the statutory language of § 59-63-250 when read in conjunction with *Byrd v. Irmo High Sch.*, 321 S.C. 426, 468 S.E.2d 861 (1996), Appellant asserts that judicial review of her appeal is required due to the justiciable controversy which exists concerning whether or not the underlying charge of harassment was the proper charge for the subject offense which resulted in the ensuing life-altering penalty of being assigned to an alternative school for more than half of the remaining school year.

*Byrd, supra*, cites *Wachesaw Plantation East Community Services Ass'n, Inc. v. Alexander*, 414 S.C. 355, 778 S.E.2d 898 (2015) which addresses the issue of mootness and the three general exceptions to the mootness doctrine.

In the civil context, there are three general exceptions to the mootness doctrine. First an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review. Second, an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matter of important public interest. Finally, if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case.

*Wachesaw*, 414, S.C. 355, 359, 778 S.E.2d 898, 900.

Appellant has filed this appeal in the South Carolina Court of Appeals seeking review of this justiciable controversy under *Byrd, supra*, and under the exceptions provided by the South Carolina Supreme Court in *Wachesaw, supra*.

3. ***Davis v Sch. Dist. of Greenville Cty.*, 374 S.C. 39, 46, 647 S.E.2d 219, 223 (2007)(finding circuit court lacked subject matter jurisdiction to entertain the Board's decision to transfer a student).**

The Supreme Court's holding in *Davis, supra*, is clear that § 59-63-250 does not permit an appeal to the circuit court in instances where there is a transfer in lieu of expulsion. However, the Court reasoned that judicial review is available beyond the administrative level.

Statute governing the transfer of a student to another school as a disciplinary sanction does not provide for appeal beyond the school board level and thus does allow for appeal of board's decision to a court. (Emphasis supplied)

*Davis v. School of Greenville County*, 374 S.C. 39, 647 S.E.2d 219 (2007) headnote 1.

Appellant argues that, although *Davis, supra*, does not allow for administrative appeals beyond the Board of Trustees, the plain language of *Davis* does provide for appeal of the Board's decision to "a court." Furthermore, the Administrative Procedures Act provides as follows:

A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this article, Article I and Article 5. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy. **Except as otherwise provided by law, an appeal is to the court of appeals.** (Emphasis added)

S.C. Code Ann. § 1-23-380 (2005)

In the Editor's Note stating the legislative intent behind this provision of the Administrative Procedures Act and amendments thereto, the following explanation is given. "This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and **to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling.**" (Emphasis added)

S.C. Code Ann. § 1-23-380 (2005), History: 2006 Act No. 387, § 53, effective July 1, 2006.

In addressing the definition of "agency" as it pertains to school boards, the South Carolina Court of Appeals cited the Administrative Procedures Act in deciding *Stinney v. Sumter School Dist. 17*, 382 S.C. 352, 675 S.E.2d 760 (2009), reh'g denied May 2009, cert. granted April 9, 2010, S.C. Code Ann. § 1-23-310(2) (2005), as amended by Act No. 334, §3, 2008 S.C. 3301, 3303 (defining "agency" as "each state board, commission, department, or officer **other than the legislature, the courts, or the Administrative Law Court**, authorized by law to determine contested cases.") (Emphasis in original) *Stinney v. Sumter School Dist. 17*, 382 S.C. 352, 359, 675 S.E.2d 760 (2009), reh'g denied May 2009, cert. granted April 9, 2010, reversed on other grounds by *Stinney v. Sumter School Dist. 17*, 391 S.C. 547, 707 S.E.2d 397 (2011).

Rule 203(2)(A), SCACR, gives the following instructions on where to file appeals from administrative tribunals: "Appeals from a decision of the Public Service Commission setting

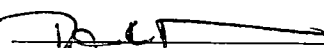
public utility rates pursuant to Title 58 of the South Carolina Code of Laws shall be filed with the Clerk of the Supreme Court. Unless otherwise required by statute, all other appeals from administrative tribunals shall be filed with the Clerk of the Court of Appeals.” Thus, Appellant’s appeal was properly filed in the South Carolina Court of Appeals.

#### SUMMARY

Appellant was granted the right to appeal to the Board of Trustees. The failure of the Trustees to render a decision on her appeal rendered the statute providing for appeal a nullity and deprived her of due process under art 1, § 5 of the South Carolina Constitution and Amendment XIV of the United States Constitution leaving her without recourse under § 59-63-250. “The foregoing does not mean however that the right of appeal is beyond the reach of constitutional protection. “Where a right of appeal is granted, an accused must be afforded due process and equal protection of the laws in its exercise.” *State v. Lagerquist*, 254 S.C. 501, 506, 176 S.E.2d 141, 143 (1970).

For the foregoing reasons, Appellant’s Motion to Reinstate her Appeal should be granted, and the Minor should be granted judicial review of the actions of the Board by the South Carolina Court of Appeals.

April 12, 2017

  
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EXHIBITS

<u>Exhibit Number</u>	<u>Motion Page Number</u>
1. Notice of Suspension/Expulsion dated January 4, 2017 .....	1, 6
2. Notice of Expulsion Recommendation dated January 4, 2017 .....	3
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# SUMTER SCHOOL DISTRICT

1109 North Pike West • PO Drawer 2039 • Sumter, South Carolina 29151-2039 • (T) 803.469.8536 • (F) 803.469.6006

## Notice of Suspension/Expulsion

Appellant's Exhibit #1  
PENAD 800-631-6989

Student's Name: Rayauna Spann

Date: 1/4/17

Administrator: Dewit

School: Ebenezer

Parent Name: Mrs McLeod

Address: 3525 Delaware Dr.

City/State: Dalzell SC

Dear Mrs. McLeod:

You are hereby notified that Rayauna Spann is in the process of being suspended from this school for a period of 10 days. The following basic steps have taken place: (1) The student has been given an (~~oral~~ or (✓) written notice of the offenses against him/her, and if he/she denied them, (2) he/she has been given an explanation of the evidence that the administration has, and (3) has been given an opportunity to present his/her version of what happened. This student may re-enter school on N/A provided a parental conference has been held.

Reason for suspension: Harassment

Date(s) of suspension: 1/4/17 - 1/18/17

**THE NOTICE OF SUSPENSION** will be placed in the student's permanent record and will be subject to removal if the suspension is vacated.

**WARNING:** If this student trespasses on any school ground, or rides through a school ground, or enters school building, or attempts to ride on a Sumter School District school bus during the period of suspension, this student will be subject to further disciplinary action as well as being subject to the criminal charge of trespassing.

**RIGHTS:** As a parent or guardian, you are requested to contact an administrator of this school within 48 hours of the date of this suspension notice for the purpose of arranging a conference. You must appear for a conference with the administrator prior to your child's re-entry to school. A proposed time and place for the conference is:

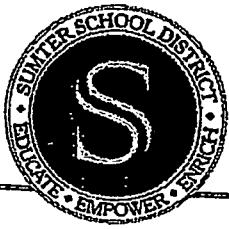
Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SUSPENSION PENDING EXPULSION NOTICE:**

It is with regret you are notified that the offense(s) committed by \_\_\_\_\_ warrants a recommendation for expulsion, therefore an evidentiary hearing date of \_\_\_\_\_ has been scheduled at the Sumter School District Annex. You will be receiving further notification from the Office of the Chief Federal & External Programs Office.

School: District Office Date: 1/12/17 Time: 9:30 AM

Administrator Signature: [Signature]



# Ebenezer Middle School SUMTER SCHOOL DISTRICT

3440 Ebenezer Road • Sumter, South Carolina 29153 • (T) 803.469.8571 • (F) 803.469.8575

## Notice of Expulsion Recommendation

Appellant's  
Exhibit  
# 2  
PEN#AD 800-631-6989

Student's Name: Rayauna Spann

Date: 1/4/2017

Administrator: Jeff Barrineau

School: Ebenezer Middle

Parent Name: Star McLeod

Address: 3525 Delaware Dr.  
Dalzell, SC 29040

Dear Mrs. McLeod :

It is with regret that I find it necessary to inform you that Rayauna Spann, has been recommended for expulsion for the remainder of the school year. Your child is suspended from school, effective 1/4/2017 to 1/18/2017. The reason(s) for the suspension and expulsion recommendation is as follows:

012 Harrassment-Category 4

Accumulation of Offenses: Yes  No

An evidentiary hearing before the expulsion panel is scheduled for your child on Thursday, January 12, 2017 at 9:30 AM. At this hearing you should present all testimony and evidence you wish to have considered by the expulsion panel. You may come to the hearing with legal counsel if you wish. Should you decide to appeal the decision of the expulsion panel, no additional testimony, evidence, or witnesses will be heard at the time of any appeal to the board. Any appeal will be heard and decided on the basis of the testimony and evidence presented to the expulsion panel during the hearing.

Please inform Genovia Thomas in writing or by telephoning 469-6900, ext. 519 at least 48 hours prior to the scheduled hearing if you plan to be represented by legal counsel. Failure to give this notification may result in postponement of the hearing.

Please be advised that a suspended student's presence on any Sumter School District property/bus or at any school sponsored activity on/off campus will be subject to the criminal charge of trespassing.

Administrator Signature:

*Sumter School District is an equal opportunity employer.*



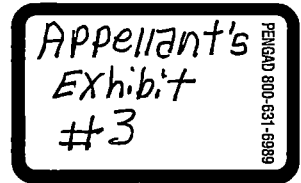
Administrative Office

# SUMTER SCHOOL DISTRICT

1345 Wilson Hall Road • PO Drawer 2039 • Sumter, South Carolina 29151-2039 • (T) 803.469.6900 • (F) 803.469.3769

January 18, 2017

Ms. Star McLeod  
3525 Delaware Drive  
Dalzell, SC 29040



**Reference: Rayauna Spann**

Dear Ms. McLeod:

An evidentiary hearing for your child was held on January 12, 2017, to consider the expulsion recommendation by the principal of Ebenezer Middle School. During the hearing, the school personnel presented evidence in support of the recommendation, and your child was also given an opportunity to present evidence in support of her position. Following a thorough consideration of all the evidence which was presented, the panel determined that your child did commit the offense for which expulsion was recommended and is in violation of the Sumter School District Code of Conduct, JICDA-R.

After review, the Superintendent has assigned your child to Brewington Academy in lieu of expulsion for the 2016-2017 school year. Please contact Mr. Robert Barth, Principal of Brewington Academy, within three (3) days after receiving this letter for information related to the enrollment process. The telephone number is (803) 495-8069. Sumter School District will provide transportation for your child to attend the program. Also your child is prohibited from entering any other Sumter School District school grounds or attending any other school activity on or off campus not sponsored by Brewington Academy.

You have the right to make a request in writing to appeal this decision to the Sumter School District Board of Trustees provided you do so within five (5) days of this notification. The request should be addressed to Mrs. Amy Hansen and mailed or brought in person to the District Office. Or it can be emailed to [amy.hansen@sumterschools.net](mailto:amy.hansen@sumterschools.net). Please write Board Appeal in the subject line of the email.

If you have any questions, please contact Ms. Genovia Thomas at (803) 469-6900, Ext. 519.

Sincerely,

Dana Fall  
Assistant Superintendent for School Services

Cc: Mrs. Marlene De Wit, Principal  
Mr. Robert Barth, Principal  
Ms. Susan Ballard, System Administrator

*Sumter School District is an equal opportunity employer.*



Administrative Office

# SUMTER SCHOOL DISTRICT

1345 Wilson Hall Road • PO Drawer 2039 • Sumter, South Carolina 29151-2039 • (T) 803.469.6900 • (F) 803.469.3769

January 26, 2017

**Via Certified Mail and Regular Mail**

Mr. Dwight Moore  
26 N. Main Street  
PO Box 1229  
Sumter, SC 29150

Re: Rayauna Spann  
Student Disciplinary Appeal

Dear Mr. Moore:

This is written in response to your letter requesting an appeal of the disciplinary decision regarding your client, Rayauna, to the Sumter School District Board of Trustees (Board).

Per your request, the matter will be considered by the Board at the Monday, February 13, meeting to be held at Wilder Elementary School located at 975 South Main Street. The Board meeting will begin with open session at 6:00 PM. You are scheduled to meet with the Board in executive session at 7:15 PM, and the Board will make all attempts to adhere to this scheduled time. The Board will be provided evidentiary hearing results for their consideration. Per Administrative Rule JKE-R, "The student may appeal the decision of the hearing panel to the superintendent or his/her designee, and that decision may be appealed to the Board. No additional testimony will be heard at any appeals. The appeal to the Board may be in person, but it is only an appeal of the evidentiary hearing results." (copy enclosed)

Please call Amy Hansen at 803-469-6900, extension 100 to confirm your attendance. You will receive written notification of the Board's decision within 10 (ten) school days after the February 13 Board meeting.

Sincerely,

J. Frank Baker, Superintendent

Enclosure [Policy JKE and Administrative Rule JKE-R]

C: Board of Trustees  
Marlene De Wit, Principal, Ebenezer Middle School  
Hearing Office

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Appellant's  
Exhibit  
# 4  
PEN#AD 800-831-6989

FEB - 1 2017



Administrative Office

# SUMTER SCHOOL DISTRICT

1345 Wilson Hall Road • PO Drawer 2039 • Sumter, South Carolina 29151-2039 • (T) 803.469.6900 • (F) 803.469.3769

February 14, 2017

Appellant's  
Exhibit  
# 5

PENGAD 800-531-6989

Via Certified Mail and Regular Mail

Mr. Dwight Moore  
26 N. Main Street  
PO Box 1229  
Sumter, SC 29150

Re: Rayauna Spann  
Student Disciplinary Appeal

Dear Mr. Moore:

This is written in response to your letter requesting an appeal of the disciplinary decision regarding your client, Rayauna, to the Sumter School District Board of Trustees (Board).

The Board, at its meeting on February 13, 2017, took no action on this matter. Therefore, the disciplinary decision of the hearing panel is upheld.

If you have any questions, please contact me at 803-469-6900, extension 100.

Sincerely,

J. Frank Baker, Superintendent

C: Board of Trustees  
Marlene De Wit, Principal, Ebenezer Middle School  
Hearing Office

FEB 17 2017

*Sumter School District is an equal opportunity employer.*

**Sumter School District Board of Trustees**  
**Regular Meeting**  
**Wilder Elementary School**  
**975 S. Main Street**  
**Sumter, SC 29150**  
**Monday, February 13, 2017**  
**6:00 PM**

Appellant's  
Exhibit  
#6

PENNAUD 800-631-5939

In accordance with the SC Code of Laws of 1976, Section 4-30-80(e), as amended, the media had been notified of the date, time, place, and agenda.

**Trustees Present**

Linda V. Alston, Area 1  
Karen D. Michalik, Area 2, Vice Chairman  
Lucille S. McQuilla, Area 3  
John B. Hilton, Jr., PhD, Area 4  
Rev. Daryl F. McGhaney, Area 5, Chairman  
Ralph W. Canty, Sr., DMin, Area 6  
Barbara R. Jackson, Doctor of Pedagogy, Area 7, Clerk  
CMSgt. Cheryl Moye, Shaw AFB Representative

**Staff Present**

J. Frank Baker, EdD, Superintendent  
Amy Hansen, Administrative Manager to the Superintendent and Board of Trustees

**Media Present**

Bruce Mills, *The Item*  
Rick Carpenter, *The Item*  
Mike DeSumma, *WIS*  
Loren Thomas, *WLTX*  
Braden Bunch, *Sumter Citizen*

**MEDITATIVE THOUGHT/PLEDGE OF ALLEGIANCE**

Rev. McGhaney invited all to join in a moment of meditative thought and led the Pledge of Allegiance.

**CALL TO ORDER/APPROVAL OF AGENDA**

At 6:00 PM, Rev. McGhaney called the regular meeting to order. Dr. Jackson made a motion to approve the agenda as presented. Dr. Canty seconded, and the motion passed unanimously by a voice vote.

**OPEN SESSION REMARKS**

Rev. McGhaney thanked all in attendance for their continued support. He thanked Wilder Elementary School Principal David Wright for hosting the meeting.

in October of this year. This would bring another 430 military personnel, approximately 1,300 with dependents, to the Sumer area.

Mrs. Michalik visited Chestnut Oaks Middle School as a part of School Board Recognition and noted she was honored to sit in on the School Improvement Council. She was pleased to report there are great things going on at the school including plans for student led meetings at various locations throughout the community.

Ms. McQuilla thanked Mr. Wright and Wilder Elementary School for a wonderful presentation. She attended Spamelot at Sumter High School and visited Millwood Elementary School for Board Appreciation and Bates Middle School's Intergenerational meeting.

Ms. Alston attended Spamelot at Sumter High School and visited Alice Drive Middle School, the district office for strategic planning, and will attend the SCSBA Conference at her own expense. She attended Manchester Elementary School for Board Appreciation where they presented her with a banner that included every student's thumbprint.

Dr. Hilton noted he had a grand time at Rafting Creek Elementary School for Board Appreciation.

Rev. McGhaney extended belated birthday wishes to Dr. Baker, and he thanked Alice Drive Middle School for their recognition of him during Board Appreciation.

#### **EXECUTIVE SESSION**

At 8:16 PM, Mrs. Michalik made a motion that the Board enter into executive session for the discussion of an individual student matter(s)/appeal(s), personnel report (elections, resignations, terminations, transfers), and discussion of employment of employees, discussion of negotiations incident to proposed contractual arrangements and possible receipt of legal advice relating to potential claims, all concerning the financial condition of the district disclosed in the FY 2016 Audit. Ms. Alston seconded, and the motion passed unanimously by a voice vote.

#### **RETURN TO OPEN SESSION**

At 11:20 PM, Ms. Alston made a motion that the Board return to open session. Ms. McQuilla seconded, and the motion passed unanimously by a voice vote.

#### **ACTION REQUIRED**

##### Any Action Related to Executive Session

Upon the recommendation of the superintendent that the disciplinary decision of the hearing panel be upheld for student number one, there was no motion.

Mrs. Michalik made a motion that student number one be returned to her home school on strict probation with parameters set by the superintendent. Dr. Jackson seconded, and the motion passed with six affirmative voice votes. Ms. McQuilla abstained.

Upon the recommendation of the superintendent that the disciplinary decision of the hearing panel be upheld for student number two, there was no motion. There was no alternative motion. The decision of the disciplinary hearing panel stands as is.

Upon the recommendation of the superintendent, Mrs. Michalik made a motion to uphold the disciplinary decision of the hearing panel for student number three. Ms. Alston seconded, and the motion passed with five affirmative voice votes. Dr. Canty and Dr. Hilton abstained.

Upon the recommendation of the superintendent, Ms. Alston made a motion to uphold the disciplinary decision of the hearing panel for student number four. There was no second. The motion died. There was no alternative motion. The decision of the disciplinary hearing panel stands as is.

Upon the recommendation of the superintendent, Mrs. Michalik made a motion to uphold the disciplinary decision of the hearing panel of student number five. Ms. McQuilla seconded, and the motion passed with five affirmative voice votes. Dr. Canty and Dr. Hilton abstained.

Upon the recommendation of the superintendent, Mrs. Michalik made a motion to uphold the disciplinary decision of the hearing panel of student number six. Ms. Alston seconded, and the motion passed with five affirmative voice votes. Dr. Canty and Dr. Hilton abstained.

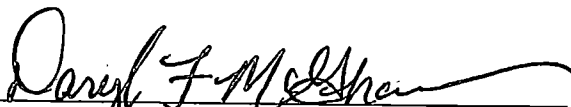
Upon the recommendation of the superintendent, Mrs. Michalik made a motion to approve the personnel report. Ms. Alston seconded, and the vote passed with five affirmative voice votes. Dr. Hilton dissented, and Dr. Canty abstained.


#### CONSENT AGENDA

Dr. Jackson made motion that the consent agenda, which consisted of the minutes for the January 23 work session, be approved. Ms. McQuilla seconded, and the motion passed unanimously by a voice vote.

#### ADJOURNMENT

At 11:27 PM, there being no further business, the meeting was adjourned.

  
\_\_\_\_\_  
Daryl F. McGhaney, Chairman

  
\_\_\_\_\_  
J. Frank Baker, Secretary

# Targeting

## Harassment, Intimidation, or Bullying

### Grades 6—12

Appellant's  
Exhibit  
#7

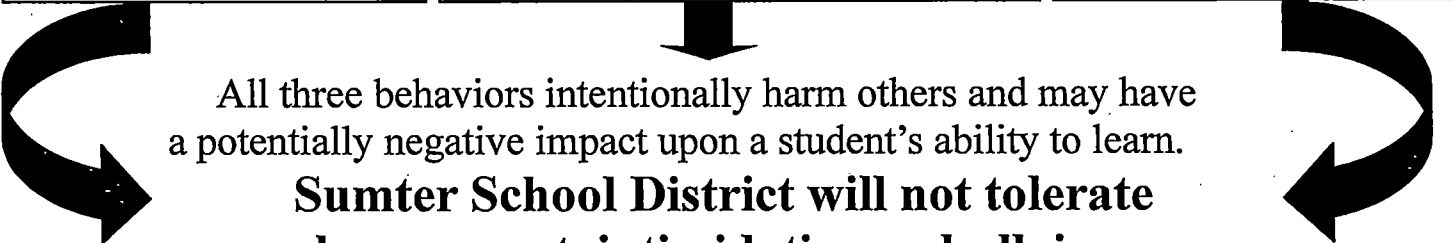
PENGAD 800-631-8989



**“Harassment, intimidation or bullying** means a gesture, electronic communication, or a written, verbal, or physical or sexual act reasonably perceived to have the effect of either:

- harming a student physically or emotionally, damaging a student’s property, or placing a student in reasonable fear of personal harm or property damage; or
- insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school.” (Safe School Climate Section 59-63-120)

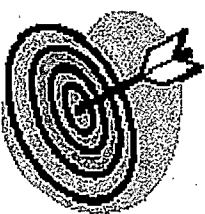
<p><b>What is Bullying?</b> Bullying is unwanted, mean behavior among school-aged children that involves a real or perceived power imbalance. The behavior is repeated or has the potential to be repeated over time.</p>	<p><b>What is Harassment?</b> Harassment is also unwanted acts of aggression towards others. Under federal civil rights laws, harassment is unwelcome conduct demonstrated to others that is based on race, national origin, color, sex, disability or religion that is severe, pervasive or persistent, and creates a hostile environment or an unsafe environment.</p>	<p><b>What is Intimidation?</b> Intimidation is to create fear of harm in individuals for themselves, others or their personal properties.</p>
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All three behaviors intentionally harm others and may have a potentially negative impact upon a student’s ability to learn.

**Sumter School District will not tolerate harassment, intimidation or bullying.**

If any student experiences or witnesses acts of harassment, intimidation, or bullying, **report it to an adult at home or school.**

<p style="text-align: center;"><b>Harassment, Intimidation and Bullying are Serious Problems!</b></p> <p><b>Reports can be made to school staff when the behaviors:</b></p> <ul style="list-style-type: none"> <li>• occur on school premises, on a school bus or other school-related vehicle, at an official school bus stop or at a school-sponsored activity or event;</li> <li>• disrupt or could disrupt the school;</li> <li>• interfere with a student’s right to an education; or,</li> <li>• create an unsafe environment because of the bullying, harassment, or intimidation.</li> </ul> 	<p style="text-align: center;"><b>Things to Know about Reporting</b></p> <ul style="list-style-type: none"> <li>• Reports may be made face-to-face, by phone, or by written report to any teacher, guidance counselor, or administrator. Report forms are on the Sumter School District’s web-page and are available upon request.</li> <li>• Reports can be submitted anonymously which means that the investigator will not reveal who provided the information. The more details given about the bullying incident—the who, when, where, and how—the better the investigation will be.</li> <li>• Your school prohibits retaliation or reprisals to the victim/target or to the witnesses.</li> <li>• Notify staff if the bullying continues. Your school staff will take steps to correct the problem.</li> <li>• False reporting is prohibited.</li> </ul>
--	---

The **BULLY** has power or social support, but he or she is more likely to commit a criminal offense in the future if the bullying behavior continues.

The **VICTIM/TARGET** has less power and social support and may be harmed physically and/or emotionally. The victim/target may feel helpless, hopeless, ashamed, or even blame himself or herself.

**BYSTANDERS** are one or more students who witness the acts and might actively provide support to the bully. Bystanders might not intervene or seek help because they **fear for their safety**, think that they will lose friends, or become a bully's target.

## Harassment, Intimidation, or Bullying is "Peer Abuse."

### Signs That a Student Is Being Harassed or Bullied:

- Is easily distressed
- Shows drop in grades
- Becomes preoccupied and cannot seem to concentrate
- Appears unwilling, reluctant or afraid to attend school
- Has missing or damaged property
- Denies that bullying is happening
- Has few, if any, friends
- Prefers to be alone or withdraws from others
- Has unexplained bruises or cuts
- Complains of not feeling well
- Exhibits poor self-esteem
- Seems depressed or sad



### Report to a counselor, administrator or parent immediately:

- If a student talks about suicide
- If a crime is committed
- If a student is in immediate risk of harm

### What Ways Can "Peer Abuse" Happen?

**Physical:** Examples include biting, kicking, pushing, pinching, hitting, tripping, or pulling hair.

**Verbal:** Examples include sarcasm, teasing, putdowns, name calling, phone calls, spreading rumors, or hurtful gossip.

**Emotional:** Examples include nasty notes, using hand gestures or facial expressions, saying mean things using e-mails, text messaging, social media, or other electronic communication.

**Sexual:** Examples include unwanted grabbing or touching parts of the body, sexual teasing, suggestions, rumors, jokes, threats, obscene gestures, displaying obscene sexual material, or unwanted sexual material electronically.

**Racial:** Examples include racial slurs, name-calling, making fun of skin color, customs, or accent.

**Disability:** Examples include teasing, name calling, or teasing a person because of a physical, educational, or psychiatric disability.

### POSITIVE ACTIONS

Stop and think before you say or do something that could hurt someone.

Think: "Would I want a family member or a friend treated in this manner?"

Find something else to do if you feel like being mean to someone. For example, play a game, listen to music, talk to a friend or an adult, etc.

Keep in mind that everyone is different, not better or worse. People are different.

Apologize to anyone whom you have bullied in the past. Everyone feels better.

#### GET INVOLVED:

- Determine where and when bullying happens at your school.
- Decide what you can do to help.
- Discuss your ideas with the principal.
- Join the safety committee at your school.
- Write a blog or tweet about bullying.
- Write a letter for the school newspaper.

### WHAT TO DO IF YOU ARE BULLIED:

- Make eye contact and tell the bully to stop in a clear, calm voice.
- Laugh or use humor if that is easier for you.
- Walk away and stay away.
- Do not fight back.
- Report the bullying behavior.

#### TO STAY SAFE IN THE FUTURE:

- Make a plan to stop the bullying with the support of a wise friend or an adult.
- Avoid places where bullying happens or remain with a group that will support you.
- Stay in supervised areas.

### WHAT TO DO IF YOU WITNESS BULLYING:

- Interrupt the dynamics of the incident. For example, tell the victim that a teacher is looking for him/her.
- Offer to go with the student to report the bullying.
- Treat the student who is being bullied with kindness. For example, include the target of the bullying in your activities and show you care.
- Do not remain silent because it could create more problems for everyone. The bully will think it is acceptable to treat others badly.

Bullying and harassment are "contagious" if not confronted effectively. Reporting bullying is not tattling. When you report bullying, you are protecting others from harm.

## Sumter School District Code of Conduct

It is the opinion of the board that acceptable student behavior, including the following criteria, is to be expected from all students.

- respect to peers, faculty and staff exhibited through actions and speech
- pride in personal and school property exhibited by taking care of the physical building and respecting the property rights of others
- desire and effort toward educational achievement are to be priorities as exhibited by following teacher/staff direction; reporting to class promptly and consistently; and being prepared to work without interfering with instruction
- obedience to all laws, discipline code, rules and community norms

The board believes that all students should receive fair and consistent discipline when school rules are violated. Therefore, this definitive code on student discipline was developed with the assistance of parents/legal guardians, students and administrators from Sumter School District.

This code will be in effect at bus stops, en route to and from school or school activities, on school buses or in any other school vehicles, on school grounds, at school and at all school-sponsored activities, both on and off campus, and at any time or at any place where the conduct has a direct and immediate effect on maintaining order and discipline in the district schools, buildings, or grounds.

Copies of this code, or a summary thereof, will be transmitted at the beginning of the school year to the parents/legal guardians of each student attending schools in the district. School staffs, students and bus drivers will be trained in this discipline system each year.

Students in grades Pre-K through 12 will participate in code of conduct instructional sessions. Teachers and students will document that instruction has occurred. After instruction has been completed, principals will sign and submit an attestation form to the discipline office.

Each school will provide intervention strategies that address or redirect maladaptive behaviors.

### Student conduct away from school grounds or school activities

The Board expects administrators to take appropriate action when information becomes available about student misconduct away from school grounds or school activities that may have a direct and detrimental effect on or seriously threaten the discipline, educational environment, safety or general welfare of students, faculty, staff, and/or administrators of the district. When assessing the impact of out-of-school behavior on a school, the administrator will take into consideration the seriousness of the alleged out-of-district offense and the protection of students, faculty, staff and administrators from the effects of violence, drugs and/or disruptions.

Administrators are directed to evaluate each situation on a case-by-case basis. At a minimum, administrators or their designees should meet with the student upon his/her arrival at school, give the student notice of the concerns based on the reported out-of-district behavior, and allow the student an opportunity to present his/her side of the story. Based upon all of the circumstances, including a finding that the alleged conduct will have a direct and immediate effect on the school or threatens the discipline, educational environment, safety or general welfare of students, faculty, staff and/or administrators of the school, the administration may either permit the student to attend classes as usual or may take appropriate disciplinary action including, but not limited to, in-school suspension or out-of-school suspension in order to conduct an investigation into the matter. The parents/legal guardians of students will be notified of any action taken by the administration and offered the opportunity for a conference.

In the event the student is arrested or incarcerated based on his/her out-of-district conduct, the principal or his/her designee will notify the student that he/she is to meet with the administration prior to returning to school.

At the conclusion of the inquiries to obtain more information on the matter, the administrator or his/her designee will take appropriate action, which may include, but is not limited to, one or more of the following.

- returning the student to his/her normal class schedule and removing all evidence of suspension
- placing the student on probation and allowing the student to resume his/her normal class schedule
- placing the student on probation, allowing the student to continue class work, but restricting the student's participation in extracurricular activities and/or designated school activities, e.g., clubs, study halls, pep rallies, student government, etc.
- suspending the student
- recommending expulsion of the student from regular school and placement in the District's alternative program
- recommending expulsion but allowing access to virtual school programs through the District's alternative school; these students are only allowed on campus for exams that require a proctor in a virtual school accessed through the District's alternative program, and students not able to successfully enroll will be expelled for the remainder of the school year
- recommending expulsion of the student for the remainder of the year

The disciplinary action taken must be supported by the evidence and take into full consideration the impact of the student's presence at school on the discipline, educational environment, safety or general welfare of other students, faculty, staff and/or administrators.

**Note Regarding Special Education Students:** Administrators must ensure that all procedural safeguards afforded to special education students are also implemented in such circumstances

**Level of Offenses**

Listed below are the four discipline categories for offenses with Category I as the least serious offenses and Category IV as the most serious offenses. Each category also has a listing of corresponding administrative actions.

**Discipline - Category I offenses**

- bus violation (refer to the transportation policy)
- detention violation
- excessive noise
- inappropriate affection
- inappropriate language
- inappropriate materials
- littering
- violation of class rule
- other offenses (minor)

*Category I actions*

Violations in this category may result in, but not exceed, the following administrative actions:

*Grades Pre-K through five*

- 1st - 3rd offense – parent/legal guardian notification/conference
- 4th offense – school counselor referral
- 5th - 10th offense – one to three class days out-of-school suspension

**Discipline – Category II offenses**

- aiding others
- cheating
- confrontation/altercation
- cutting activity
- cutting class
- cutting school
- dishonesty
- disrupting class
- dress code violation
- driving violation
- failure to comply with disciplinary action
- gambling
- horseplay
- ID violation
- inappropriate affection
- larceny/theft
- leaving class
- loitering
- obscene gesture
- off limits (in a restricted area)
- profanity
- refusal to obey/defiant
- running
- tardy
- throwing objects
- tobacco
- unauthorized (use of an electronic) device
- vandalism
- other offenses (minor)

*Category II actions*

Violations in this category may result in, but not exceed, the following administrative actions:

*Grades Pre-K through five*

- 1st offense – warning conference or administrative detention
- 2nd offense – administrative detention and school counselor referral
- 3rd offense – administrative detention and parent/legal guardian conference
- 4th offense – one to three class days out-of-school suspension
- 5th offense – three to five class days out-of-school suspension
- 6th offense – five to seven class days out-of-school suspension
- 7th offense – recommendation for expulsion

**Discipline – Category III offenses**

- bite/pinch/spit
- bullying\*
- computer violation
- contraband
- cyberbullying\*
- fighting\*
- fireworks
- forgery
- gang activity\*
- harassment\*
- hit/kick/push
- inappropriate physical contact
- intimidation\*
- larceny/theft
- leaving school
- loitering
- major disruption
- obscene gesture
- profanity
- property misuse
- refusal to obey/defiant
- simple assault\*
- issue threats
- trespassing
- vandalism
- other minor infractions

*Category III actions*

Violations in this category may result in, but not exceed, the following administrative actions:

*Grades Pre-K through 12*

- 1st offense – one to five class days out-of-school suspension and school counselor referral
- 2nd offense – three to five class days out-of-school suspension and parent/legal guardian conference
- 3rd offense – five to seven class days out-of-school suspension
- 4th offense – recommendation for expulsion

The following aggressive offenses: \*bullying, cyberbullying, fighting, gang activity, harassment, intimidation, and simple assault and any combination of these seven offenses may result in a recommendation for expulsion with the second offense.

**Discipline - Category IV offenses (most serious offenses)**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• aggravated assault</li> <li>• alcohol/liquor law violation</li> <li>• arson</li> <li>• bomb threat</li> <li>• bribery</li> <li>• burglary</li> <li>• computer violation</li> <li>• contraband</li> <li>• contract violation</li> <li>• disturbing school</li> <li>• drug distribution</li> <li>• drug possession</li> <li>• drug usage</li> <li>• embezzlement</li> <li>• extortion</li> <li>• fire alarm</li> <li>• fireworks</li> <li>• forced sexual offense</li> </ul> | <ul style="list-style-type: none"> <li>• fraud</li> <li>• gang activity</li> <li>• harassment</li> <li>• homicide</li> <li>• indecent exposure</li> <li>• intimidation</li> <li>• kidnap/abduction</li> <li>• non-forcible sexual offense</li> <li>• pornography</li> <li>• prostitution</li> <li>• robbery</li> <li>• sexual harassment</li> <li>• sex violation</li> <li>• simple assault</li> <li>• issue threats</li> <li>• vehicle theft</li> <li>• weapons (refer to Policy JICI)</li> <li>• other offenses (serious)</li> </ul> |
|---|--|

*Category IV actions*

Offenses in this category require a suspension and an administrative hearing that may result in expulsion from school. Decisions will be based upon the maturity level and age of the student.

*Grades Pre-K through 12*

- referral to the hearing officer
- suspension until the hearing before the hearing officer which shall take place within 15 days of the written notification at a time and place designated by the hearing board

See administration actions addendum

Students with identified disabilities - notify school psychologist; see discipline for students with identified disabilities addendum

**Administrative actions – Categories I-IV**

The Board of Education and its administration will treat all students with fairness during the resolution of disciplinary matters. Administrative actions may vary based upon the seriousness of behavior and developmental age of the student. The board directs the administration to adhere to due process requirements when making decisions directly affecting students' protected rights under federal and state law in accordance with Policy JIA (Students Due Process Rights). Actions may range from in-school suspension to permanent expulsion.

Administrator must do the following.

- give rudimentary hearing
  - oral notice of charges to student
  - explanation of evidence against student
  - student given opportunity to tell his/her version
- require notification to parent/legal guardian
- require payment for damages, if applicable
- make referral to school counselor or counseling program (required for Category I, Category II, and Category III offenses)

- consider a possible referral to outside agency, as required
- consider a possible referral to law enforcement agency
- require the student to make up class work missed while on suspension in accordance with the district's make-up policy
- require conference with parent/legal guardian when student's behavior results in suspension
- inform the parent/legal guardian that the hearing officer will conduct hearings in accordance with state law and in compliance with board policies (JKE and JKE-R), as required
- investigate alcohol or drug related offenses; see procedures for investigation (JICH and JICH-R); guidelines for drug/alcohol related offenses as provided by the school intervention program

*NOTE: Grades Pre-K through five, parent/legal guardian conference may be used at the discretion of the principal or at schools without an in-school suspension program for Categories I – III.*

**Extenuating, mitigating or aggravating circumstances**

The board confers upon the superintendent or designee the authority to consider extenuating, mitigating or aggravating circumstances that may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate action.

The board realizes extenuating circumstances occur in which a student may bring an unauthorized item to school. Upon realizing the item is in his/her possession, he/she must notify immediately a teacher, staff member, administrator, or school resource officer. However, if the student chooses not to submit the unauthorized item to school officials, and he/she is found in possession of the item, the student must follow the disciplinary process outlined in this administrative rule.

**Transportation**

The preceding student discipline code applies to student behavior en route from the bus stop to and from school and back to the bus stop on a school bus or other school vehicle.

In addition to discipline procedures outlined in this code, principals may add or substitute the following sanctions.

- three class days suspension from buses
- five class days suspension from buses
- seven class days suspension from buses
- 10 class days suspension from buses
- recommendation for permanent bus suspension\*

Parent/Legal guardian notification is required for a bus suspension.

*Actions based on the number of offenses*

*Grades Pre-K through five*

- 1st offense – warning
- 2nd offense – parent/legal guardian conference
- 3rd offense – one class day bus suspension
- 4th offense – three class days bus suspension
- 5th offense – five class days bus suspension
- 6th offense – 10 class days bus suspension
- 7th offense – recommendation for permanent bus suspension\*

*\*At the end of the first semester, principals may recommend probation if the student has been suspended from the bus for more than 45 days. If a student on probation receives one referral, the student will receive permanent suspension from the bus for the remainder of the school year.*

**Discipline for students with an identified disability**

Students identified as disabled pursuant to the Individuals With Disabilities Education Act (“IDEA”) will be disciplined in accordance with federal and state law as set forth in special education procedures developed by the administration.

Appellant's  
Exhibit  
#9  
PENAD 800-631-6989

## WELCOME TO BREWINGTON ACADEMY

### Building Character and Promoting Educational Excellence

Welcome to a new, exciting school year at Brewington Academy—where we enforce strict rules and regulations, help build student character, and promote academic skills. What you are holding represents the work of the faculty, staff, students, and administrator of our school. This is your guidebook to enable you to achieve academic and social success while attending Brewington.

We, the staff of Brewington Academy, have set forth the guidelines in this agenda to ensure that every student is given the opportunity to return to their respective home schools through character building, group and individual counseling, and academic counseling. Any student who accepts the services given to them will be able to return to their home school with good grades, good attendance, and good behavior.

**Brewington Academy is the home of second chance. We encourage every student to utilize the second chance to learn from his/her mistakes, to embrace the character building techniques taught, and to move forward to a successful future. Yesterday is a cancelled check; Tomorrow is a promissory note; Today is the only cash you have, so spread it wisely. – Kim Lyons.**

The faculty, staff, and administrators are readily available to serve each student and their parents upon request. The staff can be contacted by calling the school at (803) 495-8069 or contacting them through their email information listed below:

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SUMTER COUNTY  
SUMTER SCHOOL DISTRICT BOARD OF TRUSTEES

Appellate Case Number 2017-000615

RECEIVED

APR 13 2017

SC Court of Appeals

Sumter School District, ..... Respondent,

vs.

Stara S. McLeod, as Mother and Natural  
Guardian of R.J.S., a Minor Under  
Eighteen (18) Years of Age, ..... Appellant.

ATTORNEY'S AFFIDAVIT IN SUPPORT OF  
MOTION TO REINSTATE APPEAL

Personally appeared Dwight C. Moore who, upon being first duly sworn, deposes and says the following in support of the Appellant's Motion to Reinstate Appeal:

1. Affiant is duly licensed to practice law in the State of South Carolina, and he is a member of the South Carolina Bar in good standing.
2. He represents the Appellant in the within case and states to this Court that the facts alleged in the Motion are true and correct of his own knowledge, except for those matters alleged upon the basis of information and belief and as to those, he believes it to be true, that the supporting Exhibits are authentic, and that a justiciable controversy exist for determination by judicial review in the South Carolina Court of Appeals.

Further deponent sayeth not.

Dwight C. Moore  
Dwight C. Moore, SC Bar No.: 63008  
Moore Law Firm, L.L.C.  
26 North Main Street  
Post Office Box 1229  
Sumter, South Carolina 29151-1229  
Telephone (803) 778-6520  
Fax (803) 775-6365  
Email: moorelawfirm@ftc-i.net  
Attorney for Appellant

Sworn to before me this  
12th day of April 2017.

Daisy M. Moore (L.S.)  
Signature of Notary Public

Daisy M. Moore  
Printed Name of Notary Public  
Notary Public for South Carolina

My commission expires: 01-13-2027

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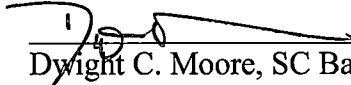
Stara S. McLeod, as Mother and Natural  
Guardian of R.J.S., a Minor Under  
Eighteen (18) Years of Age, ..... Appellant.

PROOF OF SERVICE

I certify that I have served the Motion to Reinstate Appeal in the above-referenced case upon the Respondent on April 12, 2017, by depositing a copy of the same in the United States Mail, postage prepaid, addressed to the *Pro Se* Respondent as follows:

Sumter School District  
C/O Dr. J. Frank Baker, Superintendent  
1345 Wilson Hall Road  
P. O. Box 2039  
Sumter, SC 29151-2039

April 12, 2017

  
Dwight C. Moore, SC Bar No.: 63008  
Moore Law Firm, L.L.C.  
26 North Main Street  
Post Office Box 1229  
Sumter, South Carolina 29151-1229  
Telephone (803) 778-6520  
Fax (803) 775-6365  
Email: moorelawfirm@ftc-i.net  
Attorney for Appellant

**Dwight C. Moore**

*Attorney at Law*

26 North Main Street

P.O. Box 1229

Sumter, SC 29151-1229

Office: (803) 778-6520

Fax: (803) 775-6365

E-Mail: moorelawfirm@ftc-i.net

April 12, 2017

VIA FEDERAL EXPRESS

The Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RECEIVED

APR 13 2017

SC COURT OF APPEALS

Re: Sumter School District vs. Stara S. McLeod, as Mother and Natural Guardian of R.J.S., a  
Minor Under Eighteen (18) Years of Age  
Moore File Number: 4770.4

Dear Ms. Kitchings:

Enclosed are Moore Law Firm Check in the amount of \$25.00 for the filing fee and the original  
and six (6) copies of the following documents to be filed in the above-referenced case.

1. Motion To Reinstate Appeal containing a Citation of Authorities
2. Attorney's Affidavit in Support of Motion to Reinstate Appeal
3. Proof of Service

Also enclosed are copies of the documents with the exception of the check. Please have the  
copies file-stamped and returned to this office in the enclosed postage prepaid, self-addressed  
envelope.

Under cover of a copy of this letter, copies of documents 1-3 are being served upon the  
Respondent.

Yours very truly,

*Dwight C. Moore*

Dwight C. Moore

DCM:dmm

Enclosures

c: Sumter School District  
C/O Dr. J. Frank Baker, Superintendent  
1345 Wilson Hall Road  
P. O. Box 2039  
Sumter, SC 29151-2039

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RECEIVED  
APR 13 2017  
SC Court of Appeals

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FedEx Standard Overnight Next business afternoon. \* Saturday Delivery NOT available.

FedEx First Overnight Earliest next business morning delivery to select locations. \* Saturday Delivery NOT available.

FedEx 2Day Second business day. \* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Express Saver Third business day. \* Saturday Delivery NOT available.

4b Express Freight Service \*\* To most locations. Packages over 150 lbs.

FedEx 1Day Freight Next business day. \*\* FedEx shipments will be delivered on Monday unless SATURDAY Delivery is selected. FedEx 1Day Freight Booking Fee.

FedEx 2Day Freight Second business day. \*\* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx 3Day Freight Third business day. \*\* Saturday Delivery NOT available.

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Indirect Signature If no one is available at recipient's address, someone at a neighboring address may sign for delivery for residential deliveries only. Fee applies.

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No  Yes Shipper's Declaration not required.  Dry Ice Dry Ice, 5, UN 1845 \_\_\_\_\_ kg

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