

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

J. Mark Hayes Jr., Circuit Court Judge

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SC Court of Appeals

Docket Case No.: 2015-CP-11-0828
Appellate Case No. 2017-001466

Sharon Brown,

Appellant,

VS.

Cherokee County School District,

Respondent.

SUPPLEMENTAL RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) BEFORE THE BOARD OF TRUSTEES
COUNTY OF CHEROKEE) OF CHEROKEE COUNTY SCHOOL
DISTRICT

Dr. Quincie Moore,
Complainant,
vs.
Sharon Brown,
Respondent.

 COPY

TRANSCRIPT OF THE TEACHER DISMISSAL HEARING

Wednesday, October 7, 2015
6:35 p.m. - 10:45 p.m.

Held at the Cherokee County School District Office
141 Twin Lake Road, Gaffney, South Carolina 29341

Board Members Present:
Cheryl Smith, Board Chairman
Barry Bailey
Billy Blackwell
Elaine Fowler
Robin Harper
Tracy Moore
Mark Nix

Attorney for the Board:
Kenneth E. Darr, Jr., Esquire

Andrea E. White, Esquire representing the Complainant
Fletcher N. Smith, Jr., Esquire, representing the
Respondent

1 **MADAM CHAIR:** Good evening, I am Cheryl Smith,
2 Chair of the Cherokee County School District Board
3 of Trustees. We're here to consider the
4 recommendation from the Superintendent to dismiss
5 Ms. Sharon Brown from her position as a teacher at
6 Luther Vaughan Elementary School. The date and time
7 of the hearing was set in accordance with State Law.
8 Through her counsel, Ms. Brown has requested that
9 this hearing be conducted in executive session.
10 Counsel has agreed that witnesses will be
11 sequestered and brought in individually to testify.
12 The hearing is being conducted in the presence of a
13 court reporter who will prepare a verbatim
14 transcript of these proceedings. In addition to the
15 members of the Board, we have Mr. Ken Darr, of the
16 law firm of Lyles, Darr and Clark, with us as a
17 special counsel to the Board of Trustees to advise
18 us on any legal matters that may arise during this
19 hearing. Also in attendance are Dr. Quincie Moore,
20 Superintendent; Ms. Andrea White, counsel for the
21 administration; Ms. Sharon Brown, employee; and Mr.
22 Fletcher Smith, counsel for Ms. Brown. Ms. White,
23 please identify all other counsel and/or
24 administrators who are present for this
25 administrative hearing.

1 **MS. WHITE:** Madam Chair, I don't have any
2 other counsel here. We do have Dr. Carl Carpenter
3 in the room, and he's actually going to serve as a
4 witness, so once the witnesses are sequestered, he
5 will be leaving with our other witnesses.

6 **MADAM CHAIR:** Mr. Smith, please identify all
7 other counsel and/or persons present for the
8 employee's case.

9 **MR. SMITH:** We have Ms. Brown, of course, and
10 this is her mom, and that's the only three people
11 we'll have. Her mother will not be a witness in
12 this case.

13 **MS. WHITE:** And we don't have any objection to
14 her mother staying.

15 **MR. SMITH:** Thank you.

16 **MADAM CHAIR:** Are there any other persons
17 whose names were not announced?

18 **MS. WHITE:** The only other individuals are Ms.
19 Tonya Moss who serves as the Board secretary, and
20 then our witnesses who are Ms. Nan Ruppe, Ms. Beth
21 Owens, Mr. Justin Kelly, and Ms. Tracie Wilson.

22 **MADAM CHAIR:** Our hearing will proceed as
23 follows: Number 1, each counsel will give a brief
24 opening statement of five minutes or less. Number
25 2, the administration will begin its case for

1 dismissal, and the employee's counsel and Board ,
2 Members may examine all witnesses and documents
3 presented by the Administration. Number 3, at the
4 conclusion of the Administration's case, the
5 employee will present her case against dismissal,
6 and the Administration's counsel and Board Members
7 may examine all witnesses and documents presented by
8 the employee. Number 4, rebuttal and reply
9 witnesses may be allowed at the discretion of the
10 Board to be determined at the time, an appropriate
11 time during the hearing. Number 5, while we do not
12 expect many objections to documents or witnesses, I
13 will rule on any such issues such, during the course
14 of the hearing in consultation with our Board
15 counsel and subject to the majority vote of the
16 entire Board. Number 6, at the conclusion of the
17 testimony, each counsel will have the opportunity to
18 give a brief summation of five minutes or less,
19 rebuttal and reply arguments may be allowed at the
20 discretion of the Board to be determined at the
21 time, an appropriate time during the hearing.
22 Number 7, the Board will then deliberate in
23 executive session at the close of the summation.
24 The Board will vote in open session and announce its
25 decision. Within ten days a written decision of the

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1 Board will be issued consistent with the Board's
2 announced decision, the evidence presented, and the
3 law. We don't want to cut anybody off from
4 presenting relevant information that is necessary or
5 useful to our decision in this matter, but we would
6 like to keep the hearing to a reasonable length and
7 would ask each side to limit their presentations to
8 only those witnesses and documents that are relevant
9 to the issues contained or referenced in the
10 Director of Human Resource's letter dated June 1st,
11 2015, placing Ms. Brown on administrative leave, and
12 the Superintendent's letter dated August 11th, 2015,
13 recommending dismissal. We don't wish to take up
14 everyone's time with evidence that is irrelevant or
15 merely cumulative. Are there any questions or
16 concerns from either side about anything that has
17 been said or done so far? Mr. Smith?

18 **MR. SMITH:** Not from the claimant.

19 **MS. WHITE:** And none from the Administration.

20 **MADAM CHAIR:** Are we ready to proceed?

21 **MS. WHITE:** We are.

22 **MR. SMITH:** Yes, ma'am.

23 **MS. WHITE:** And I guess at this time, Madam
24 Chair, would it be appropriate for us to go ahead
25 and sequester the witnesses? So if all of you would

1 head to the back and then Ms. Moss will come get you
2 when it's your turn. Mr. Kelly, since you're our
3 first witness, why don't you just wait right outside
4 the door out there.

5 **MADAM CHAIR:** We will have a brief opening
6 statement not to exceed five minutes. Ms. White.

7 **MS. WHITE:** Thank you, Madam Chair and members
8 of the Board. First of all, I appreciate the Board
9 courtesy in agreeing to postpone this hearing until
10 this evening due to the situation we experienced in
11 Columbia. This is one of the most difficult
12 decisions that a Board has to make to terminate the
13 employment of a teacher in the District, and we
14 recognize that. We believe that once you hear from
15 all of the witnesses in this matter that you will
16 find that the legal phrase that you hear is that Ms.
17 Brown has manifested an evident unfitness for
18 teaching. It's kind of an awkward turn of phrase,
19 but it comes right out of the Teacher Employment and
20 Dismissal Act, and that particular statute sets
21 forth different grounds. It's not all inclusive,
22 but it sets forth different grounds for which an
23 employee can be terminated without the need for the
24 Administration to go through a situation where they
25 provide notice of deficiency, suggestions for

1 improvement and time to improve, and that's what
2 we've got here. We refer to them sometimes as a 430
3 case, which is a conduct case. And beginning on May
4 28th of 2015 and continuing through July 31st of
5 2015, there is an unfolding sequence of events that
6 ultimately led Dr. Moore on August the 11th to advise
7 Ms. Brown that she was recommending her immediate
8 termination. And in your packets there you've got
9 copies of statements from all the witnesses who will
10 testify. You've got a copy of the letter from Dr.
11 Moore, then we also are going to show you some
12 videos that are not of the incident in question, not
13 of the May 28th incident, but which show you the
14 school and where different people were located. So
15 that's the purpose for having this TV tonight. So
16 we are going to do this in chronological order
17 starting with the initial event on May 28th and then
18 going through until the point on July 31st when Ms.
19 Brown and her attorney met with Dr. Moore and myself
20 and Dr. Carpenter. And so we would just ask you to
21 listen carefully, which I know you will, to all of
22 the witnesses for the Administration, and also
23 listen very carefully to Ms. Brown because she
24 deserves a full and fair hearing. This is a serious
25 matter. We are seeking to terminate her employment,

1 terminate her livelihood, but we believe that when
2 you hear all the evidence you'll find that that is
3 in the best interest of the students of the Cherokee
4 County School District. Thank you.

5 **MR. SMITH:** Madam Chairman, members of the
6 School Board, I am proud to be here in front of you
7 today. Thank you all for having me. I have the
8 distinct honor and privilege to represent Sharon
9 Brown, and we are going to prove to you that this
10 first witness that they call, this man by the name
11 of Justin Kelly, is a liar. There will be no
12 witness, not even the alleged victim in this case
13 that will confirm that Ms. Brown grabbed this child
14 by the throat violently and choked him, forcing his
15 body against the wall, proceeding to verbally
16 assault him. But we're going to prove it to you.
17 There is no witness that's going to testify other
18 than this fellow that that happened. We are going
19 to show you even from the witnesses statements in
20 there there's only one witness that says that Ms.
21 Brown touched the child's face to pull his face
22 around. But we're going to prove to you that the
23 child, and this is the key, this is the key
24 evidence. If this child had been mistreated on a
25 second grade level, this child would have been

1 crying based on what they are saying she did. This
2 child never cried, and when Ms. Ruppe did her
3 investigation she found out that the child said that
4 Ms. Brown had never, had never touched him. The
5 same thing Ms. Brown is going to tell you. So the
6 victim in this case being the child, because that's
7 what we're all here about, will tell you in the
8 statement on three occasions that Ms. Brown never
9 touched him. We're also going to demonstrate to you
10 that under South Carolina law they say they put Ms.
11 Brown under administrative leave on June the 1st,
12 told her not to speak to any employees. Well, a
13 Kathy Golden called her on June the 3rd, and we're
14 going to prove to you that she received a letter
15 from a Mr. Carpenter on June the 11th, and that she
16 spoke to Ms. Tracie Wilson on June the 5th in a Ross
17 store. Now why is that important. It is important
18 because counsel right here, Ms. White, lost a case
19 in the Court of Appeals where the employee spoke to
20 an employee after receiving instructions from the
21 Superintendent not to speak to anybody, that
22 employee spoke to three other people in the
23 investigation. The Court of Appeals sent Ms.
24 White's client home and ruled in favor of the
25 teacher, and said that the School Board under those

1 circumstances was wrong for firing that person. We
2 have that case and we're going to present it to you
3 for your review. We're also going to demonstrate
4 with the testimony, there's going to be some
5 confusion in terms of what Ms. Brown said to Ms.
6 Ross in the, or Ms. Beth Owens in the Ross
7 Department Store as things do. But there's no tape
8 recording, and I believe you all have to operate
9 under substantial evidence test or substantial
10 evidence in terms of who is telling the truth, who
11 is not telling the truth, but Ms. Quincie Moore she
12 made a determination that she was going to fire Ms.
13 Brown because she believed that there was two
14 incidents. Now the fact is, I respect the
15 Superintendent, I think we have to respect all of
16 our public officials, but the key point is, nobody
17 in the witness statements says there were two
18 incidents, nobody says there were two incidents.
19 There was only one incident. And the other thing
20 about it according to her letter was that she was
21 going to take the word, not of the child who said
22 nobody touched him, not Ms. Brown who said she never
23 touched the child, but the two witnesses that said
24 she did. Now in any Court of law, that's a tie or
25 beyond because you've got a child saying he was

1 never touched, never cried, even when the mama
2 interviewed her own child, the child said that Ms.
3 Brown never touched him. And if Ms. Brown had, they
4 had an obligation to call law enforcement right then
5 and say Ms. Brown assaulted a child and cart Ms.
6 Brown away in jail because we have a duty under
7 South Carolina law to report any abuse of children
8 to law enforcement. I think there was a
9 superintendent over in Easley or somewhere went to
10 jail as a result of that, of not doing it. So Ms.
11 Brown has never been accused of a crime, the
12 family's not accusing her of a crime. They want to
13 get Ms. Brown, they paid her a quarter of a million
14 dollars about three or four years ago in a case we
15 represented on a settlement, and Ms. Brown has been
16 a thorn in their side since then. So we're asking
17 you all to let's have an open mind, of course,
18 listen to the facts and circumstances that we
19 believe at the conclusion of this, you will make a
20 determination that Ms. Brown has been with this
21 District for 17 years with three master's degrees to
22 improve herself to be a teacher, and still fit to be
23 a teacher in your classroom here in Cherokee County.
24 Thank you very much.

25 **MADAM CHAIR:** The Administration may now

CHEROKEE COUNTY SCHOOL DISTRICT DISMISSAL HEARING 11

1 present its case in support of the recommendation of
2 dismissal of Ms. Brown.

3 **MS. WHITE:** We would call Justin Kelly. If
4 you could have a seat right over here, and the court
5 reporter is going to swear you in after you take a
6 seat there.

7 **MR. JUSTIN KELLY**, being duly sworn, testifies as follows:

8 **MR. KELLY - EXAMINATION BY MS. WHITE:**

9 Q: Mr. Kelly, if you could, state your name for the
10 record, please.

11 A: My name is Justin Kelly.

12 Q: And you are employed as a teacher with the Cherokee
13 County School District?

14 A: I am.

15 Q: How many years have you been a teacher with the
16 district?

17 A: This is my second year.

18 Q: And what do you teach?

19 A: I teach art.

20 Q: And last year during the '14-'15 school year, where
21 did you work?

22 A: Luther Vaughan and Mary Bramlett.

23 Q: So you were between the two schools? Halftime at
24 Luther Vaughan and halftime at Mary Bramlett?

25 A: Two days at each.

1 Q: Okay. Now so that was your first year as a teacher?

2 A: Yes, ma'am.

3 Q: When during that school year, I understand that
4 you worked with Ms. Brown as one of the second grade
5 teachers?

6 A: That's correct.

7 Q: How well did you and Ms. Brown know each other?

8 A: Not very well. I only saw her once a week cause I
9 see each class once a week, so really just kind of
10 in passing.

11 Q: And prior to May the 28th of 2015, had you made any
12 complaint about Ms. Brown to your principal, Ms.
13 Ruppe?

14 A: I mentioned one time about Ms. Brown not coming to
15 pick up her students, just a casual mention.

16 Q: And when you say not coming to pick up her students,
17 what do you mean?

18 A: Well, not being on time. Pickup time was at 2:00.
19 Sometimes it would reach out to 2:05, 2:10, 2:15.
20 It just would depend on the day.

21 Q: Okay. So you just mentioned that to Ms. Ruppe that
22 she was late?

23 A: Uh-huh.

24 Q: So did Ms. Brown's students come to you for the last
25 period of the day?

1 A: Last class of the day.

2 Q: That would be approximately what time to what time?

3 A: Well, it ends at 2:00 and they have 40 minutes with
4 me, so 1:10, right in there.

5 Q: 1:10, 1:15, something like that?

6 A: 1:10, 1:15.

7 Q: And would Ms. Brown generally accompany her students
8 down to the art room?

9 A: Sometimes she would walk them down and wait by my
10 door. Sometimes she would stand in the hall and
11 watch them go into the room at a distance. It would
12 just depend.

13 Q: Okay. Now I'm going to

14 **MS. WHITE:** And hopefully, you all, we can get
15 this, too.

16 Q: Can you see Mr. Smith, I don't know if you and Ms.
17 Brown want to

18 **MR. SMITH:** Yes, ma'am.

19 Q: Okay.

20 **MS. WHITE:** Can all the Board members see
21 that? Just to explain what this is, we had some
22 we actually had Mr. Walker go out to the school
23 with a, with a video camera and actually with Mr.
24 Brown, I'm mean Mr. Kelly, just to show where his
25 classroom is and where he is going to testify that

1 he observed what he observed so that you all can
2 kind of have a better idea rather than just hearing
3 him talk about it, you can, you can visualize it.

4 Q: So turning your attention to May the 28th, I'm going
5 to go to this first video here, and we're going to
6 fast forward here to okay, there's your art
7 room, correct?

8 A: Yes, ma'am.

9 Q: And there's a couple different ways in there, as I
10 understand it.

11 A: Three.

12 Q: And that's the little theater back over there?

13 A: Yes, ma'am.

14 Q: All right. And we're spanning again. All right.
15 Now let's pause it right there. Okay. Is that the
16 where does that door go to, the door where
17 you're standing right there?

18 A: This door leads on to the hall where Ms. Brown's
19 classroom would be.

20 Q: And on May the 28th of 2015, am I correct in
21 understanding that Ms. Brown's students were coming
22 in through that door as opposed to the door that,
23 that they usually used?

24 A: Yes. They usually used the door attached to the
25 little theater, but because there was a program that

1 day, the little theater was blocked off, and so they
2 had to use my side doors.

3 Q: And would you generally stand at the door as the
4 students came in?

5 A: I always stand at the door.

6 Q: Okay.

7 A: Every day.

8 Q: So now on May the 28th, let's go to the next video
9 which is number two here, and this is the little
10 theater through there that you can barely see there
11 where it says lions den, and this is your room
12 again, is that correct, right there?

13 A: Yes, ma'am. Both entrances.

14 Q: So fast forwarding again, so are you standing there
15 about where you would stand to watch the students
16 come down?

17 A: Yes, ma'am.

18 Q: On May 28th were you standing where you're standing
19 in this video?

20 A: Exact position.

21 Q: And so it looks like the door is about halfway open?
22 I don't even know if it goes all the way back to the
23 wall.

24 A: It can.

25 Q: Okay. But so it's about halfway there?

1 A: Uh-huh.

2 Q: All right. So as you're standing there, of course
3 there's no children here because this video was
4 taken when, when there was nobody there, where were,
5 where were Ms. Brown's students coming from?

6 A: From her classroom.

7 Q: Uh-huh.

8 A: And they always file down the blue line.

9 Q: Okay.

10 A: On that side of the hall.

11 Q: The blue line right here?

12 A: Yes, ma'am.

13 Q: All right. So it looks like you're looking through
14 the crack of the door there. Is that were you
15 on that day?

16 A: Yes, ma'am.

17 Q: Now where could you see Ms. Brown in, in looking at
18 this?

19 A: I saw Ms. Brown standing towards the first turn from
20 my room, not quite towards her room, her room being
21 the second corner, so she was watching her class
22 coming to my room from the first corner.

23 Q: Okay.

24 A: The first hallway.

25 Q: And so we're not going to call the student in

1 question by his name, okay, because of student
2 confidentiality, so we're going to refer to him as
3 Student J.

4 A: Yes, ma'am.

5 Q: As they were coming down the hallway and, and you're
6 standing at the door there kind of watching them
7 come down, where was Student J in terms of placement
8 in the line?

9 A: Student J was the end of the line about four to five
10 feet kind of straggling behind.

11 Q: Okay. And what did you see as you were watching
12 through that ... well, let me ask you this first.
13 About how wide is the crack in the door there?

14 A: Um, three and a half inches, three inches.

15 Q: Okay. So as you were watching them come down the
16 hall, what did you see as far as Ms. Brown's
17 interactions with Student J?

18 A: Well, at first I saw Ms. Brown standing in the same
19 position. When Student J was about seven feet I
20 would say from my door, then I saw Ms. Brown make a
21 U-turn. As she it looked as if she was
22 proceeding towards her classroom, but quickly turned
23 around as Student J made it at this point
24 Student J is walking around my door. I pulled it
25 closed a little bit, because from where I'm

1 standing, I look inside my classroom to check on the
2 students who have already entered, and I could still
3 see Student J from the crack. I pulled it closed a
4 little, enough for him to slip in. Before he,
5 before Student J got to, to that door handle, I see
6 Ms. Brown come around the door and put her hands on
7 Student J, force him to the side of my door, and
8 proceed to put her hand on the lower chin and under
9 the neck forcing him to the wall at a distance of
10 about three feet, I would say.

11 Q: All right. Now looking at this video and the
12 position of the door there, and in terms of what you
13 described, would this have been the position of the
14 door when you saw Ms. Brown do what you just related
15 to the Board?

16 A: Yes, ma'am.

17 Q: Okay. So about where, and here's a pointer right
18 here, I'm going to get up and show, about where was
19 Ms. Brown as, as you saw this happen?

20 A: At about near the outlet or just beyond in pretty
21 close proximity.

22 Q: Okay. Let's see for a second. Do you think that
23 she do you know if she saw you?

24 A: I do not believe she did.

25 Q: And why do you say that?

1 A: Because when she put her hands on the student, she
2 kneeled down, and her face was on the opposite side
3 of the student. His left ear, and I was on the
4 right, and she was, seemed focused on telling him
5 something.

6 Q: Could you hear what she was saying?

7 A: I could not hear the words, but I could hear the
8 tone.

9 Q: And what was the tone?

10 A: The tone seemed like an angry tone towards the
11 student.

12 Q: And in looking at this again, is that, does that
13 show about where the door was positioned there?

14 A: Yes, ma'am.

15 Q: And again that's where you were standing?

16 A: Yes, ma'am.

17 Q: On that day?

18 A: I don't leave the door until all students are in.

19 Q: Now after you observed this with Ms. Brown, did the
20 student come into your class?

21 A: Yes, ma'am.

22 Q: And what was his demeanor when he came into your
23 class?

24 A: He looked a little upset.

25 Q: Was he crying?

1 A: No, ma'am.

2 Q: How was the student's demeanor normally with you? I
3 mean at this point you'd been with him pretty much
4 all year.

5 A: He's a, just a jolly kid. I would describe him as
6 just happy, generally happy.

7 Q: And am I correct that he is an ESOL student?

8 A: Yes, ma'am.

9 Q: English for students of other languages or English
10 is his second language?

11 A: Yes, ma'am. His English is kind of broken.

12 Q: Okay. Now after observing this, I understand that
13 you didn't immediately report it, is that correct?

14 A: That is correct.

15 Q: And why is that?

16 A: I never expected to see this happen in school. I've
17 never been taught what to do. We're kind of given
18 generic ways to conduct ourselves as teachers. No
19 one says that this, this is a possibility that a
20 teacher would do this. So initially shocked,
21 confusion what to do, what should I do? Should I
22 jump in, and then I thought to myself this is going
23 to make a direct confrontation between me and Ms.
24 Brown. I was really unsure of myself of what to do
25 in this situation.

1 Q: And so that, this was on a Thursday?

2 A: Yes, ma'am.

3 Q: And Friday was field day/literacy day at Luther
4 Vaughan, and at some point during the day on that
5 Friday did you report it?

6 A: Yes, ma'am.

7 Q: Who did you go to?

8 A: I went to our guidance counselor, Ruby Byers. It
9 had been on my mind all that night thinking how to
10 handle the situation. Should I, I talk to the
11 student the next day the next day, make sure he's
12 okay? When he came back in my classroom, he seemed
13 fine. I didn't know at the time if it was going to
14 be a right thing to do to bring it up again, so I
15 went to Ms. Byers. She's just a really friendly
16 employee that I felt comfortable talking to just as
17 a new teacher, and she suggested that the right
18 thing to do would be to take it to our principal.

19 Q: And did you do that?

20 A: I did immediately.

21 Q: And took it to Ms. Ruppe?

22 A: Yes, ma'am.

23 Q: And did she ask you to prepare a written statement?

24 A: She did.

25 Q: And did you provide that?

1 A: Directly after that.

2 Q: And I believe Board members that is the first
3 document that you have in your packet there is this
4 statement from Mr. Kelly. Now on the following
5 Monday, which would have been June the 1st, did you
6 meet with Dr. Carpenter and Ms. Ruppe?

7 A: I did.

8 Q: And at that time were you asked again what had
9 happened?

10 A: I was.

11 Q: And then sometime later on in late June, early July,
12 did you meet with Dr. Moore and Dr. Carpenter?

13 A: Yes, ma'am.

14 Q: And did they again ask you what had occurred?

15 A: Yes, ma'am.

16 Q: Since this happened, have you had any interactions
17 at all with Ms. Brown?

18 A: No, ma'am.

19 Q: Now at some point on this day, on May 28th, you had
20 your kids, once, once Student J came into the room,
21 I assume you carried on with your, with your class?

22 A: That's correct.

23 Q: At some point did Tracie Wilson come into the room?

24 A: She did.

25 Q: Was that at the start of class or after you had

1 already had all the students in there?

2 A: I, I had the students in, and proceeded on with my
3 class. I would say maybe five to 10 minutes in,
4 then she knocked on my door, I let her in.

5 Q: And she's the behavior interventionist?

6 A: She is.

7 Q: And did she come in occasionally to assist with some
8 of Ms. Brown's students?

9 A: With one particular student.

10 Q: And that was not Student J, as I understand it?

11 A: No, ma'am.

12 Q: But you're certain that Ms. Wilson was not in there
13 at the start of your class?

14 A: No, ma'am.

15 Q: And do you know whether or not Ms. Brown came back
16 to the art room after your class had started?

17 A: I'm unsure, I'm unsure if she did or not because Ms.
18 Wilson was standing by my door that leads to her
19 room to the little theater, and I was with my
20 students.

21 Q: So it's possible, but you're just not sure?

22 A: It is definitely possible.

23 Q: And have you had any conversations at all with Ms.
24 Brown since you reported this on May the 29th?

25 A: No, ma'am.

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1 **MS. WHITE:** Those are all the questions that I
2 have for Mr. Kelly.

3 **MADAM CHAIR:** Is there anything else from the
4 administration?

5 **MS. WHITE:** Answer any questions that Mr.
6 Smith might have.

7 **MR. SMITH:** Thank you.

8 **MS. WHITE:** And if you need this, Mr. Smith,
9 it's right here, the mouse.

10 **MR. SMITH:** I don't need it. I don't need it.

11 **MR. KELLY - EXAMINATION BY MR. SMITH:**

12 Q: So let me ask you this, and why it's important at
13 the end is because your statement and the statement
14 of the lady that she just asked you about . . . what
15 was her name?

16 A: Ms. Wilson.

17 Q: Ms. Wilson said that the door was closed when Ms.
18 Brown came in to get that student, did you know
19 that?

20 A: I don't understand.

21 Q: Well, it is that you were in the classroom getting
22 ready to play 7-Ups and all that stuff. You know
23 that game 7-Ups?

24 A: Yes, sir.

25 Q: Ms. Brown came into the room according to this lady

1 and asked the student to come outside in the hall,
2 did you know that?

3 A: No, sir.

4 Q: Huh?

5 A: No, sir.

6 Q: No, sir, that's right. Then that's when she had
7 the, the talk with the child, not when you were
8 standing at that door, sir.

9 A: That's incorrect, sir.

10 Q: Well, that's fine, but the lady who is the best
11 evidence of what went on that day said the door was
12 shut, did you know that, sir? It's in the, it's in
13 the Board's, it's in the Board's statements here,
14 and she said that you had started the class and you
15 all were all playing around, and then Ms. Brown came
16 to the classroom, opened the door, asked the child
17 to come out, and told you all that the child was not
18 in trouble. Then she took the child back, and then
19 she closed the door. Did you know that's in that
20 statement, sir? Sir, do you?

21 A: I don't know.

22 **MS. WHITE:** Madam, Madam Chair, I would just
23 ask that we're not in a court of law here, and I
24 would just ask that Mr. Smith be, be a little more
25 respectful.

1 **MR. SMITH:** Well, I am respectful, but if
2 somebody's telling a lie, I got to bring it out.

3 **Q:** Now the key, sir, is that in your statement you
4 said, you said that not you said today you said

5 she spoke in a angry tone and you couldn't hear it,
6 and then you said she forced him to the wall and she
7 put her hands under his chin, isn't that correct?

8 **A:** No. I said on the chin and under the throat.

9 **Q:** Right. But in your statement you say she, she
10 grabbed the student violently by his lower jaw.
11 Violently. Didn't you say that, sir?

12 **A:** Yes, sir.

13 **Q:** And you said and throat and forcing his body against
14 the wall while proceeding to verbally assault him,
15 is that correct, sir?

16 **A:** Yes, sir.

17 **Q:** Right. And you also said that she was yelling at
18 the child, too, correct?

19 **A:** I did by her tone.

20 **MS. WHITE:** And if you'd like to see your
21 statement, Mr. Kelly, it's right here in the packet
22 of information there, so.

23 **Q:** All right. And then when you got to the statement
24 to Ms. Ruby Byers, you said that she was squeezing
25 his lower face and neck with her hands and yelling

1 at him outside the art room. Do you remember making
2 that statement?

3 A: No, sir.

4 Q: Okay. Well, Ms. Byers wrote it up now. Are you
5 saying Ms. Byers didn't report what you said
6 correctly?

7 A: I am.

8 Q: Okay. So the long and the short of it is the child,
9 did you know the child said that Ms. Brown never put
10 his hands, her hands on him?

11 A: I was aware.

12 Q: All right. And did you know there was another
13 teacher that was allegedly coming down the hall said
14 she just put her fingers on the child's jaw, did you
15 know that?

16 A: I was unaware.

17 Q: You were unaware. So you now let me see now.
18 You reported Ms. Brown in April or so, correct,
19 because you said she didn't bring her children to
20 she didn't pick up children on time, is that
21 correct?

22 A: Possibly, sir. I don't remember the exact date.

23 Q: Yeah, yeah. So you didn't particularly like Ms.
24 Brown, you didn't think she was friendly enough with
25 you, did you?

1 A: That is not true.

2 Q: Well, now let me see. Were you and Ms. Brown
3 friends?

4 A: I only, like I said earlier, I only saw Ms. Brown
5 once a week just to pick up her students. We were
6 just we just worked together.

7 Q: Okay. Now the other thing, too, Mr. Justin Kelly,
8 is that you waited until 3:10 p.m. the next day on
9 May the 29th to make a report, isn't that correct?

10 A: Yes, sir, and I feel guilty every moment.

11 Q: Guilty every moment. Well, let's see. Ms. Ruppe
12 was at the school on May the 28th, right, that
13 evening?

14 A: Possibly. I don't, I'm not sure.

15 Q: Well, according to this other lady who, whose
16 statement is in there, that she reported the
17 touching of the fingers on the child's jaw to Ms.
18 Ruppe that evening, did you know that?

19 A: (Non-verbal response.)

20 Q: All right. So you could have reported it to Ms.
21 Ruppe that evening, correct?

22 A: I'm unsure.

23 Q: You're unsure?

24 A: I'm unsure. I

25 Q: Well, did you go by Ms. Ruppe's

1 **MS. WHITE:** Would you please let the witness
2 finish talking?

3 **MR. SMITH:** Okay. I'm sorry, Madam. I
4 apologize to the Board and everybody.

5 **Q:** But let me ask you this. Could you go into Ms.
6 Ruppe's office? Could you have gone there, sir?

7 **A:** I guess I could have if I had thought, if I had
8 thought to do so. If I had thought to do so, yes, I
9 guess I could have.

10 **Q:** Right, if you thought to do so. All right. Now did
11 you talk to Ms. Beth Owens at any particular time
12 about this incident?

13 **A:** No, sir. I only see her like, just as much as Ms.
14 Brown in passing.

15 **Q:** Now let me ask you this, too. I'm showing counsel
16 this, and this is Ms. Brown's exhibit right here. I
17 just want to see if we get some, some idea about
18 some would you tell me, sir, in relation to
19 this is the art room, right? This is what
20 you're peeking out of?

21 **A:** Okay.

22 **Q:** This is the gym over here, correct?

23 **A:** There's, there's some details missing, but somewhat.

24 **Q:** Okay. Somewhat like that? And then what's down
25 this hallway here?

1 A: The library's on this side, an ESOL class, and there
2 may be another, there may be another room at the
3 very end.

4 Q: Okay. Right. Now you will admit, will you not,
5 that you never put in your statement to anybody that
6 the child was upset, did you? Did you read your
7 statement? Did you put that in there?

8 A: I don't believe so.

9 Q: Right.

10 MR. SMITH: No further questions for this
11 witness.

12 MS. WHITE: And I don't have any other
13 questions.

14 MR. SMITH: Let me ask one more question.

15 Q: How many times did you meet with the, the, the
16 district office attorney to go over this testimony?

17 MS. WHITE: I believe that's attorney/client
18 privilege.

19 MR. SMITH: No, I can ask how many times you
20 met. We do that in criminal court all the time. I
21 can ask how many times, and I'm not going to ask
22 what you all

23 MS. WHITE: That's fine. That's fine.

24 Q: How many times did you all meet, sir?

25 A: Maybe twice.

1 Q: Twice.

2 MR. SMITH: Thank you very much.

3 MS. WHITE: I don't have any other questions
4 for Mr. Kelly, so unless the Board members have
5 questions.

6 MADAM CHAIR: Okay. Then I'll hear from the
7 witness.

8 MS. WHITE: Do any of the Board members have
9 any questions?

10 MADAM CHAIR: Do any of you have any
11 questions? You may be excused.

12 MS. WHITE: And I don't know if Mr. Kelly
13 would want to stay or not and I don't know if you
14 would have any objection to that if he wishes to?

15 MR. SMITH: No.

16 MS. WHITE: You're free, Mr. Kelly, to either
17 stay and have a seat back there or to, or to go,
18 whichever you prefer, but you're excused from, from
19 the witness stand, and one question I neglected to
20 ask you, if I might. Now are you here under
21 subpoena?

22 A: Yes, ma'am.

23 MS. WHITE: And our next witness will be Ms.
24 Nan Ruppe.

25 **(Complainant's Exhibits Numbers One and Two were**

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introduced into evidence.)

MS. WHITE: Ms. Ruppe, if you could have a seat right over here, please, and then the court reporter will swear you in.

MS. NAN RUPPE, being duly sworn, testifies as follows:

MS. RUPPE - EXAMINATION BY MS. WHITE:

Q: Ms. Ruppe, if you could, state your name for the record, please.

A: Nanette Allen Ruppe.

Q: And I believe that you have just retired from the district effective June 30th?

A: June 30, 2015.

Q: You know the date pretty well.

A: I do.

Q: And how many, how many years have you worked or did you work for the Cherokee County School District?

A: Thirty-three.

Q: And how many years as a principal?

A: It was three at Grassy Pond and five at Luther Vaughan, so it was eight.

Q: And I believe you worked with Ms. Brown as her principal for the past three school years, is that correct?

A: Yes, since 2012.

Q: Now turning to May of 2015, which was the end pretty

1 much of the '14-'15 school year, how did you first
2 learn of, of an incident as reported by Mr. Justin
3 Kelly?

4 A: Ms. Byers, my guidance counselor, came to me on
5 Friday. I think it happened the Thursday afternoon
6 before. She came to me on a Friday afternoon and
7 indicated that Mr. Kelly had come to her and wanted
8 advice of what he needed to do, and so I told Ms.
9 Byers that he definitely needed to come see me right
10 away.

11 Q: And did he come see you right away?

12 A: Yes.

13 Q: And I know that he provided a written statement at
14 some point?

15 A: Yes.

16 Q: Prior to him providing that written statement, did
17 you ask him what he had observe?

18 A: He told me what he observed that Friday afternoon,
19 yes.

20 Q: Okay. So it had happened on Thursday, but he's
21 telling you that

22 A: On Thursday afternoon, yes.

23 Q: on Friday.

24 A: Uh-huh.

25 Q: And then after you had the conversation with him,

1 did you assist him in writing his statement?

2 A: No, I did not. He actually left the room. I met
3 with him in the small room, what I refer to as the
4 small conference room which is now Ms. Keller's
5 office. It's the original principal's office. I
6 had moved out of there because it was too congested
7 right there. So we met in there, and he actually
8 left the conference room to go write his statement.

9 Q: And then he brought that back to you?

10 A: He brought it back.

11 Q: After meeting with Mr. Kelly and obtaining his
12 written statement, did you then take some action in
13 response to that?

14 A: Actually while he ~~was~~ as soon as he left the
15 conference room after giving me his account of what
16 happened, I called Dr. Carpenter.

17 Q: You called the district office?

18 A: Yes.

19 Q: To report what had occurred?

20 A: Anything dealing with personnel I always consulted
21 Dr. Carpenter.

22 Q: Now backing up to the afternoon of May the 28th, that
23 Thursday afternoon, do you recall having a
24 conversation with Ms. Beth Owens about something she
25 had observed with Sharon Brown?

1 A: She had actually come to my office for something
2 else, and I do not recall what else it was, but it
3 was nothing to do with Ms. Brown, and as she was
4 getting ready to leave, she, she did indicate that
5 there had been something that she had seen.

6 Q: And later on did she provide a statement to you?

7 A: She provided a statement on Monday.

8 Q: June 1st?

9 A: Right.

10 Q: So getting back to Friday, you called Dr. Carpenter,
11 and did he come to the school on Monday, June 1st?

12 A: He came to the school Monday morning.

13 Q: And who did you all meet with first on Monday
14 morning?

15 A: Justin.

16 Q: Justin Kelly? And were you in there for that
17 meeting?

18 A: Yes.

19 Q: And did he share with you and Dr. Carpenter what he
20 had observed on the 28th?

21 A: Dr. Carpenter conducted all meetings on Monday
22 morning. I was just, I just sat in to, to listen,
23 and so he asked all the questions and everything,
24 and yes, he recounted everything to Dr. Carpenter.

25 Q: And when so that would have been the second

1 time that you had heard Mr. Kelly tell that?

2 A: The second time, yes.

3 Q: Were there any changes?

4 A: None.

5 Q: Were there any deviations from his written
6 statement?

7 A: No.

8 Q: Do you have any opinion on Justin Kelly's
9 credibility having been his principal for

10 **MR. SMITH:** Objection. I believe the issue of
11 credibility is going to be determined by this Board,
12 but not by this witness, and I would object under
13 the Rules of Evidence that she's asking this person
14 to pass judgment on his credibility.

15 **MS. WHITE:** I think that she can give her
16 opinion based on her direct interactions with him.
17 First of all, we're not under the, the Rules of
18 Evidence here in a teacher-dismissal hearing, but I
19 think that she can give a general opinion as to
20 whether or not she had found him to be credible, not
21 with regard to this particular incident, but in her
22 prior dealings with him.

23 **MADAM CHAIR:** Overruled. Okay.

24 Q: Okay. So what just not with regard to this
25 incident

1 **MR. SMITH:** So the objection is sustained. I
2 mean the objection is overruled. That's what needs
3 to be put on the record.

4 Q: In your prior interactions with him, had what
5 opinion did you have as far as his credibility?

6 A: He appeared to be quite credible.

7 Q: Now after meeting with Mr. Kelly, who was the next
8 person that you and Dr. Carpenter met with?

9 A: Ms. Brown.

10 Q: And did Dr. Carpenter conduct that interview with
11 Ms. Brown?

12 A: Yes.

13 Q: Do you recall Dr. Carpenter giving any instructions
14 to Ms. Brown as far as what, how she needed to
15 conduct herself from June the 1st going forward?

16 A: Yes. He indicated that she would be on paid
17 administrative leave and that she needed to be
18 available during the hours of the school day and not
19 to discuss anything about the case with anyone.

20 Q: And had you sat in on other personnel meetings with
21 Dr. Carpenter?

22 A: It's pretty much the same statement that I've heard
23 in previous personnel matters with Dr. Carpenter.

24 Q: As far as that directive not to discuss it with
25 anyone, is that something you had heard him say

1 previously?

2 A: That's something I've heard him say it a couple of
3 other times with some other personnel issues at the
4 school.

5 Q: Did Ms. Brown ask any questions about what that
6 meant as far as her not having discussions with
7 other personnel?

8 A: No.

9 Q: During that meeting, did Ms. Brown provide the names
10 of any witnesses that she wished for the
11 administration to talk with?

12 A: Yes.

13 Q: And who were those witnesses?

14 A: Beth Owens, the second grade teacher, and actually
15 her husband Harvey who is a SLED agent and then
16 there was Tracie Wilson, my behavior assistant.

17 Q: And that Beth Owens was the same one you said had
18 come to you about something else on the 28th, but
19 mentioned something with Ms. Brown?

20 A: Right.

21 Q: All right. And so did you get a statement from Ms.
22 Owens?

23 A: Yes.

24 Q: And did you get a statement from Ms. Wilson

25 A: Yes.

1 Q: as far as what she had seen in the class on May
2 28th?

3 A: Yes.

4 Q: Okay. Now did you talk to, and we're going to call
5 his Student J because of student confidentiality,
6 did you talk to Student J?

7 A: I spoke to him on Monday afternoon.

8 Q: The 1st?

9 A: Uh-huh.

10 Q: And did he indicate whether anything had happened?

11 A: He indicated that nothing happened between him and
12 Ms. Brown that was anything for him to recount.

13 Q: What is his English fluency?

14 A: He's fluent. However, with ESL children, they're
15 often, they often appear to be as fluent as what you
16 and I are right now, but they're not. It's all
17 based on they actually decide what is the fluency of
18 a child or anyone who is speaking English with a
19 second, as a second language. There is a way to
20 determine that whether it's just conversation only
21 or whether it's readability, writability, and all
22 those things, and he speaks English very well. He
23 would he appears to understand everything
24 you're saying.

25 Q: And did you also after speaking with the, with

1 Student J, did you also ask that someone speak with
2 his mother?

3 A: Yes. I knew his mother did not speak English very
4 well nor the father because I had met with them
5 about an older sister earlier in the year, and it
6 was, needed to be translated, so I did get Ms.
7 Torres, our assistant in kindergarten.

8 Q: To speak with Student J's mom?

9 A: Yes.

10 Q: And what did Ms. Torres report back?

11 A: She reported she didn't report the following
12 day because of her absence from school, but on the
13 day after that, which would have been Wednesday, she
14 reported that Mom said that she discussed things
15 thoroughly in Spanish with her son and that there
16 was no indication that anything had been wrong
17 between the child and Ms. Brown.

18 Q: Now later on during the summer, you know, school
19 gets out I think the 3rd was the last day, later on
20 during the summer, did you have a meeting with
21 Tracie Wilson who had already provided one
22 statement, as I understand it?

23 A: Right.

24 Q: Did you have a meeting with her sometime during the
25 week of June the 22nd?

1 A: Yes.

2 Q: And did you initiate that meeting, or did she
3 initiate that meeting?

4 A: She came by because she was putting in for a
5 transfer and I needed to sign the transfer request
6 form, and while she was there, she said that she had
7 had an encounter with Ms. Brown, and Ms. Keller, the
8 new principal, happened to be at school that day and
9 was already in her office and was, had been setting
10 it up, I said I think anything that we discuss at
11 this point we need to discuss in front of Ms.
12 Keller, who will be taking my position, so we went
13 in Ms. Keller's office, and Ms. Wilson recounted a
14 meeting, perchance meeting, that Ms. Brown and her
15 and she had at Ross' I believe is what it was.

16 Q: And Ms. Wilson's going to testify, so I won't ask
17 you to get into that, but did you tell Ms. Wilson
18 what she needed to do as far as that encounter on
19 June the 5th?

20 A: Yes. About the only thing that I said, we listened
21 intently, of course, and then following her recount,
22 I said you need to write a statement. I know you're
23 meeting with Dr. Carpenter soon, and you'll need to
24 provide that statement for him when you go to see
25 him. It might be good to give him a call and let

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1 him know that this is happening.

2 Q: And so did you ever even see that statement?

3 A: No.

4 Q: So she told you?

5 A: I did not see that statement. She told me
6 everything, but I've never seen the statement from
7 that account.

8 Q: And following that meeting with Ms. Wilson sometime
9 the week of June 22nd, have you had any other
10 conversations with her or with Ms. Brown?

11 A: No.

12 Q: Mr. Kelly?

13 A: No.

14 Q: Ms. Owens?

15 A: No.

16 **MS. WHITE:** Those are all the questions I have
17 for Ms. Ruppe.

18 **MS. RUPPE - EXAMINATION BY MR. SMITH:**

19 Q: Ms. Ruppe, thank you for appearing today.

20 A: Thank you.

21 Q: The now, now first of all I guess you and Ms.
22 Brown have had a rocky relationship, is that fair to
23 say?

24 A: I would I have tried my best to form a
25 relationship with Ms. Brown, so to say that we've

1 had a rocky relationship, I wouldn't want to recount
2 it as that, no.

3 Q: All right. And the other thing, too, is you have no
4 personal knowledge about any incident that happened
5 in that hallway on May 28th, isn't that correct?

6 A: No personal? I did not witness it.

7 Q: That's right.

8 A: I did not.

9 Q: And so and I think in fairness you conducted an
10 investigation into it, correct?

11 A: I would say that Dr. Carpenter and I did the
12 investigation together.

13 Q: All right. And I think when you first testified
14 earlier on this evening, you said that the, that
15 your first, when you first learned of this incident
16 through Mr. Kelly, that's what you testified under
17 oath earlier, correct?

18 A: Yes.

19 Q: All right. And then but on that May 28th, you said
20 you received word from another teacher of an
21 incident involving Ms. Brown, correct?

22 A: Right.

23 Q: But you did no investigation at that time to find
24 out whether or not any child with the school
25 district at that point was in danger, did you?

1 A: No, sir, I didn't because of the way it was
2 presented to me, because of the way it had been
3 presented to me by the second grade teacher.

4 Q: Right. And you didn't think that was a serious
5 enough incident to reprimand Ms. Brown at that time,
6 did you?

7 A: Not at that particular moment, no.

8 Q: Right. So it was when Mr. Kelly made his allegation
9 that you thought to ask Ms. Brown about whether or
10 not she actually choked a child by grabbing him by
11 the throat and pushing him up against the wall and
12 yelling at him, right?

13 A: Mr. Kelly's account was quite different from what I
14 had heard the day before.

15 Q: Right. Quite different. Now you and Mr. Kelly, I
16 think you testified earlier, had a pretty good
17 relationship and you believe what he says, isn't
18 that correct?

19 A: I pretty much want to believe all of my teachers.

20 Q: I understand. You want to believe Ms. Brown, too,
21 right?

22 A: Yes, sir, I would.

23 Q: Okay. And you found Ms. Brown credible, too, don't
24 you?

25 A: On occasion.

1 Q: All right.

2 A: Sometimes it's not

3 Q: Okay.

4 MS. WHITE: Let her finish her answer, Mr.
5 Smith.

6 MR. SMITH: I know.

7 A: With Ms. Brown, she's always been very defensive.
8 From day one that she stepped foot into our school,
9 she, she it was a very defensive thing. I
10 tried to I even met with her in a classroom
11 just not even like in an official way just to try to
12 form a relationship, and there was always a
13 defensiveness that came up with Ms. Brown no matter
14 what I wanted to discuss with her even if it was a
15 serious matter or a non-serious matter, and she
16 spoke around and around, and it was very difficult
17 to get to the point. She's just not forthright.

18 Q: Okay. So as I understand it, Mr. Kelly is
19 forthright?

20 A: For the most part he's very matter of fact.

21 Q: Very matter of fact. He reported to you on Ms.
22 Brown on several occasions, correct?

23 A: He, along with some other special ed, special area
24 teachers had reported to me that Ms. Brown did not
25 pick up her children up on time, did not always come

1 to special area on time, and even with PE missed PE
2 a couple of occasions completely.

3 Q: All right. And let me see now. What, what grade
4 did your school have? Was it a failing school, or
5 was it a school that was passing?

6 MS. WHITE: Madam Chair, I don't know what
7 relevance that has to this at all.

8 MR. SMITH: I think it has relevance to see
9 where, where they stood in terms of their teachers
10 and what relationships they have at that school
11 system. It's relevant to that issue. She was the
12 principal.

13 MADAM CHAIR: Would you explain to us what you
14 think is relevant?

15 MR. SMITH: Well, I think the issue is she
16 raised the issue of credibility. I'm testing her
17 credibility under cross examination. I think I have
18 a right to test her credibility under cross
19 examination by asking her that question, and the key
20 is and that's, that's basically it, and I think
21 counselor who is advising you knows that, right
22 counselor?

23 MS. WHITE: I'll make it easy. I'll withdraw
24 the objection and, and let Ms. Ruppe speak to that.
25 I don't think it has any relevance, but I'll

1 withdraw my objection.

2 A: I am very proud of how far Luther Vaughan has come
3 in the last three years. Very. We've got a 22-
4 point gain on the ESEA waiver just last year. We do
5 have a failing, a failing grade right now. We've
6 got a long way, we have a long way to climb, but we
7 had a 22-point gain which was the largest, I might
8 say, of all schools in our district.

9 Q: Yes, ma'am. Thank you very much. Now the and
10 that's what we're really here about, the education
11 of children.

12 A: That is exactly right.

13 Q: Now with regard to Ms. Beth Owens, her statement was
14 completely different than this fellow Justin Kelly.
15 You will admit that, correct?

16 A: Not completely different. She indicated that it was
17 during the art time of Ms. Brown's classroom.

18 Q: Oh.

19 A: There were, there were some similarities, yes, there
20 were, but the way it was presented, the way Mr.
21 Kelly presented on Friday was a much heightened way
22 of, of what took place.

23 Q: And you believe that Ms. Owens was a credible
24 person, too, correct?

25 A: Oh, yes, sir, I do.

1 **MR. SMITH:** That's all the questions I have
2 for Ms. Ruppe. Thank you, Ms. Ruppe.

3 **MS. WHITE:** I don't have any other questions
4 so unless the Board members have any of Ms. Ruppe.

5 **MS. RUPPE - EXAMINATION BY MR. BLACKWELL:**

6 Q: I have a question. Ms. Byers, I believe it is?
7 Byers? You say that person

8 A: Ruby Byers. She's my guidance counselor.

9 Q: That person came and gave you a hint I guess Mr.
10 Kelly had asked advice from her of what to do?

11 A: Well, it wasn't, it wasn't a hint or anything. She
12 was being forthright in coming towards or coming to
13 me immediately telling me. In fact she brought
14 Justin with her. He was just standing out he
15 was outside when she came in to speak to me and said
16 he's come to me, he's talked to me wanting advice.

17 Q: So they came together really?

18 A: He, he came in the conference room not long after
19 Ms. Byers left, so I'm sure that they were closely
20 together, but she didn't he went to her for
21 advice, and she came directly to me. That's exactly
22 what I would have expected her to do, and gave him
23 the right advice that he needed to come see me.

24 **MS. WHITE:** Any other questions for Ms. Ruppe?

25 **MS. HARPER:** I just have one.

MS. RUPPE - EXAMINATION BY MS. HARPER:

Q: So the other lady that had mentioned that incident to you, was that on the 28th, you said?

A: Yes.

Q: Oh.

A: And we had had, we had had a lengthy conversation about something else, not even in regards to that, and it was almost as if it were an afterthought that she added the information that afternoon, yes.

MS. RUPPE - RE-EXAMINATION BY MR. BLACKWELL:

Q: So all of this actually happened at the end of the afternoon on May 28th?

A: Yes.

Q: The last class?

A: Thursday, May 28th, yes.

Q: It happened then, and Beth Owens told you on the 28th?

A: We had a conversation that afternoon.

Q: And Ms. Byers and

A: It was during the class time actually. She had planning at the same time as Ms. Brown.

Q: Byers and Kelly came on the 29th?

A: Right. They came on Friday afternoon.

Q: I believe you said Mr. Kelly, this was his first year teaching?

1 A: First year teaching.

2 MR. SMITH: May I ask one more question?

3 MS. RUPPE - RE-EXAMINATION BY MR. SMITH:

4 Q: You asked Ms. Owens to do a written statement,
5 correct?

6 A: Uh-huh.

7 Q: Right. And that was and she hadn't provided
8 you that written statement until June the 1st, is
9 that correct?

10 A: Correct.

11 Q: And so you didn't think it was serious enough at
12 that particular point, as you've already testified,
13 to have Ms. Owens do the statement on the 29th,
14 correct?

15 A: I asked for statements. Any time someone came with
16 any sort of allegation, it was pretty much customary
17 for me to ask for a statement. You got to realize
18 also at this particular time was a huge event that
19 was going to happen on that Friday at our school.
20 It was the last full day of school before school was
21 out for the summer. We were having a huge literacy
22 day. It was the, it was like the finale for one
23 school one book which was a month-long celebration
24 of reading together as families and community, and
25 it was in conjunction with field day, so it was a

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1 huge event. We had a hotdog lunch. We were
2 expecting well over 500 parents the next day as
3 well, so it was a huge thing happening that very
4 next day.

5 Q: So you're saying that a child's safety

6 A: No, it was not

7 Q: Whoa, ma'am. Let me get my question out.

8 A: I understand. I knew you were going to say that as
9 soon as you started.

10 Q: Well, I mean you're the one that kept spouting off.

11 A: Uh-huh.

12 Q: The key is, the child's safety comes first. You
13 agree with that?

14 A: Exactly. I agree.

15 Q: Thank you.

16 **MS. WHITE:** I don't have any other questions
17 for Ms. Ruppe. Do you have any objection if she
18 wishes to stay or go, so it's up to you, Ms. Ruppe.
19 Okay. And our next witness will be Dr. Carl
20 Carpenter.

21 **(A short break was taken)**

22 **DR. CARL CARPENTER**, being duly sworn, testifies as
23 follows:

24 **DR. CARPENTER - EXAMINATION BY MS. WHITE:**

25 Q: And Dr. Carpenter, if the Board doesn't mind, I'm

1 just going to sit down for a minute. Okay. What
2 if you could, state your name for the record,
3 please, sir.

4 A: Carl A. Carpenter, II.

5 Q: And what is your position with the school district?

6 A: I'm director of human resources.

7 Q: And how long have you had that position?

8 A: This is my, the start of my fifth year.

9 Q: And prior to dealing with the situation with Ms.
10 Brown, you know, in reference to the May 28th
11 incident, have you handled other personnel matters?

12 A: Yes.

13 Q: And have you handled other matters with Ms. Nan
14 Ruppe?

15 A: Yes.

16 Q: Now how did you learn about the May 28th report from
17 Justin Kelly?

18 A: I was contacted by Ms. Ruppe on that Friday, the
19 next day, in terms of an incident happened at Luther
20 Vaughan.

21 Q: And so what was your first reaction following that
22 report?

23 A: I was out of the district that day returning from
24 SARA recruitment session in Columbia, and I actually
25 live in Rock Hill, so when she called, it was about

1 4:20 in the afternoon. I talked to her about what
2 transpired. She had Mr. Kelly already giving a
3 statement. At that point it would have been
4 pointless for me to come back to Gaffney because
5 when I conduct interviews, I like to be face to face
6 with anyone that's involved in the situation, so I
7 told her that I would be out there first thing
8 Monday morning prior to the day being started, so I
9 arrived before 8:00 a.m. to speak to Ms. Ruppe and
10 then the two other folks at that time.

11 Q: Now when you received that report on May the 29th,
12 that Friday, did you report it to law enforcement?

13 A: No, I did not.

14 Q: And why is that?

15 A: I called the superintendent, reported it to her, but
16 I had not conducted an investigation at that time,
17 so I did not feel comfortable reporting that to law
18 enforcement. My initial investigation was going to
19 begin Monday morning, and so I needed to have
20 statements from Ms. Brown and Mr. Kelly, and then at
21 that point decide whether I needed to conduct an, an
22 investigation into the situation.

23 Q: Okay. And when you met with Ms. Brown, what was her
24 reaction when you told her what had been reported by
25 Mr. Kelly?

1 A: She seemed to be somewhat in dismay, that I was
2 present at the building that morning. She adamantly
3 denied that anything had transpired in reference to
4 the student.

5 Q: And so did you ask her for a statement?

6 A: Yes, I asked Ms. Brown to write me a statement that
7 day on June 1st.

8 Q: And in looking at the if you'll pick up the
9 packet of exhibits there and go into the back, can
10 you see where it says statements from Ms. Brown?
11 It's at the very, it's under the very last there.

12 A: Yes, ma'am.

13 Q: Okay. Is the first statement there the one that she
14 gave you on June the 1st?

15 A: Yes, that is the statement she drafted on June 1st.

16 Q: Okay. And when you met with her, did she admit to
17 making any kind of physical contact whatsoever with
18 Student J?

19 A: No, ma'am, she adamantly denied that she ever
20 physically touched Student J at all.

21 Q: Okay. And what did she say had, had occurred with
22 Student J that day if you need to refer to her
23 statement or if you can talk from memory.

24 A: She said that there was a situation with Student J
25 saying that the phrase I hate, and so she was

1 walking down to her classroom and decided to come
2 back and address that situation because she wanted
3 to deal with the phrase I hate. She pulled him out
4 of the classroom to talk to him to address I hate in
5 conference with him about saying the word I hate and
6 felt that she had heard that from another student in
7 her class.

8 Q: And in that statement did she deny making any
9 physical contact with him? Did she specifically
10 address that question?

11 A: No, she never alluded to that. I let them write
12 their own statement and have them reread their
13 statement, and this is what she wrote the first
14 time.

15 Q: Okay. And did you subsequently get another
16 statement from her?

17 A: Yes. Upon review at a later date when I was
18 reviewing my documents, I called Ms. Brown and
19 wanted to ask her specifically, because she had a
20 copy of the statement from Mr. Kelly about violently
21 grabbing the child by the lower jaw and throat and
22 pushing him against the wall and backing against the
23 wall, and she said that she would amend her
24 statement, and email that to me, and she did that on
25 June 8th, and I believe that was on a Monday.

1 Q: And so is that the second statement that's in the
2 packet?

3 A: Yes, ma'am.

4 Q: Okay. Now going back to June the 1st, who all was
5 present with you and Ms. Brown?

6 A: Mr. Kelly was present and Nan Ruppe.

7 Q: But Mr. Kelly was at a separate meeting? So it was
8 Kelly meeting with

9 A: Yeah, it was Kelly and well, do you mean with
10 just Ms. Brown?

11 Q: Right.

12 A: Nan Ruppe. I'm sorry.

13 Q: Okay. And you.

14 A: Yes.

15 Q: Now during that meeting did you give Ms. Brown any
16 instructions about how she could, should conduct
17 herself while she was on administrative leave?

18 A: Yes. She was supposed to have no contact with
19 employees or students, that if she needed to come on
20 our premises, any school grounds, she needed our
21 express permission, and she was to be available if I
22 needed to call her. I asked for a correct contact
23 working phone number, and I do that just in case I
24 have questions in reference to the investigation
25 during that time frame.

1 Q: And did she ask you any questions about that
2 directive that you gave to her?

3 A: No. She understood, seemed to understand the
4 directive, and I told her that I would follow up in
5 a written document.

6 Q: And did you follow up in a written document?

7 A: Yes, ma'am. I composed a letter when I returned to
8 my office that afternoon. It should be dated June
9 the 1st referencing the situation putting her on
10 administrative leave with pay.

11 Q: Now going back in the packet of documents to is
12 that letter in there? Do you see that letter in
13 there behind your name?

14 A: Yes, ma'am.

15 Q: And that letter is dated June 1st?

16 A: Yes, ma'am.

17 Q: As I understand it, it actually was taken to the
18 post office on June the 2nd, is that correct?

19 A: Yes. We give it to our courier.

20 Q: Okay. And how long does it normally take for a
21 letter that's sent certified mail from the post
22 office in Gaffney to get to an address in
23 Spartanburg? What has been your experience with
24 that?

25 A: Generally I've been doing this for five years now,

1 it's turn-around time no longer than three to four
2 days cause it's going from Gaffney to Spartanburg.

3 Q: And in this case, as I understand it, Ms. Brown did
4 not sign for that letter until June the 11th, is that
5 correct?

6 A: That is correct.

7 Q: And can you explain or do you have any, any basis
8 for why it might have taken nine days for it to

9 A: I could not explain why it would take that. As I
10 understand the process, they, they leave a slip
11 indicating that you have some mail to come pick up
12 at the post office, and it's up to the person to
13 come actually pick that up, so I could not explain
14 why she did not pick it up until the 11th.

15 Q: Was there anything different in what you told her on
16 the 1st than what's in that letter dated June the
17 1st?

18 A: The only thing that I would say that I added that it
19 was the administrative leave was for her protection
20 as well as the protection of the student.

21 Q: And that was in the letter?

22 A: That's not in the letter.

23 Q: Okay. That was what you told her?

24 A: Yes.

25 Q: Okay. Now after, after that meeting with her on, on

1 June the first, were you involved in any further
2 discussions with Ms. Brown later on during the
3 summer?

4 A: Yes.

5 Q: Okay. When was that?

6 A: I believe that was July the 31st.

7 Q: Okay. So that was the next meeting with her?

8 A: Yes.

9 Q: Did you attempt to meet with her earlier in July?

10 A: Yeah. When I spoke with Ms. Brown, she said that
11 she did not want to meet without her counsel
12 present, and therefore, it took some time to get
13 everyone together.

14 Q: And did you also meet with the superintendent and
15 Mr. Kelly?

16 A: Yes.

17 Q: And the superintendent and Ms. Owens?

18 A: Yes.

19 Q: And the superintendent and Ms. Wilson?

20 A: Yes.

21 Q: When, when did you first make contact with Ms.
22 Tracie Wilson to let her know that you wished to
23 meet with her?

24 A: I believe it was the 16th of June that I contacted
25 her.

1 Q: So that was when you actually made contact to say I
2 need to talk to you?

3 A: You said Ms. Wilson or Ms.

4 Q: Ms. Wilson, Tracie Wilson.

5 A: Okay. Contacted at the meeting?

6 Q: Right.

7 A: I called her on several occasions, and I tried to
8 set it up. She was out of town on some vacation,
9 and I had gone to some meetings, so it was around
10 that time frame, and we actually finally met I
11 believe on the 25th.

12 Q: Of June?

13 A: Yes.

14 Q: Is it fair to say that it would have been after June
15 the 5th that you contacted Ms. Wilson?

16 A: Yes.

17 Q: And then did you meet with Ms. Wilson on or about
18 June the 30th?

19 A: Yes.

20 Q: And that's when she provided the statement that
21 she'll discuss later about the June 5th encounter?

22 A: Correct.

23 Q: During that meeting on July 31st where Ms. Brown was
24 present, her counsel, I was present, Dr. Moore was
25 present, you, you were present, what do you recall

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1 Ms. Brown saying as far as whether she had made any
2 physical contact with Student J on May the 28th?

3 A: She said that she did not make any contact with
4 Student J period.

5 MS. WHITE: Those are all the questions I have
6 for Dr. Carpenter. Answer any questions that Mr.
7 Smith has.

8 MR. SMITH: Thank you.

9 DR. CARPENTER - EXAMINATION BY MR. SMITH:

10 Q: And that's the same thing as the student said, too,
11 isn't it? Student confirmed that Ms. Brown never
12 touched him, correct?

13 A: Is that a question?

14 Q: Yes.

15 A: Correct.

16 Q: So the student confirmed Ms. Brown never touched
17 him, so under those circumstances Ms. Brown is
18 credible, correct?

19 A: In terms of she said she did not touch the student.

20 Q: All right. Now the other thing too is you have no
21 personal knowledge as to what went on in the
22 hallway, anything of that nature, correct?

23 A: That is correct.

24 Q: You didn't see it, correct?

25 A: Correct.

1 Q: There was no video, correct?

2 A: Correct.

3 Q: No audio in the no sound system in the hallway
4 to hear anything, correct?

5 A: That would be accurate.

6 Q: And as an educator and a person who's an
7 administrator, people can give different renditions
8 of stories. I think Ms. Brown gave a rendition of
9 the story of Tracie Wilson in the Ross Department
10 store over I guess what Tracie Wilson said, too,
11 correct?

12 A: They gave different versions.

13 Q: Right. And the other thing, too, is that with
14 regard to this situation, do you know a

15 **MS. BROWN:** Ms. Bolin.

16 Q: Ms. Kim, Kim

17 **MS. BROWN:** Bolin.

18 Q: Bolin. Do you know Ms. Kim Bolin?

19 A: Not personally, no.

20 Q: Okay. She's an employee of the school district?

21 **MS. BROWN:** She works in the office.

22 Q: And she works in the

23 A: We have 1250 employees, I don't know her personally.

24 **MS. BROWN:** In Luther Vaughan's office.

25 A: I don't we have 1,250 employee, I don't know

1 her personally.

2 Q: Okay.. That's fine. Well, did you know that she
3 contacted Ms. Brown on the 3rd of June?

4 A: I would not have any knowledge of that.

5 Q: Well, and so you didn't send out a directive to all
6 of the employees not to have any contact with Ms.
7 Brown, did you?

8 A: Ms. Brown was placed on administrative leave, and
9 the directive was for her not to contact any
10 employee in reference to the investigation.

11 Q: I understand. But if, if the employees of your
12 school district contact her, she couldn't comply
13 with your rule, could she?

14 A: Well, I'm not sure what you mean by that.

15 Q: Well, you told Ms. Brown not to have any contact,
16 but if you've got people telling her to bring
17 equipment back to the school

18 **MS. BROWN:** Where the equipment was at.

19 Q: Or where the equipment's at, those employees are
20 actually initiating contact with Ms. Brown, aren't
21 they?

22 A: That would be correct if they want to get something
23 returned to the school.

24 Q: So Ms. Brown would have to have contact with the,
25 with the employees of the school at that point?

1 A: Without permission, yes.

2 Q: Correct?

3 A: Without permission, yes.

4 Q: Right. So

5 A: That shouldn't be in, in relationship to the ongoing
6 investigation involving the student.

7 Q: I'm glad you raised that because you say in your
8 correspondence, you say "This correspondence is to
9 notify you that you're being placed on
10 administrative leave with pay effective
11 immediately," correct? "The reason is because you
12 allegedly grabbed a student by his lower jaw and
13 forced his body against the wall," correct?

14 A: Correct.

15 Q: "We will continue to investigate this matter and
16 will be in touch with you soon," correct?

17 A: Yes.

18 Q: And then in your next to the last paragraph, "You
19 are restricted from going on school property without
20 any permission. In addition you should not have any
21 contact with school district employees or students
22 in any matter while you are on administrative
23 leave," correct?

24 A: Correct.

25 Q: Where does it mention the investigation?

1 A: At the top, what do you mean?

2 Q: So

3 A: While we complete the investigation.

4 Q: While you complete the investigation.

5 A: Yes.

6 Q: And the, the key to it then is that if the school
7 equipment and where it is in relation to what the
8 video that she showed had something to do with the
9 investigation, then your employees shouldn't have
10 been contacting her in the first place, should they?

11 A: That would be correct if it had something to do with
12 the investigation.

13 Q: Now the other thing, too, is this Tracie Wilson, Nan
14 Ruppe, and all of, and all the witnesses that you
15 got, not any of those witnesses were ever told not
16 to have contact with Ms. Brown during the
17 investigation, were they?

18 A: Could you repeat that question?

19 Q: None of the other, none of the other witnesses in
20 this case were told to not have any contact with Ms.
21 Brown, were they?

22 A: We only speak to the person who's being accused, and
23 that's Ms. Brown.

24 Q: I understand. But you said for her protection.

25 A: Yes.

1 Q: If it was for her protection, wouldn't it be good to
2 have all the other people to know they're not to
3 speak to Ms. Brown even if they meet her out in
4 public?

5 A: Well, it's for her protection because we want to
6 make sure that the investigation is not tainted in
7 any manner.

8 Q: Right. And I think according to the statement of
9 Ms. Beth Owens or the lady she met in that, in that,
10 in Kohl's store, Tracie Wilson, she was the one that
11 initiated the contact with Ms. Brown out at the
12 store.

13 A: Could you explain that, please?

14 Q: Yes, sir. She said, Ms. Brown, as I understand it,
15 and I could be wrong though, she says, "She said I
16 was in Ross clothing store and checking out when Ms.
17 Brown came in the store, and I said hi to her. I
18 asked her how was her summer going or something
19 about shopping, and she said hi back to me, and she
20 asked me had Dr. Carpenter spoke to me yet or called
21 me," correct?

22 A: If that's what she has in her statement.

23 Q: Right. So the contact was initiated by an employee
24 of the school district that was part of the
25 investigation that had not been told by you or

1 anyone of the administrative staff not to have any
2 contact with Ms. Brown at that point, correct?

3 A: That would be correct.

4 Q: Right. And also when you look at the statement, she
5 had already given a written statement, Ms. Tracie
6 Wilson, a prior statement on June the 1st that she
7 signed 2015 on the same day that you all were
8 talking to all the other witnesses, correct?

9 A: She gave a statement, yes, June 1st.

10 Q: Yeah, June 1st.

11 A: Yes.

12 Q: Right. And so who did she give that statement to?
13 Did she give it to you, or did she give it to Ms.
14 Ruppe?

15 A: That was provided to Ms. Ruppe.

16 Q: All right. And so Ms. Ruppe and you both were
17 conducting an investigation at the same time,
18 correct?

19 A: That would be correct.

20 Q: Right. So you really didn't need to talk to her any
21 more since Ms. Ruppe was part of that investigation
22 that received that statement from her.

23 A: No, I asked Ms. Ruppe to forward that statement to
24 me because as part of my job, I always follow up
25 with the statements that we secure from principals.

1 Q: Right. But Ms. Ruppe said you all were doing this
2 investigation together.

3 A: And I always team with my principal. That's
4 correct, it's a team effort.

5 Q: All right, a team effort. And in that statement
6 well, it, it will speak for itself when the
7 Board reads it, but basically it, it disputes what
8 this fellow, Justin Kelly, said because she's saying
9 that Ms. Brown came to the room, got the child out
10 of the room, and the door was shut. Did you see
11 that in Tracie Wilson's June the 1st statement?

12 A: I see her statement in front of me.

13 Q: That's what it says, doesn't it?

14 A: Yes.

15 Q: All right. So did you find Mr. Justin Kelly at that
16 point incredible, non-credible?

17 A: No, I did not.

18 Q: Right. So it is true, is it not now, Ms. Brown had
19 sued Luther Vaughan in a prior lawsuit that she won
20 for \$235,000 before this incident, correct?

21 A: That is correct as far as I know. I was not a part
22 of the district at that time.

23 Q: Understand. I think Ms. the superintendent may
24 have been a part of it at that point. I don't know.

25 A: She was hired after me, so I don't think that's

1 possible.

2 Q: Okay. Well, Gaffney alleged it, I don't know why
3 they put that in there. But anyway, the

4 **MR. BAILEY:** Now you don't need go back there.

5 **MR. BROWN:** Okay. Thank you very much. I
6 appreciate it.

7 Q: So basically the long and the short of it is every
8 witness except with the possibility of the lady that
9 Ms. Ruppe said she didn't, wasn't concerned about
10 the fingers on the jaw, every other witness beside
11 Justin Kelly have given no information that Ms.
12 Brown grabbed this child by the throat, forced this
13 child in the wall, and yelled at the child, correct?

14 A: Correct. Mr. Kelly gave that statement.

15 Q: Right. And no other witness has said this child
16 cried as a result of any of these actions that was
17 supposed to have taken place, correct?

18 A: No one referenced crying in my investigation.

19 Q: Right.

20 **MR. BROWN:** Thank you very much, Mr.
21 Carpenter.

22 **MR. CARPENTER:** Thank you.

23 Q: Well, let me ask. I got you know, I get a
24 little ahead of myself. I wanted to introduce
25 those, those things with regard I don't want to

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1 hold up the thing, but Ms. Brown got the letter
2 actually on July, I mean on June the 11th.

3 A: That's the date it was stamped.

4 Q: That date it was stamped, correct. And you don't
5 control the post office and you don't know what the
6 post office is doing, correct?

7 A: No, sir.

8 Q: Right. And you're not in Congress and all that. I
9 just want to make sure when she gets into that, you
10 know what I'm saying?

11 A: I'm not a part of Congress.

12 Q: Thank you.

13 MS. WHITE: Just one question.

14 **DR. CARPENTER - RE-EXAMINATION BY MS. WHITE:**

15 Q: Dr. Carpenter, looking at Ms. Wilson's statement,
16 how would you have, have expected Ms. Brown to
17 handle it if Ms. Wilson said to her how's your
18 summer, you know, and something about shopping? How
19 would, would you have expected Ms. Brown to have
20 handled that?

21 A: When she spoke and said hi, I would expect her to
22 say hi and keep walking.

23 Q: And would that be a violation of the, of your
24 directive?

25 A: No, no.

1 Q: Okay. Because Ms. Brown can't control if somebody
2 says to her, hello, how are you today?

3 A: Correct.

4 Q: Or how is your summer going?

5 A: Correct.

6 Q: Okay. And so that would not have been a violation
7 of your directive?

8 A: No, ma'am.

9 Q: What was the violation of your directive in your
10 information?

11 A: When an employee asks someone have you been
12 contacted by Dr. Carpenter, that impedes my
13 investigation. I'm not able to clearly complete my
14 investigation. In my opinion it's no longer valid,
15 valid or reliable because they in essence have
16 interfered by asking questions to someone that they
17 provided as a witness.

18 Q: And had Ms. Brown provided the name of Tracie Wilson
19 as a witness?

20 A: Yes, she gave me the name to talk to Ms. Wilson.

21 Q: And in fact is that why you had made an appointment
22 to talk with Ms. Wilson later on in June?

23 A: That is correct.

24 **MS. WHITE:** Those are all the questions I
25 have.

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DR. CARPENTER - RE-EXAMINATION BY MR. SMITH:

Q: So let me just get this straight. How many times have you talked to this lawyer right here about this case?

A: I couldn't say. I don't know.

Q: So the fact that you talked to her five times, does that make you an unreliable witness while they're doing their investigation tonight?

A: I'm not sure that's relevant. Can you explain that?

Q: Well, the question is you just stated that when Ms. Brown spoke to Ms. Tracie Wilson, that made your investigation unreliable. Well, you expect your employees to tell the truth, don't you?

A: I would hope they would.

Q: Right. Now you talked to this lawyer over five times about this case. Does that make your testimony unreliable because you spoke to her?

A: I'm telling her the truth of what I know in the situation, so I'm not sure what you're asking.

Q: Well, I'm asking you're saying that

MS. WHITE: Madam Chair, I don't have any idea where this is going, but it's totally irrelevant to what we're doing here.

MR. SMITH: Well, she can say it's irrelevant.

MS. WHITE: I'm going to object on the grounds

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1 of relevance.

2 **MR. SMITH:** I don't want to belabor it. I
3 think the Board knows what I'm driving at.

4 **MS. WHITE:** Any questions that Board members
5 have for Dr. Carpenter? And any objection to him
6 staying, Mr. Smith?

7 **MR. SMITH:** No, I have no objection.

8 **MS. WHITE:** Our next witness will be Beth
9 Owens, and I think, Mr. Smith, you would like for
10 Ms. Ruppe to step out during her testament?

11 **MR. SMITH:** She can stay, I don't care. I
12 don't have any problem. I'm not going to call Ms.
13 Ruppe back up.

14 **MS. WHITE:** Okay. So you don't have any
15 objection to her staying?

16 **MR. SMITH:** Huh-uh.

17 **MS. WHITE:** Okay. Make sure that's on the
18 record.

19 **MS. BETH OWENS,** being duly sworn, testifies as follows:

20 **MS. OWENS - EXAMINATION BY MS. WHITE:**

21 Q: Ms. Owens, if you could state your name for the
22 record, please.

23 A: Beth Owens.

24 Q: And are you employed by the Cherokee County School
25 District?

1 A: Yes.

2 Q: At which school?

3 A: At Luther Vaughan.

4 Q: How long have you been at Luther Vaughan.

5 A: I've taught 13 years. This is my 14th.

6 Q: All at Luther Vaughan?

7 A: Uh-huh.

8 Q: And what grade do you teach?

9 A: Second grade.

10 Q: Do you know Sharon Brown?

11 A: Yes, ma'am.

12 Q: And so I guess you have worked with her for the
13 three years that she was there?

14 A: Uh-huh.

15 Q: And what had your interactions generally been with
16 her prior to May the 28th?

17 A: Just your typical planning meetings, discussing what
18 we were, you know, working on in class. You know,
19 things like that, typical grade-level meetings.

20 Q: Okay. Now on May the 28th, the afternoon of May
21 28th, as I understand it, you went to Ms. Ruppe to
22 report something that you had observed a little
23 earlier that afternoon, is that correct?

24 A: Yes, ma'am.

25 Q: And what did you let's back up for a minute.

1 What did you report to Ms. Ruppe that afternoon?

2 A: I told her that I was on my way down the hall taking
3 my class to, to the gym to PE, it was about 1:15. I
4 went out to my car to retrieve something, and as I
5 was coming back up the hallway going towards my
6 classroom, I observed Ms. Brown and a student in the
7 hallway, and he was standing with his back up
8 against the wall, and she was bent forward, you
9 know, just kind of eye level where she could see
10 face to face, and he turned to look in my direction
11 as I was coming up the hall, and she just put her
12 finger, fingers up to his chin and turned his face
13 back so that he was looking back in her direction.

14 Q: Okay. Now backing up for a second, before you
15 observed this, you had dropped your children off at
16 PE?

17 A: PE, uh-huh.

18 Q: And that would be 1:15?

19 A: Yes.

20 Q: So after you dropped them off at PE, you went out to
21 your car?

22 A: I had to go get something out of the car in the
23 parking lot, right.

24 Q: All right. And so when you retrieved something from
25 your car, I believe your husband met you in the

1 office?

2 A: He had to get something from me, yes.

3 Q: Okay. And so then you were walking down the hall
4 where the art room, and we'll show this in a minute,
5 but where the art room would have been on your, on
6 your right.

7 A: Yes.

8 Q: Now about what time would this have been?

9 A: Twenty after 1:00.

10 Q: Okay. So had classes had already started as
11 far as PE and art and so forth?

12 A: Yes.

13 Q: Okay. So let's see if we can show this here. Let
14 me run this forward here. Okay. What is the fancy
15 stuff there at the end of the hall?

16 A: It's just some kind of barrier that you walk around
17 to go into the lunchroom.

18 Q: Okay. So as you were, were coming down, were you
19 walking like towards the camera here?

20 A: Yes. Uh-huh.

21 Q: And where did you well, we've got a corner
22 right here. Is this well, let me ask you this.
23 Is this the art room right here?

24 A: Yes.

25 Q: If you could show step up and show where you

1 saw Ms. Brown with the student we're going to call
2 Student J?

3 A: Okay. Right here. Right beside the water fountain.

4 Q: So what is this opening right there?

5 A: This is the entrance to the little theater.

6 Q: All right. So when you saw Ms. Brown with Student
7 J, it was not here at where the fire extinguisher
8 and the plug is?

9 A: No. It was on the other side of the little theater.

10 Q: Okay. So close, close to this water fountain?

11 A: Yes.

12 Q: Now and you said she was leaning over and speaking
13 to him?

14 A: Uh-huh.

15 Q: Could you hear anything she was saying?

16 A: No.

17 Q: Did you see her make physical contact with him?

18 A: Yes. When he looked in my direction, she reached up
19 and just placed her hand on his face and turned his
20 face back so she was, he was looking back at her.

21 Q: And what lead you to report that to Ms. Ruppe?

22 A: He, the student just kind of had an uneasy look on
23 his face when he looked back towards me. He just
24 kind of had a nervous, uneasy look about him like he
25 was uncomfortable, it was an uncomfortable situation

1 for him.

2 Q: So you went and reported it to Ms. Ruppe that
3 afternoon?

4 A: Uh-huh.

5 Q: And did she ask you for a statement?

6 A: Yes. She just told me that I would need to write up
7 a statement about it.

8 Q: Okay. And did you do that?

9 A: I did.

10 Q: Okay. You can sit back down.

11 A: Okay.

12 Q: Is the, is the statement that you provided to, to
13 her in that packet of information? I think it may
14 be the second one in.

15 A: Okay. Yes.

16 Q: And the statement is dated June the 1st?

17 A: Yes.

18 Q: Why was it that you didn't provide the statement on
19 the 29th or, or even on the 28th?

20 A: We were that afternoon we were getting ready
21 for a big literacy day, field day, for that
22 following day, that Friday, and it just slipped up,
23 and I didn't get a chance to do it just in
24 preparation for that, so I wrote it on Monday the
25 1st.

1 Q: When you went to Ms. Ruppe the afternoon of the 28th,
2 had you had any conversation at all with Justin
3 Kelly?

4 A: No.

5 Q: Did you talk to Justin Kelly at all on May the 29th?

6 A: No, not about this.

7 Q: About this.

8 A: No, we haven't.

9 Q: And how about on June the 1st?

10 A: No.

11 Q: Have you had any conversations with Justin Kelly
12 about the situation with Ms. Brown?

13 A: No.

14 MS. WHITE: Those are all the questions I have
15 for Ms. Owens.

16 MR. SMITH: No questions for this witness.

17 MS. WHITE: Any questions from the Board? If
18 not, I'd ask, unless you have an objection, she
19 leave or stay, whichever you I know you've got
20 small children at home.

21 A: Yes.

22 Q: So you're excused from and you are here
23 pursuant to a subpoena, is that correct?

24 A: Yes, ma'am.

25 Q: And so you're released from that subpoena.

1 A: Okay.

2 **MS. WHITE:** And our next witness will be
3 Tracie Wilson.

4 **(Off the record)**

5 **MS. HARPER:** I just had a quick question. Is
6 the guidance counselor testifying today?

7 **MS. WHITE:** No.

8 **MR. SMITH:** But we, we'll introduce the
9 guidance counselor's statement, so that you'll see
10 the

11 **MS. HARPER:** Okay.

12 **MR. SMITH:** Yes, ma'am.

13 **MS. HARPER:** Okay. So it's in this packet?

14 **MR. SMITH:** It should be. If it's not, I'll
15 give you mine.

16 **MS. WHITE:** I don't believe it's in there.
17 Ms. Byers, Ruby Byers. I don't think it's in there.

18 **MS. HARPER:** Okay. Okay.

19 **MS. WHITE:** Yeah, I'm sorry, Ms. Wilson, right
20 over here. And I don't have any objection if he
21 wishes to introduce that.

22 **MR. SMITH:** Under the Business Records Act, I
23 think you have a right to see it anyway.

24 **MS. HARPER:** Okay.

25 **MR. SMITH:** Counsel, may I approach?

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1 **MADAM CHAIR:** Yes.

2 **MR. SMITH:** We need to make copies.

3 **MS. HARPER:** We probably need to make copies.

4 **MR. SMITH:** Can we take a break?

5 **MS. WHITE:** Yes.

6 **(Off the record discussion about copies)**

7 **(Respondent's Exhibits Numbers One and Two were**
8 **introduced into evidence.)**

9 **TRACIE WILSON**, being duly sworn, testifies as follows:

10 **MS. WILSON - EXAMINATION BY MS. WHITE:**

11 Q: If you could state your name for the record, please.

12 A: Tracie Wilson.

13 Q: And how long have you been employed with the
14 Cherokee County School District?

15 A: About 10 years this year.

16 Q: And during the '14-'15 school year were you employed
17 for part of that year at Luther Vaughan Elementary
18 School?

19 A: Yes.

20 Q: When did you go to work at Luther Vaughna

21 A: In November, the first of November.

22 Q: Of 2014?

23 A: '14, yes.

24 Q: And what was your job at Luther Vaughan?

25 A: At Luther Vaughan I was behavior interventionist.

1 Q: And are you at Luther Vaughan even this year?

2 A: Yes.

3 Q: Now just to, explain what a behavior interventionist
4 does.

5 A: Basically when children are misbehaving or having
6 just issues, the behavior interventionist comes in
7 or a teacher will call them, or she may step in and
8 just redirect that behavior with positive
9 reenforcement. Like if the kid was having a bad day
10 and they come in and they're like crying or
11 something, they couldn't explain stuff, they would
12 talk to me, and like I would just give them like
13 positive reenforcement or other ways of dealing with
14 those feelings that were more positive or explaining
15 their feelings or how to deal with what was,
16 acknowledging and dealing with what is going on with
17 them.

18 Q: And you have an office there?

19 A: Sort of.

20 Q: You have an office at the school?

21 A: Yes.

22 Q: And I'm going to just to show kind of where your,
23 because I understand your office is pretty close to
24 the art room, is that correct?

25 A: Yes.

1 (Off the record to bring up video on screen)

2 Q: Is this your office?

3 A: Yes, where the Gamecock sign is.

4 Q: And this is the little theater?

5 A: Yes.

6 Q: And is this right here, does that go into the art
7 room?

8 A: Yes, that's actually inside the art room looking out
9 at my room.

10 Q: And so would you on occasion leave your office here
11 and go into the art room to assist Mr. Kelly with
12 some students that might be having difficulty?

13 A: Yes.

14 Q: Are some of those Ms. Brown's students?

15 A: Yes.

16 Q: On May the 28th of 2015, which was right there
17 towards the end of the school year, were you in the
18 art room at 1:15 when Ms. Brown brought her students
19 in for art class?

20 A: No.

21 Q: Are you positive about that?

22 A: Positive.

23 Q: How do you know you weren't in there when class
24 started?

25 A: I was actually on the stage with another student

1 there in my room.

2 Q: Now at some point after 1:15 were you called, or did
3 you go into the art room to assist with a student?

4 A: Yes.

5 Q: About what time was that?

6 A: I guess like 1:20ish, 1:22, something like that
7 because I knew I needed to get rid of the student
8 first before I did anything else.

9 Q: When you went into the art room, was the door that
10 leads into the hallway, not the door that goes into
11 the little theater, but the door that goes right
12 into the hallway, that art room door, was that door
13 already closed?

14 A: The door on this side, yes.

15 Q: Right, the door that leads into the hall?

16 A: Yes, both of those side doors were closed, there are
17 two and both were closed, and that door was closed.
18 All doors were closed when I went in.

19 Q: And was Mr. Kelly

20 A: Because I had to knock on the door.

21 Q: So you had to actually knock on the door to get in?

22 A: I knocked on the door and a student let me in.

23 Q: And at that point was Mr. Kelly already underway
24 with activities he was doing with his students?

25 A: Yes.

1 Q: Now at some point do you recall Ms. Brown coming to
2 the door and asking to see a student?

3 A: Yes.

4 Q: And about how long had you been in the class when
5 that occurred?

6 A: I think Mr. Kelly, I'm sure Mr. Kelly and I, we had
7 been discussing what we were going to do with them
8 because it was the last full day and that was the
9 last time he would see them, so we had discussed
10 what games we were going to play, and she knocked on
11 the door almost maybe, I guess three or four minutes
12 in, she knocked on the door and I just recall her
13 knocking on the door and she was in between the
14 door, the doorway and the door itself and the shelf
15 that he has there at the door.

16 Q: Okay, just so we've got this straight. Let's go
17 back this way. Is that the door that you're talking
18 about right there with the shelves?

19 A: Yes, and she was at that door right there and she
20 was holding the door and she didn't come all the way
21 in.

22 Q: And at that point the door was closed?

23 A: Yes.

24 Q: And Mr. Kelly was in the room with the students?

25 A: Uh-huh.

1 Q: Do you recall who she asked to see, what student?

2 A: No, huh-uh.

3 Q: Do you know if the student came back in?

4 A: No.

5 Q: And did you see Ms. Brown later on that day?

6 A: Yes, after she came and picked up the students.

7 Q: So that was at the end of art?

8 A: At the end of art. She was late coming to get the
9 students, so when she was late coming to get them,
10 Mr. Kelly and I were lining them up and he was like
11 well, I said what time it is, and he was like well
12 it's almost that time, and he was like let's line
13 them up, and while we were lining them up and
14 getting ready to take them down the hall to her, she
15 came to the door, yeah, she came to the room, and
16 when she came in she said, she asked to speak to me.
17 She said can I speak to you, and we stepped out in
18 the hallway over in here, right outside this door,
19 and she asked me had I been in there with them the
20 whole time and I said no. And she said oh, okay.

21 Q: So she asked you if you had been in the room the
22 whole time?

23 A: Uh-huh.

24 Q: Ms. Brown asked you that?

25 A: Uh-huh.

1 Q: And you told her no?

2 A: Right.

3 Q: Now were you asked to provide a statement about what
4 had gone on in the class on May 28th?

5 A: Yes.

6 Q: And who asked you to do that?

7 A: Ms. Ruppe.

8 Q: And if you see the packet of documents in front of
9 you, if you'll turn you'll see your name, except it
10 doesn't have the e on it, sorry, on the first page.
11 Do you see that where it says on Thursday, May 28th?

12 A: Yes.

13 Q: Is that the statement that you provided to Ms.
14 Ruppe?

15 A: Yes.

16 Q: And did you provide that statement on June the 1st?

17 A: Yes, that's the date I put on it, yes.

18 Q: Now I understand that later on that week you ran
19 into Ms. Brown at Ross Department Store over in
20 Spartanburg?

21 A: Yes.

22 Q: At the time you ran into her at the Ross Department
23 Store in Spartanburg, had Dr. Carpenter called to
24 ask you to come in to meet with him?

25 A: No.

1 Q: Were you aware at that point that your name had been
2 provided by Ms. Brown as a witness?

3 A: No.

4 Q: So the only person you had had conversation with
5 about May 28th was Ms. Ruppe?

6 A: Ms. Ruppe.

7 Q: Explain to the Board if you would what happened on
8 June the 5th, which would have been Friday, school's
9 out, when you ran into Ms. Brown at Ross.

10 A: I was going to the checkout with my two daughters,
11 and as we were going to the checkout I looked over,
12 well, I was going this way and I looked over and I
13 saw her coming and I said, hey, Ms. Brown. I asked
14 her how, well, I asked her, I said oh, you in here
15 shopping, you need to pay for mine because I had
16 some shoes in my hand, and I say yeah, you got the
17 money or something another like that, and she was
18 like no, you know, I don't have any. You need to be
19 buying mine. And we just laughed about that, and we
20 kept on. We were just chit-chatting it up with each
21 other, and then she was actually talking to me and
22 saying, next thing I know she was like, well, Dr.
23 Carpenter is supposed to call you, have you heard
24 from Dr. Carpenter, and I said no, I haven't heard
25 anything from Dr. Carpenter. And she was just

1 telling me that he was supposed to call me, and he
2 supposed to be getting in touch with me, and
3 whenever he does get in touch with me, I'm supposed
4 to talk about what happened with the student. And I
5 didn't know, I just looked puzzled, because I was
6 like no, I don't know what you're talking about
7 because no one has called me and I don't know
8 anything about what's going on, and she was like
9 he's going to call you and you need to tell him
10 that, well, no, she's just like, this is what
11 happened with a student, and he's going to call you
12 and ask you about what happened. And I was like,
13 well, okay, you know, like news to me, and she was
14 just like well, you know what happened, and I was
15 like no, I don't know what happened. And she was
16 like well, you know, I'm not supposed to be talking
17 to you anyway, we're not supposed to be discussing
18 it, and I was like, well, don't discuss it because I
19 don't know what happened and I don't really, I
20 didn't really care what happened because I was on
21 summer break and I didn't care at all what was
22 happening.

23 Q: Let me stop you real quick. Were you aware that Ms.
24 Brown had been put on administrative leave?

25 A: Yes. Not administrative leave, but I knew she was

1 not at the school anymore.

2 Q: So you knew that after June 1st, she wasn't there?

3 A: Right.

4 Q: But you didn't know what her status really

5 A: Right.

6 Q: All right, I'm sorry, go ahead.

7 A: And she just proceeded to tell me that the student,
8 that the incident happened with Student J

9 Q: Don't Student J.

10 A: Okay, Student J, the student, and Student J and I
11 was like well, I didn't know and she just proceeded
12 to tell me this is what happened and this is
13 the student was just out in the hall or whatever,
14 and this is what happened, and I was like well, I
15 don't know, I don't know who the student was, and
16 she was like yes, you do, and you were in there when
17 I brought him in there, and I was like no, I wasn't
18 in there when you brought him in there, and I just
19 proceeded to let her talk because we were arguing in
20 the store, in Ross's, in the clothing, in the store,
21 and I lost my place of where I was and I was
22 shopping with my daughters, and we were both loud,
23 and I just decided to just let her say whatever she
24 was going to say and just be like, okay, because I
25 was like, okay, we're not in the school environment.

1 And she just kept proceeding to tell me what had
2 happened, and then she was saying that Mr. Kelly,
3 she don't know what he got the game from unless it's
4 a promotion. She say he been after her since April.
5 He's wrote statements against her, and I was like
6 puzzled again, and I didn't have a clue what she was
7 talking about. Once again I say well, I don't know
8 what you're talking about and I don't really care to
9 keep talking about it. And next thing you know, I
10 know we were loud, and she was very, very loud, and
11 I was loud, and my daughter had came over, and she
12 looked at my daughter real funny, and I think she
13 said something like we were talking, and I was like
14 that's my daughter, you know, that's my daughter,
15 don't, I was like don't have a problem with her
16 because she's my daughter, and she just kept on. My
17 daughter went on and she kept on talking. They sat
18 down and waited and she kept on talking and saying
19 stuff about telling me what I'm supposed to say,
20 what happened, well, what she felt like happened was
21 she felt like I may have saw her, and I was like no,
22 I didn't see any of that, I don't know what you're
23 talking about. And a little Hispanic student from
24 the school, I don't know the young lady's name, she
25 came up and told her hey, and that's basically what

1 ended the conversation because we both looked up
2 like wow, we're in the store, we need to gather
3 ourselves, and I looked up when I saw her mom over
4 there looking at the little girl, and I said bye.
5 Yeah, I said this is my chance to get away from her,
6 and I said bye, and she said all right, bye and love
7 you, and I walked on out with my daughters. I
8 checked on out and walked on out to the car with my
9 daughters.

10 Q: About how long did this conversation go on?

11 A: To me it felt like maybe 10 or 15 minutes.

12 Q: And was Ms. Brown loud?

13 A: Yes.

14 Q: And I think you said you were loud as well?

15 A: Yes.

16 Q: Now did you immediately report that to anyone?

17 A: No.

18 Q: And why not?

19 A: Well, at the time we were just having a conversation
20 and I didn't know anything else was going on, so
21 didn't really to me it didn't pertain to anything
22 because I thought that I was done with the whole
23 situation, I wouldn't have to deal with anything
24 else.

25 Q: And at some point did you decide that you needed to

1 tell Mr. Ruppe?

2 A: Yes.

3 Q: And what lead you to decide that you needed to tell
4 Ms. Ruppe later on in June what had happened on June
5 the 5th?

6 A: I talked to my husband. My husband was like, you
7 need to do the right thing, just tell what happened
8 and get it over with because it's just not right for
9 whatever is happening to be happening and you not
10 tell that that incident happened. So because of
11 him, I was going up there to fill out for another
12 job and I needed Ms. Ruppe to sign it, and I said
13 well this is the time and I'll go ahead and just
14 tell her at this time.

15 Q: And that was sometime during the week of June the
16 22nd, is that right?

17 A: Yes.

18 Q: And did she then ask you to write a statement?

19 A: Yes. She said write a statement, and just take it
20 whenever you go and meet with Dr. Carpenter and Ms.
21 Moore.

22 Q: And at that point you had not met with Dr. Moore or
23 Dr. Carpenter?

24 A: No, right.

25 Q: And when you met with him, I believe end of June,

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1 June 29th or 30th, did you provide him with this
2 statement that's the second statement in the packet
3 of information?

4 A: Yes.

5 Q: Now are you absolutely sure that when you ran into
6 Ms. Brown at the Ross Department Store that she said
7 I'm not supposed to be what was it again that
8 she said?

9 A: She's not supposed to be talking to me about it
10 because this is going on. Yes, she said I'm not
11 supposed to be talking to you about it.

12 Q: And what did you say in response to that?

13 A: And I said well don't talk about it because I really
14 don't know what you're talking about so don't talk
15 about it.

16 Q: And prior to that conversation, had you and Ms.
17 Brown ever had words or

18 A: No.

19 Q: been in any kind of an argument or anything?

20 A: No.

21 Q: Those are all the questions I have for Ms. Wilson.

22 **MS. WILSON - EXAMINATION BY MR. SMITH:**

23 Q: Ms. Wilson, first of all, in your first statement
24 you said that "on Thursday, May the 28th, 2015, Mr.
25 Justin Kelly asked Ms. Tracie Wilson to keep an eye

1 out for his last period art class, Ms. Sharon
2 Brown's class," is that correct?

3 A: Yes.

4 Q: You also said "I did and I was walking by and
5 knocked on the door, Mr. Kelly verified that it was
6 me, and a student let me into the classroom,"
7 correct?

8 A: Yes.

9 Q: You said, "the students were currently seated and
10 settling down," correct?

11 A: Yes.

12 Q: You said, "Ms. Brown came to the door standing
13 between the door and the wall, she didn't come into
14 the art room completely and asked to see a student,"
15 correct?

16 A: Correct.

17 Q: Whose name you could not remember, correct?

18 A: Yes.

19 Q: But you remembered the name today, correct?

20 **MS. HARPER:** I think she still said she didn't
21 know who the child was, right?

22 A: Right, at that time, no, I didn't.

23 **MS. HARPER:** Yeah, until they were in Ross and
24 then she said his name in their conversation.

25 Q: Okay.

1 **MS. HARPER:** I think. Isn't that what you
2 said?

3 **A:** Right.

4 **Q:** All right. You say, "that the students were
5 currently seated," I mean you say, "the students
6 were currently seated and settling down. Ms. Brown
7 came to the door standing between the door and the
8 wall, she didn't come into the art room completely
9 and asked to see a student whose name I cannot
10 remember and stated that the student was not in
11 trouble," is that correct?

12 **A:** Yes.

13 **Q:** You say, "Mr. Kelly said okay, student got up and
14 went with her and she pushed the door up behind
15 her," correct?

16 **A:** Correct.

17 **Q:** So Mr. Kelly wasn't standing at the door, was he?

18 **A:** No.

19 **Q:** He wasn't peeping through a crack in the door
20 either, was he?

21 **A:** I don't think so.

22 **Q:** Well, you were there, you saw what he was doing. As
23 a matter of fact, you go on in your statement and
24 you say, "I cannot remember if the student came back
25 or if the student stayed with her," is that correct?

1 A: Correct.

2 Q: You say, "Mr. Kelly informed the students that he
3 wanted to do a fun activity with them since it was
4 the last day he would have their class." That was
5 while Ms. Brown still had the child out in the hall,
6 correct?

7 A: I don't know if she had the child out in the hall at
8 that time or not, but we did have a game.

9 Q: And you said the doors are always closed too, didn't
10 you?

11 A: Yes, they are.

12 Q: And you said, "he decided," and when you say he,
13 you're talking about Mr. Kelly, "he decided to play
14 Heads Up Seven Up, where he picked seven students to
15 come up front and the rest sit at their desk,"
16 correct?

17 A: Correct.

18 Q: "He explained the rules of the game because many had
19 never played it before," correct?

20 A: Right.

21 Q: "He explained to the students sitting to put their
22 heads down on the desk, close their eyes, and put
23 their thumbs up in the air, and one student standing
24 will quietly touch their thumb finger and they will
25 put their thumb down, then anyone who has the thumbs

1 down will stand and take a guess at who picked
2 them," is that correct?

3 A: Correct.

4 Q: So how long does it take to play Seven Up?

5 A: Well, with this group it took us awhile because I
6 guess like, we probably played five, four or five
7 rounds, and it probably took five minutes in between
8 each one.

9 Q: So five rounds times five is 25 minutes?

10 A: Yeah.

11 Q: And how long was this class supposed to last?

12 A: I guess 40 or 50, I'm not a special area teacher.

13 Q: Okay, "and we played about three to five rounds,"
14 you say in your statement, and you say "one of the
15 male students got mad because he lost during the
16 game and started saying that he hated black people,
17 and laid in the floor, so you took him out and
18 talked with him and reenforced the positive behavior
19 matrix allowing him to calm down," correct?

20 A: Correct.

21 Q: Ms. Brown wasn't out in the hall at that point, was
22 she?

23 A: At that time, no, not where I was, no, she wasn't.

24 Q: So you're the one, were you the one that actually
25 grabbed the child being the behavior specialist

1 around the throat?

2 A: No.

3 Q: Now you say this child said, "I hate black people,
4 laid in the floor, so you took him out and talked
5 with him and reenforced the positive behavior matrix
6 allowing him to calm down," correct?

7 A: Correct.

8 Q: So the child was not a calm child at that point,
9 correct?

10 A: Correct.

11 Q: And then you say, "you went back to class and I
12 noticed time was winding down for the class to be
13 over. The student and I returned to the art room
14 and I informed Mr. Kelly it was about time for the
15 students special area time to be over, and he
16 glanced at the clock and said yeah, and said let's
17 line them up so he lined them up by the quietest
18 table," correct?

19 A: Correct.

20 Q: Now what were you standing by when you took that
21 child outside the hall?

22 A: I didn't take him out this door, I took him out the
23 other door that's on the stage.

24 Q: On the stage?

25 A: Uh-huh.

1 Q: And did you put him up against the wall or what?

2 A: No, I didn't have to put him up against the wall.

3 All I have to do is talk to him.

4 Q: Talk to him, and then he calmed down?

5 A: No, not that quickly. It's not that easy.

6 Q: Okay, well, tell us, tell me, I'm ignorant in terms
7 of that. What did you have to do with the behavior
8 matrix to get him to calm down?

9 MS. WHITE: I'm going to object again. I
10 don't know what the relevance of

11 MR. SMITH: It goes to credibility of this
12 witness.

13 MS. WHITE: I'm not real sure how it goes to
14 credibility of this witness

15 MR. SMITH: Well, you're a lawyer on the other
16 side, I understand your position, but I'm going to
17 address mine to the Board. I'm asking this

18 MS. WHITE: We're talking about two different
19 students here.

20 MR. SMITH: Could be or may not be.

21 MS. WHITE: Why don't you ask her?

22 MR. SMITH: Why don't you let me run my case,
23 ma'am, and let him talk to me first and then if
24 you're got something to say

25 MS. WHITE: Sure, I'll be happy to do that,

1 Mr. Smith.

2 **MR. SMITH:** Okay, address yours to the Board
3 and let the Board address to me.

4 **MR. DARR:** So your question of her
5 credibility?

6 **MR. SMITH:** Yeah, I was asking on cross
7 examination a question about the student that she
8 took out with regard to the

9 **MR. DARR:** What's the credibility issue you're
10 trying

11 **MR. SMITH:** It's not a credibility issue, I'm
12 trying to get the facts

13 **MR. DARR:** I thought you just said it was.

14 **MR. SMITH:** in this situation. She said
15 that Ms. Brown came in late, so if she came in late,
16 I want to know how much time she spent with this
17 student in the art room.

18 **MR. DARR:** Ask her.

19 **MR. SMITH:** Is that okay, Madam Chairman,
20 since you're supposed to be running.

21 **MADAM CHAIRMAN:** Yes.

22 Q: So how much time did you spend with the child that
23 you were doing the behavioral specialist situation
24 with?

25 A: About ten minutes.

1 Q: About ten minutes, okay, so we've got 25 minutes,
2 we've got another 10 minutes, so that's 35 minutes
3 right there, so you've got five minutes left for the
4 children to be picked up?

5 A: Correct. And that's why I took him back to the room
6 at that time.

7 Q: All right, and then you say, "Ms. Brown was late
8 coming to pick them up, so one student who leaves
9 early was sent to his regular scheduled class and
10 the other students were lined up, and I asked Mr.
11 Kelly do you want to walk Ms. Brown's class to her,
12 and I told him I would bring up the caboose if he
13 walks in front," is that correct?

14 A: Correct.

15 Q: Then you say, "we were getting ready to take the
16 students down the hall when Ms. Brown came to the
17 door and asked can I speak to you, Ms. Wilson, and I
18 said sure, and we both stepped aside of the art room
19 door hallway and she asked me if I had to stay with
20 Mr. Kelly in her class the whole time," is that
21 correct?

22 A: Yes.

23 Q: "And I told her no, they had some commotion in the
24 room and I had stepped in to lend a hand," correct?

25 A: Correct.

1 Q: "She said, oh, okay, and the students were standing
2 there looking and waiting on her and she took them
3 down the hall. I went back to work, Mr. Kelly went
4 on to prepare for the end of the day," correct?

5 A: Correct.

6 Q: And at no time did Mr. Kelly tell you that Ms. Brown
7 attacked any child, correct?

8 A: Correct.

9 Q: Now the other thing too is, on the incident in the
10 store, you never told, you never put in your
11 statement that she attacked Mr. Carpenter for trying
12 to get a promotion, did you?

13 A: No.

14 Q: Right. And you didn't put anything in there about
15 her disrespecting your child either, did you?

16 A: No.

17 Q: And you didn't put anything in there about you all
18 were arguing for over ten minutes in the store
19 either, did you?

20 A: I guess, no.

21 Q: So you made all that stuff up tonight when you was
22 testifying in front of this Board, didn't you?

23 **MS. WHITE:** Madam Chair, I'm just objecting to
24 the characterization that she's making things up.

25 **MR. SMITH:** Well, it's not in her statement.

1 Q: That's a change from your statement, isn't it,
2 ma'am?

3 A: I guess so.

4 Q: You guess so. Now, none of the employees of Kohl's
5 store came up to you guys and say, hey, you all need
6 to get out of the way of the cash registers because
7 you all are arguing here for ten minutes, correct?

8 A: Well, we weren't in Kohl's. We were in Ross.

9 Q: Well, Ross, I get them mixed up, my wife goes to
10 both of them, but the key is you're in Ross, and
11 nobody in Ross came up and said, you two, you all's
12 commotion here, get out of our store, correct?

13 A: Correct.

14 Q: No security guard came up whatsoever, correct?

15 A: Correct.

16 Q: You didn't put your dukes up and she didn't put her
17 dukes up like you all getting ready to fight either,
18 did you?

19 A: Well, we're adults, that's not necessary, no.

20 Q: Was not necessary, that's right. Now the other
21 thing too is the statement that you gave with regard
22 to the classroom had already been given on June the
23 1st, correct?

24 A: Correct.

25 Q: Right, and that statement had been given to the co-

1 investigator, Ms. Nan Ruppe, correct?

2 A: On June the 1st I gave it to her, correct?

3 A: Right, so the investigation, you didn't tell them
4 anything different than the investigation after Ms.
5 Brown talked to you on June the 5th than what you
6 told them with regard to your statement on June the
7 1st, did you?

8 A: I don't think I did.

9 Q: Right, so that didn't compromise your testimony with
10 regard to what you told Mr. Carpenter or Ms. Ruppe,
11 did it?

12 A: Correct.

13 Q: So the investigation at that point was not
14 compromised, was it, and that's a fact?

15 **MS. WHITE:** I'm going to object to her
16 statement, her conclusion on that because she's not
17 the one who was conducting the investigation.

18 **MR. SMITH:** Well, under Rule 602, South
19 Carolina Rules of Evidence, I can ask a lay witness
20 an opinion and that is exactly what I am doing and
21 counsel, that's what I'm doing under 602.

22 **MR. DARR:** Well, first of all, this is not a
23 civil proceeding under the Rules of Civil Procedure
24 or any other rules. It's a teacher dismissal
25 hearing.

1 **MR. SMITH:** I understand.

2 **MR. DARR:** The Rules aren't what we're
3 following here. This has got to be a fundamentally
4 fair hearing.

5 **MR. SMITH:** I agree. The only reason I'm
6 saying that in this case with Judge Traxler at the
7 Fourth, when he made a decision against the School
8 Board, wanted to make sure that the School Board and
9 their attorney was going to be fair in the hearing,
10 so in order to be fair in the hearing there has to
11 be some process with regard to the evidentiary rules
12 that are complied with, and that's all I'm asking.
13 If you want the Chairman to go on and say I can't
14 ask that question or overrule me, that's fine, just
15 put it on the record.

16 **MR. DARR:** Can you rephrase it so as to not
17 ask her opinion about an investigation she didn't
18 conduct but her opinion about her own participation.

19 **Q:** With regard to your own participation in this
20 investigation, what you state in that statement on
21 June the 1st, you stood by it whenever Mr. Carpenter
22 spoke to you later on in July, correct?

23 **A:** Correct.

24 **Q:** No further questions.

25 **MS. WHITE:** I've just got a couple of follow-

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up questions, Madam Chair.

MS. WILSON - RE-EXAMINATION BY MS. WHITE:

Q: Ms. Wilson, when was the first time that you heard the name Student J? Don't use his real name, but when was the first time that came into your knowledge?

A: When she stated it to me at Ross.

Q: On June the 5th?

A: On June 5th.

Q: So prior to that when you gave your statement on June the 1st, if I'm understanding correctly, you didn't know who the student was that Ms. Brown came to get?

A: No.

Q: And so her telling you that it was Student J was the first time you heard that?

A: Right.

Q: Now the student that you had to deal with, and let's just call him Student C

A: Student C.

Q: on May the 28th, is that the same student as Student J?

A: No.

Q: Those are two different students?

A: Two totally different students.

1 Q: Had you ever had to deal with Student J now that you
2 know who he is?

3 A: No. Student J is just talkative that's about it, he
4 wasn't on my list when I started. I had like 20 or
5 30 kids that I dealt with, and he was not on my
6 list. Never had him.

7 Q: Those are all the questions I have.

8 MS. HARPER: I have a question. Can we go
9 back to where your office is in relation to the art
10 room. I'm confused over what door you knocked on to
11 come in.

12 MR. NIX: There's three doors, is that
13 correct? Is that the middle door?

14 MS. HARPER: Her office looks like it's in the
15 same

16 MS. WHITE: Let me see if I can show you

17 MS. HARPER: It's in the same room, so what
18 door did you knock on?

19 A: I knocked on the front door. Like this, there's a
20 door here, and a door here, and there are openings
21 on each side, two openings here toward the
22 bathrooms.

23 MR. NIX: Into the hall?

24 A: Uh-huh, yes, sir.

25 MS. HARPER: But it looks like your door is up

1 on the stage and you just step down into the art
2 room.

3 A: My room is a closet, it's a closet.

4 MS. HARPER: But you weren't in your office
5 already?

6 A: Yes, I was in my office.

7 MS. HARPER: So how did you I'm just
8 confused, you'll have to, pull that picture.

9 MS. WHITE: This is the little theater, is
10 that right, Ms. Wilson?

11 A: Yes.

12 MS. WHITE: That door goes into the art room?

13 A: Yes.

14 MS. WHITE: Your office would be over here?

15 A: Yes.

16 MS. HARPER: Oh, okay, see I thought the stage
17 was in the art room, and I was like what door did
18 she knock on?

19 MS. WHITE: You can see it a little bit better
20 here.

21 MR. NIX: That's the back of the stage that
22 door goes into?

23 A: Yes, that's one down past the water fountain and
24 those picture frames and another opening down there.

25 MS. WHITE: Stopping here, that also goes into

1 the little theater.

2 A: Yes, if you don't mind me getting up.

3 **MS. WHITE:** No, please. Here's a pointer too.

4 A: This is actually the art room here, this is the art
5 room door that she came through.

6 **MS. WHITE:** When you say she, Ms. Brown?

7 A: Ms. Brown came through. This is actually an opening
8 here to the little theater also and Mr. Kelly's
9 front room, and over here where the thing was,
10 that's another opening to just the stage and my room
11 and another closet. I'm the Gamecock side.

12 **MS. HARPER:** So where did you knock at?

13 A: I knocked on the front in the inside of the little
14 theater.

15 **MS. WHITE:** Let's see if we can go forward
16 that way and see it.

17 **MR. BLACKWELL:** In that little hallway to the
18 right.

19 A: Yes.

20 **MS. WHITE:** So you're saying not on that door
21 there?

22 A: Not on this door, huh-uh.

23 **MS. HARPER:** And who called you to his room?

24 A: This is me here.

25 **MS. WHITE:** That's her room.

1 A: And I get up and I always walk around here. If
2 someone this side need me, they need me on this
3 side, I go that way. So he's over here right across
4 from me so I just go that way. And previously he
5 had already stated to me they were coming and he was
6 like I might need you, so can you just check in on
7 me.

8 **MS. HARPER:** Because why?

9 A: Because he usually has issues with that class. He
10 has in that class I have maybe five or more of those
11 students on my behavior list that I was checking on,
12 and that can be buses, just behavior in general,
13 different situations. And so he had asked me to
14 come in and I had had another student previously and
15 I was finishing up talking with them and I was like
16 let me just go by and check on them, so I went by
17 and I knocked on the door and that's what just made
18 me just go and check on them. I have requests from
19 teachers sometimes just keep your eye out, so I just
20 kept an eye out.

21 **MS. WHITE:** Now one question when Ms. Brown
22 knocked on the door though, was it that door where
23 you can see Mr. Kelly standing there?

24 A: Yes.

25 **MS. WHITE:** And you went to that door, did you

1 open it?

2 A: No, I never went to this door.

3 **MS. WHITE:** Where did Ms. Brown come knock on
4 the door?

5 A: She knocked on this door.

6 **MS. WHITE:** That door, okay.

7 A: Yes.

8 **MS. WHITE:** And who opened the door for her?

9 A: I believe it was a student, I do not recall to be
10 honest with you.

11 **MS. HARPER:** Were you in there working with
12 another student or you were

13 A: At that time I was just observing the class and
14 getting them all quiet, and when she came to the
15 door, Mr. Kelly I believe was standing up against
16 the other, the board because he was on one side and
17 I was on the other, and I was like, well, we were
18 just settling them down, we was discussing what we
19 were going to do to get them started and get them
20 going so we can keep it as quiet as possible and
21 that's how that works. And we were just throwing
22 back games back and forth

23 **MR. BLACKWELL:** So when she asked you to step
24 out and talk to you, you all stepped out that door?

25 A: Yes, sir, she asked me to step out because the kids

1 were lining up and Mr. Kelly was bringing them out,
2 so we stepped out and we stepped somewhere up in
3 here on this side of the hall.

4 **MS. WHITE:** Now just to clarify, that was at
5 the end of the class.

6 A: At the very end of the class, yes.

7 **MS. HARPER:** And when she asked you had you
8 been in there the whole time, did you wonder why she
9 asked you that, did you say why?

10 A: I did, I was puzzled, yes.

11 **MS. HARPER:** Did you say why?

12 A: No, I know not to ask why. I just let the teachers
13 say what they say and just let them go on. You
14 don't ask why, I just do.

15 **MS. HARPER:** I mean, just to be inquisitive
16 though

17 A: No.

18 **MS. HARPER:** to say were you in here the
19 whole time, you didn't say why?

20 A: Well, she would ask me things just in general and I
21 would just answer them for her, but no, huh-uh.

22 **MS. FOWLER:** What time did you say that she
23 knocked on the door for the students to come out?

24 A: It was probably a little after 2:00. Maybe 2:00,
25 2:01, something like that.

1 **MS. FOWLER:** Not you, but the student?

2 A: Oh, the student that knocked on the door the first
3 time?

4 **MS. WHITE:** When she knocked on the door?

5 **MS. FOWLER:** When she knocked the first time?

6 A: To be honest with you, I really, really don't know,
7 but I'm thinking we were like five minutes in the
8 class, three to five minutes into the class actually
9 going on, because they had already got started when
10 I came in because I know that I knocked on the door
11 and a student let me in and they were already
12 seated, that's why I know I wasn't in there.

13 **MS. WHITE:** So that's how you know you weren't
14 in there at the beginning of the class?

15 A: Correct.

16 **MS. FOWLER:** So it could have been that she
17 left the class and then came back a second time?

18 A: I believe she did, I'm not

19 **MS. FOWLER:** I mean, I know, I'm just
20 wondering.

21 **MS. WHITE:** Dr. Moore is going to testify as
22 to what she concluded.

23 A: Because if she brought them and they were there, she
24 had to bring them and leave, so.

25 **MS. FOWLER:** Okay, I was just puzzled by that.

1 A: Yeah, if they're there she had to bring them because
2 I don't think she I don't know I don't
3 really know.

4 MS. FOWLER: I'm just trying to get that time
5 frame.

6 A: I don't know who brought them or how they got there.
7 That's what I don't know.

8 MS. WHITE: Because you weren't there.

9 A: Right. But I do know when I knocked on the door, a
10 Hispanic student opened up the door, and I think he
11 had black hair, and he had on a tan-like or gray
12 shirt and he let me in. He looked at Mr. Kelly, and
13 Mr. Kelly was like that's Ms. Wilson, let her in, so
14 I came on in. I usually just stand there at the
15 thing like this and just watch the students, and
16 that's just what I do for Mr. Kelly whenever he asks
17 me to come around. I do it for other student
18 teachers too, but that's just what I do. I just
19 stand there and I just observe, and he and I were
20 just talking and that's when we just started talking
21 about what games to play, just something to keep
22 them quiet because they're usually a rowdy bunch,
23 and we was just trying to think of something to keep
24 them quiet and in their seats to pass the day
25 because it was the last day of the year, that was

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1 the last day of second grade that he would see them
2 so it was fun. We was thinking to do something fun.

3 **MS. WHITE:** Any other questions for Ms.
4 Wilson? Any objection to her staying, Mr. Smith?

5 **MR. SMITH:** No objection.

6 **MS. WHITE:** It's up to you, are you here
7 pursuant to a Subpoena?

8 A: I don't think so, I don't know.

9 **MS. WHITE:** You are. You are released from it
10 if you wish to leave or you can stay.

11 A: Okay.

12 **MS. WHITE:** And our last witness will be Dr.
13 Quincie Moore.

14 **DR. QUINCIE MOORE**, being duly sworn, testifies as
15 follows:

16 **DR. MOORE - EXAMINATION BY MS. WHITE:**

17 Q: And if you could state your name for the record,
18 please.

19 A: Quincie Little Moore.

20 Q: And you are the district superintendent?

21 A: Yes, I am.

22 Q: How long have you had that position?

23 A: Three and a half years.

24 Q: And what are your responsibilities as far as the
25 employment and dismissal of certified teachers?

1 A: I oversee all hiring, firing, recommendations for
2 all classified staff, and certified staff members of
3 the district.

4 Q: And so is it your job when the necessity arises to
5 recommend the termination of certified teachers?

6 A: Yes, ma'am.

7 Q: Now how did you first learn of the May 28th situation
8 involving Ms. Sharon Brown?

9 A: I was at Draytonville Elementary School that
10 afternoon. It was a Friday afternoon, and I was
11 finishing up our state of the district meeting. I
12 spend the entire month of May going to the different
13 elementary schools, all of the schools, giving a
14 sort of a state of the district, and so that was my
15 last one, and I had left the meeting and walked to
16 my car, and I can't remember if Dr. Carpenter called
17 me straight and I answered or there was a message
18 from him. It was a little after 4:00, so maybe
19 getting towards 4:30, and he told me that there was
20 a situation at Luther Vaughan, and he explained what
21 had happened. He was out of town that day. He had
22 gone on a recruiting trip, and so he was not in the
23 district, so he said that he had spoken to Ms. Ruppe
24 and that he would start the day there Monday to
25 begin to investigate the situation.

1 Q: And following his initial investigation and Ms.
2 Ruppe's participation in that, at some point did you
3 meet with Justin Kelly?

4 A: Yes, ma'am.

5 Q: Did you meet with Beth Owens?

6 A: Yes, ma'am.

7 Q: Did you meet with Tracie Wilson?

8 A: Yes, ma'am.

9 Q: And did you meet with Nan Ruppe?

10 A: Yes, ma'am.

11 Q: And eventually did you meet with Ms. Sharon Brown?

12 A: Eventually, yes, ma'am.

13 Q: And I understand that that was actually on July 31st
14 of 2015?

15 A: Yes, ma'am.

16 Q: And that meeting involved you, myself, Mr. Smith,
17 Ms. Brown, and Dr. Carpenter?

18 A: Yes, ma'am.

19 Q: Now and that was the first time you had to talk with
20 Ms. Brown about what happened?

21 A: Yes, ma'am. We had reached out to Ms. Brown early
22 in the investigation, and she had let Dr. Carpenter
23 know that she would not meet with us unless her
24 attorney was present, and it took a while to get all
25 of us together. Between vacations and the schedules

1 of five different people, it took a while. I
2 eventually met with her the end of July.

3 Q: Now during that meeting on July 31st, what do you
4 recall Ms. Brown saying as far as any physical
5 interaction with Student J?

6 A: She adamantly said that she did not touch, put her
7 hands on any student.

8 Q: And did you share with her what the statement was
9 from Mr. Kelly?

10 A: Yes, ma'am.

11 Q: Did you share with her what the statement was from
12 Ms. Beth Owens?

13 A: Yes, ma'am.

14 Q: And did she still deny making any physical contact
15 with him?

16 A: Yes, ma'am.

17 Q: And did you find her denial of making any physical
18 contact with Student J to be credible?

19 A: State that again.

20 Q: Okay. Did, did you find Ms. Brown's denial of
21 having any physical interaction with Student J

22 **MR. SMITH:** Objection. I'm going to object to
23 that question passing one witness's credibility on
24 another, but, you know, you make the ruling whatever
25 you want. I just want to have that for the record.

1 **MS. WHITE:** Okay. I'll withdraw the question,
2 Mr. Darr. That's fine.

3 **Q:** Did, did she deny having any physical interaction
4 with him?

5 **A:** Yes, ma'am.

6 **Q:** Was it an adamant denial?

7 **A:** Yes, ma'am.

8 **Q:** Now did you then go on to talk about the statement
9 from Ms. Wilson as to what had occurred at the Ross
10 store on June the 5th?

11 **A:** I asked her if she had had any contact with any
12 employees, and she began to tell me, our group, that
13 she had had contact with Ms. Wilson. I asked her to
14 elaborate on that, and her rendition of what had
15 happened was completely different from the statement
16 that we had, so I then read her the statement from
17 Tracie Wilson.

18 **Q:** And what did she say about Ms. Wilson's statement?

19 **A:** That that's not what had happened.

20 **Q:** Did she provide any reason why Ms. Wilson might be
21 giving a different accounting than she was giving?

22 **A:** No. I, I don't remember exactly the wording that
23 Ms. Brown said that day other than it wasn't the
24 same. It was very hard to follow what her
25 explanation was that afternoon. She said it was not

1 what I read to her that Ms. Wilson had said that
2 day.

3 Q: Based on your discussions or your meetings with Mr.
4 Kelly, Ms. Owens, Ms. Wilson, Ms. Ruppe, and Ms.
5 Brown, have you arrived at a conclusion or did you
6 arrive at a conclusion before recommending
7 termination? Did you arrive at a conclusion as to
8 what you believe occurred on May 28th at Luther
9 Vaughan Elementary School involving Ms. Brown and
10 Student J?

11 A: Yes, ma'am.

12 Q: And what was the conclusion that, that you reached,
13 and if you want to use the videos to, to kind of
14 demonstrate.

15 A: Go ahead and pull up the classroom, I'll begin.

16 Q: All right.

17 A: Once Ms. Ruppe had sent the statements to Dr.
18 Carpenter and he met with me to talk about the
19 situation, as you can tell and as you've heard
20 tonight, this is first of all a very serious matter,
21 but also one that is very complicated, so as we
22 began to start investigating further, and now me
23 sitting in with Dr. Carpenter and questioning the
24 folks that had provided statements, it took a while.
25 Folks had school had gotten out, people were on

1 vacation. It took a while. I had a conference, Dr.
2 Carpenter had a conference, so we were methodically
3 going through these statements and really taking our
4 time to make sure that we understood because just
5 from the initial read, there was discrepancies in
6 for what we read. What I believe happened is I
7 believe that that date, on May the 28th, that Ms.
8 Brown brought her students, she was at the back of
9 the line of students, had followed into the
10 classroom. I believe that before the last student
11 got in the classroom, maybe it is in fact the child
12 that said I hate, something triggered her to come
13 back to the group and speak to Student J outside the
14 classroom. I don't believe that she saw Mr. Kelly.
15 He was positioned in such a way that I don't believe
16 she saw him. I believe that he witnessed her put
17 her hands on that student. She the student
18 then went on into the classroom, and then I believe
19 a few minutes later that Ms. Brown is wanting to
20 rectify the situation. I believe she went back to
21 the classroom a second time and went in that, that,
22 that door from the hallway. How she got in there, a
23 student let her in, however that she got in. She
24 asked to speak to Student J a second time, and based
25 on Ms. Owens testimony that that is the second

1 occurrence that Ms. Owens in fact witnessed on a
2 different side of the hall. I believe she was
3 trying to make amends with Student J, and she was
4 talking to him, and when Ms. Owens and her husband
5 came down the hall, the student turned and looked,
6 and she redirected the student, put her hands on him
7 a second time, I believe, and then went back, the
8 student went back into the classroom and finished
9 out the day. I believe that's why the student
10 wasn't upset. I believe that's why the student
11 wasn't crying because I believe that Ms. Brown went
12 back a second time and, and made amends with the
13 student. That's what I believe happened.

14 Q: What are you basing that on, you're

15 A: Lots of time investigating this carefully. Looking
16 at the statements, working, going to the school,
17 looking at where the classroom was. Just lots of
18 time put into the investigation because I, I don't
19 take any situation involving a student and one of
20 our employees lightly, and it took lots of time. So
21 just investigating over a long period of time.

22 Q: So if I'm understanding you correctly, you believe
23 that there were two different encounters between Ms.
24 Brown and Student J?

25 A: Yes, ma'am.

1 Q: One observed by Mr. Kelly, as he, as he testified
2 here

3 A: Yes, ma'am. Yes, ma'am.

4 Q: and then the second one as observed by Ms.
5 Owens here?

6 A: This would have been where Mr. Kelly saw from this
7 side of the entranceway the first time, and then I
8 believe the second incident occurred here with Ms.
9 Owens the second time based on her testimony of
10 where she told me she saw Ms. Brown speaking to a
11 student.

12 Q: Upon reaching and, well, let me ask you this.
13 What, what did you conclude as far as what happened
14 at the Ross store on June 5th?

15 A: Well, until we had the opportunity to talk to Ms.
16 Brown, I didn't know what may have happened there.
17 I had Ms. Wilson's statement, and it's unfortunate
18 that we weren't able to talk to Ms. Brown until the
19 end of July, but it was certainly her opportunity to
20 tell me what she, what happened from her account.
21 As she began to she told me that she had spoken
22 to Ms. Wilson, and it's, it's not clear to me, I, I
23 don't remember the specific words of what she said
24 happened in that conversation other than she
25 when I read Ms. Wilson's statement about it, she

1 said that's not what had happened. I then asked her
2 had Dr. Carpenter instructed her not to talk to
3 anybody. She said she didn't remember that, and I
4 said then based on she, she admitted to me that
5 she did in fact speak to Ms. Wilson, but she would
6 not, she did not admit to discussing the situation
7 about what Tracie Wilson said about Dr. Carpenter.

8 Q: Now having arrived at the conclusion that you just
9 described with the May 28th incident and based on the
10 June 5th incident, did you arrive at a decision as
11 far as Ms. Brown's continued employment in the
12 district?

13 A: Yes, ma'am. And I didn't make that decision until
14 after I had a chance to talk to Ms. Brown. I don't
15 remember the exact date of when we contacted Mr.
16 Smith concerning Ms. Brown. You know, we have to
17 work through our attorneys when it comes to a
18 situation like this, but yes, ma'am, I did. I made
19 the recommendation, or in my mind my recommendation
20 was that, first of all, Ms. Brown completely went
21 against a directive given by Dr. Carpenter which was
22 for her protection being on administrative leave not
23 to speak to anybody in the district that she readily
24 admitted that she did do. So that's the first
25 thing. The second thing is that I have two staff

1 members that say she put her hands on a student,
2 two. She adamantly denies ever touching a student.
3 So I believe she's being dishonest with me. Third,
4 by speaking to Ms. Wilson, her own witness, it
5 clearly got in the way of our investigating the
6 situation correctly for her, and so based on all
7 three of those things, I made the recommendation
8 that she be terminated from our district.

9 Q: And is the basis for that what you've just
10 described, is that what you set forth in your letter
11 that's dated August the 11th in that packet of
12 information?

13 A: Yes, ma'am, along with all the other reasons, yes,
14 ma'am.

15 Q: And is that still your recommendation this evening?

16 A: Yes, ma'am.

17 Q: And why do you not believe that Ms. Brown could
18 return maybe having learned a lesson from all this
19 and, and return to work in the district?

20 A: People that work in the school system have to love
21 children, kids have to be in a safe environment, and
22 I have to trust the individuals that are in the
23 classroom wholeheartedly, and based on my
24 conversation with Ms. Brown, I no longer believe
25 she's a credible person, and the reasons that I

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1 stated, I no longer believe she needs to be a
2 teacher in our district.

3 **MS. WHITE:** Those are all the questions I have
4 for Dr. Moore.

5 **DR. MOORE - EXAMINATION BY MR. SMITH:**

6 Q: Okay. Thank you. Madam, members of the Board, now
7 first of all, Ms. Brown's been with the school
8 district for 17 years, correct?

9 A: If you say so, Mr. Smith. I don't know
10 specifically. She's one of our, you know, a number
11 of employees.

12 Q: So when you say something to the effect that she's,
13 you know, health, safety, and welfare of the
14 students that are involved, for these 17 years, it
15 hasn't been, has it?

16 A: I'm not aware of any other incidents. I've just
17 been working for three and a half years as the
18 superintendent.

19 Q: Right. And the other thing, too, is you have no
20 personal knowledge of any of the incident involved
21 in this case, is that correct?

22 A: I was not there that day.

23 Q: That's right. So all you did was give the Board an
24 elaborate theory as to what you think happened,
25 correct?

1 A: That's what Ms. White asked me, what did I think
2 happened.

3 Q: Right. That's what Ms. White asked you to do.

4 A: Yes, sir.

5 Q: And so you all were building a case against Ms.
6 Brown on the theory that she went into the classroom
7 two times to get the same student, correct?

8 A: No, sir. I wasn't building a case on Ms. Brown. I
9 was investigating this situation, and those are what
10 my findings are as a result. I wasn't building a
11 case on Ms. Brown.

12 Q: All right. But you have you don't have one
13 witness that says she came to that classroom twice
14 to get the child out, do you?

15 A: No, sir.

16 Q: Right. So you were the one that came up with this
17 theory that she came in the classroom twice to get
18 the same student, correct?

19 A: That's my findings.

20 Q: Right. Your finding without any facts because you
21 didn't have any personal knowledge of the situation,
22 correct?

23 A: Correct.

24 Q: Right. So based on that, you made an error in
25 trying to fire somebody for something that you have

1 no personal knowledge and that has not been
2 confirmed by any of the factual content in this
3 case, isn't that correct?

4 A: My basis for termination, Mr. Smith, because she
5 violated a directive given to her by Dr. Carpenter
6 by speaking to an employee of our District after she
7 was told personally and was also received a letter
8 stating that she was put on administrative leave.
9 The other two pieces of why I'm recommending her
10 termination are because of all the reasons that I
11 stated.

12 Q: That's fine. You can state as many reasons as you
13 want to, but you got to have factual content for
14 those reasons, and you just admitted you have no
15 personal knowledge or facts cause you didn't see
16 anything, correct?

17 A: I have factual knowledge that she spoke to an
18 employee after she was directed not to.

19 Q: No, I'm talking about the student. Now you were
20 supposed to conduct a complete investigation,
21 correct?

22 A: Yes, sir.

23 Q: You never spoke to the child's mother, did you?

24 A: No, sir.

25 Q: Right. And you never spoke to the child, correct?

1 A: Correct.

2 Q: Right. And you never spoke to Ms. Torres either,
3 did you?

4 A: No, sir.

5 Q: Right. So your investigation was not hampered. You
6 could have done those on your own, couldn't you?

7 A: Please ask me again, sir, what you're trying to ask
8 me.

9 Q: You could have actually asked the student yourself,
10 asked his mother, and Ms. Torres whether or not that
11 child came out of that classroom twice that Ms.
12 Brown spoke to him, but you didn't do that, did you?

13 A: No, sir, I did not.

14 Q: Right. So your investigation was not complete and
15 hadn't been completed to date, has it?

16 A: That's your opinion, Mr. Smith. I feel like I did a
17 very thorough investigation.

18 Q: I understand. And so did Ms., did Ms. were you
19 aware of Hall vs. the Board of Trustees of Sumter
20 County?

21 A: No, sir.

22 Q: Right. Where a person spoke to a

23 **MS. WHITE:** Mr. Darr and Ms. Smith, I'm going
24 to have to object to this. I mean certainly if Mr.
25 Smith in his closing argument wishes to present case

1 law, Dr. Moore is not an attorney, and I am very
2 familiar as you have made mention of, Mr. Smith, of
3 the Hall case that I cannot wait to distinguish it
4 from this situation, but I think your questions of
5 Dr. Moore about that case have no relevance to this
6 situation.

7 **MR. SMITH:** Well, I think it does have
8 relevance because

9 **MS. WHITE:** Well, you're welcome to argue it
10 during your closing statement.

11 **MR. SMITH:** well, I'm working look.
12 As a matter of fact, I'm not arguing with you,
13 ma'am. I'm just here representing my client. I
14 don't want to get in a colloquy with you. I don't
15 you take your position, and I'm going to take
16 mine. This man and this Board runs me. When they
17 tell me to shut up, I shut up. If they tell me to
18 sit down, I sit down, not you. I will give this
19 Board a copy of this case for all of you all to read
20 so you all have an opportunity to look at this case
21 law.

22 Q: Now in this State before you fire a teacher
23 because you do recognize, do you not, Doctor, that a
24 teacher with a contract has a property interest,
25 correct?

1 A: Sir, what do you mean by a property interest?

2 Q: Well, they have a

3 MS. WHITE: I'm going to object. She's not a
4 lawyer, Madam Chair.

5 MR. DARR: Are you asking her for a legal
6 conclusion?

7 MR. SMITH: No. I'm just asking does she know
8 that you have a property interest and before you can
9 take that property interest.

10 MR. DARR: So she

11 MR. SMITH: She knows she

12 MR. DARR: So she's not a lawyer and doesn't
13 understand what you're talking about, she can just
14 say no, is that what you're saying?

15 Q: Well, let me ask this. Ms. Brown has a contract
16 under South Carolina law, correct?

17 A: Yes, sir.

18 Q: Right. And that contract is governed by statute in
19 this State, correct?

20 A: Yes, sir.

21 Q: And with regard to that statute, that statute
22 provides a property interest to all the employees
23 with contracts who are teachers, doesn't it?

24 A: Sir, what does property interest mean?

25 Q: Okay, that's fine. Now the other thing, too, is did

1 you know that the law also provides, under South
2 Carolina law, that if you have a problem where you
3 want to fire somebody, you got to give them an
4 opportunity to improve, is that correct?

5 A: You mean if there's problems in the classroom, Mr.
6 Smith?

7 Q: Problems in the classroom, yes.

8 A: Yes, sir.

9 Q: Right.

10 A: If there are problems with the instructional
11 practices, yes, sir, we do give our teachers an
12 opportunity to improve.

13 Q: Okay.

14 **MR. SMITH:** And I would ask that you guys read
15 this case too, the case that Ms. White handled.

16 **MS. WHITE:** Are you talking about the Hall
17 case?

18 **MR. SMITH:** The Hall case.

19 **MR. SMITH:** Let me recite it. It's a South
20 Carolina Appellate Court case Hall v. the Board of
21 Trustees of Sumter County School District Number
22 Two. Cited in 1998 and still good law because it
23 hasn't been overruled.

24 Q: All right. So let me see if I can get to the long
25 and the short of it. You have a theory that Ms.

1 Brown came to the classroom twice, correct?

2 A: Yes, sir.

3 Q: Right. Now let me go down the list. Justin Kelly
4 never said she came to the classroom twice, correct?

5 A: Correct.

6 Q: Tracie Wilson never said she came to the classroom
7 twice, correct?

8 A: Both cases I didn't ask them specifically did Ms.
9 Brown come once or twice. I went based, based on
10 both of their statements. Mr. Kelly said that if
11 Ms. Brown came a second time to the classroom, he,
12 he wasn't aware, and Ms. Wilson told me that she
13 couldn't have been there in her statement for the
14 first what I believe was the first time that Ms.
15 Brown came to the classroom, so, Mr. Smith, no
16 either one said she came twice.

17 Q: So let me make sure I got the record clear.
18 Neither, neither Mr. Kelly said she came to the
19 classroom twice to get the child J, correct?

20 A: Mr. Kelly said that the incident occurred before
21 class started, and then he, he doesn't have the
22 recollection of whether or not she came to the
23 classroom.

24 Q: And Ms. Tracie Wilson doesn't say that the incident
25 happened twice with the same student either, did

1 she?

2 A: No, sir.

3 Q: Right. And

4 A: I will say this. Admittedly she said the class had
5 already started before she got there.

6 Q: Yes, ma'am.

7 A: Okay.

8 Q: And that, that is our position, too.

9 A: Okay.

10 Q: Because there was another lady who was going down
11 the hall who said the fingers was on the jaw,
12 correct?

13 A: Correct.

14 Q: And you have a child who has been interviewed by Ms.
15 Ruppe and Ms. Torres, and that child says that Ms.
16 Brown has never touched that child at all, correct?

17 A: I don't know if he said never.

18 Q: Well

19 A: And we don't have a statement from the student, Mr.
20 Smith. We have what Ms. Ruppe's notes, and I didn't
21 talk with the student.

22 Q: There's the point. You didn't do a complete
23 investigation because your thinking was you were
24 doing a very detailed, complete investigation in
25 this matter, and the principal person in this case,

1 being the student, you never talked to, correct?

2 **MS. HARPER:** And I want to know. Can you talk
3 to a seven-year-old?

4 **MR. SMITH:** Yes.

5 **MS. HARPER:** Okay. But is that admissible in
6 court, or do you not have to have an advocate, you
7 know?

8 **MR. SMITH:** Yes. I mean they go for child
9 abuse all the time in court.

10 **MS. HARPER:** Oh, yes, but don't you actually
11 have to have a psychologist there or somebody there
12 to talk to a child cause a lot of times a seven-
13 year-old would not, would they not think they're in
14 trouble if teachers or, you know, you know, and not
15 have an advocate in the room for them, so that's why
16

17 **MR. SMITH:** Okay. I don't want to argue with
18 the judges, but the key component here is if that's
19 the case, then they have the burden to prove it, and
20 the fact is they have the burden to prove that Ms.
21 Brown is guilty of an infraction where she should be
22 fired, so it's not Ms. Brown has to prove. They
23 have to prove it, and so if they needed to get a
24 counselor there with the student to question the
25 student at the time about this situation, they

1 should have done it, but they didn't do that because
2 they didn't have a complete investigation. That's
3 the point.

4 **MADAM CHAIR:** Mr. Smith?

5 **MR. SMITH:** Yes, ma'am.

6 **MADAM CHAIR:** Do you have any more questions
7 for this witness?

8 **MR. SMITH:** Yes, ma'am, but I whenever
9 you guys ask me a question, I have to respond.

10 **MADAM CHAIR:** Well, we must move on.

11 **MR. SMITH:** Yes, ma'am.

12 Q: All right. So

13 **MR. SMITH:** I told you I would shut up if you
14 all tell me to.

15 Q: All right. Now

16 **MR. SMITH:** That's all the questions I have.

17 **MS. WHITE:** And I don't have any other
18 questions for Dr. Moore, so this will probably be,
19 unless you all have questions, a good time to take a
20 break.

21 **MS. HARPER:** I do. I have one quick question,
22 then I promise I'll be quiet.

23 **DR. MOORE - EXAMINATION BY MS. HARPER:**

24 Q: All right. So what is the State law on a teacher
25 touching a child period? I mean like I know we have

1 in the past had someone that said they just tapped
2 him on the back of the head, and they're no longer
3 with us, right? Because, you know, I'm just asking.
4 What is, what is the law on this or what is our
5 policy on that specifically?

6 A: Ms. Harper, you know, I think it's the spirit in
7 which you could touch a student. Whether you're
8 placing your hand on a shoulder, whether you're
9 touching a student on the mouth. I mean I think it
10 depends on the spirit in which you are doing so.
11 I'm going to, I'm going to say again the basis for
12 my recommendation began with initially Ms. Brown
13 violated a directive given to her by Dr. Carpenter.
14 She then spoke to Ms. Wilson making the
15 investigation on her behalf very hard to conclude
16 correctly what, what happened because that was her
17 own witness that she admitted to. I have two
18 teachers saying that they saw Ms. Brown put her
19 hands on a student that she adamantly denies doing.
20 So to come full circle and answer your question, to
21 me it depends on the situation. We would never want
22 a teacher or any staff member to put their hands on
23 a kid in any bad way, in a derogatory manner with
24 any kind of force. But if you're breaking up a
25 fight, then, you know, it's to me it depends on

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1 the situation.

2 Q: Thank you.

3 (A short break was taken)

4 MS. WHITE: That concludes the
5 administration's case, Madam Chair, members of the
6 Board.

7 MADAM CHAIR: We'll hear from the employee who
8 may now present her witnesses and/or documents
9 against the dismissal.

10 MR. SMITH: I think they're being copied, the
11 documents.

12 (Off the record)

13 MR. SMITH: Ms. Brown. I call Ms. Brown to
14 the stand, please.

15 MS. SHARON BROWN, being duly sworn, testifies as follows:

16 MS. BROWN - EXAMINATION BY MR. SMITH:

17 Q: Would you state your name, Ms. Brown.

18 A: Sharon Ann Brown.

19 Q: Where do you live?

20 A: Spartanburg, South Carolina.

21 Q: How long have you lived there?

22 A: Forty-two years.

23 Q: Are you employed?

24 A: Yes.

25 Q: Where are you employed?

1 A: Cherokee County School District.

2 Q: What is your position with Cherokee County School
3 District?

4 A: Second grade teacher.

5 Q: As a second grade teacher at what school?

6 A: Second grade teacher at Luther Vaughan Elementary
7 School.

8 Q: All right. And how long have you been employed with
9 the District? Have I already asked that?

10 A: I'm in my currently in my 17th year.

11 Q: All right. And you fought to keep your job some few
12 years back?

13 A: I did.

14 Q: And you were reinstated by the Court?

15 A: I was.

16 Q: Now I'll take you back to May 28th, 2015. On that,
17 on that occasion did you on any occasion touch the
18 child J?

19 A: I did not touch the child J.

20 Q: Did you choke the child?

21 A: I did not choke the child J.

22 Q: Did you shove him into the wall?

23 A: I did not shove the child J into the wall.

24 Q: Did you go into the classroom twice to get the
25 child?

1 A: I did not go into the classroom twice.

2 Q: Now when you spoke to the superintendent about this
3 incident, did you wilfully disobey any order that
4 Mr. Carpenter gave you?

5 A: I didn't.

6 Q: Did you recall what order he may have given you
7 orally?

8 A: I didn't recall. I don't recall him ever telling me
9 not to speak with a witness.

10 Q: All right. Now sometime later did you get a letter
11 from Mr. Carpenter?

12 A: I did.

13 Q: And what date, if you can recall, when you got the
14 letter?

15 A: On July well, June the 10th there was a card in
16 my mailbox, and I picked up the certified mail on
17 June the 11th.

18 Q: Were you ever on any occasion wilfully dishonest to
19 either Mr. Carpenter or the superintendent?

20 A: No.

21 **MR. SMITH:** Your witness.

22 **MS. WHITE:** Those are all your questions, Mr.
23 Smith?

24 **MR. SMITH:** Yes, ma'am.

25 **MS. WHITE:** Okay.

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MS. BROWN - EXAMINATION BY MS. WHITE:

Q: Ms. Brown, and if I'm understanding your testimony correctly, you are testifying that you did not touch Student J, is that correct?

A: I did not touch Student J.

Q: Did you make any contact with his person at all?

A: Not at all.

Q: And you've sat in here this evening and you've heard Mr. Kelly testify?

A: I did.

Q: And you heard Ms. Owens testify?

A: Yes.

Q: And am I correct that both of them testified that they saw you touch Student J?

A: They did.

Q: And why, why do you believe Mr. Kelly would say that you touched Student J?

A: I don't know, but I do know back in April when I came out of the office, I had been out a few days sick, and I, I just came over there to see because my kids had gone on a field trip on, on that Friday, and when I came out of the office with the other three teachers, I saw Mr. Kelly at the end of the hall standing with my children, and I walked up to him, and I told him that he was four minutes early

1 and that I needed to go to the rest room, and when I
2 got back well, that afternoon I was told to
3 come see Ms. Ruppe. I think it was Ms. Fuller came
4 down to my room, and I was told that she got an
5 allegation from the principal that I had picked the
6 kids up from art late, and I explained my side that
7 he was early and I went on and went to the rest room
8 that was directly across the hall from my classroom,
9 and from there I was after that, he only comes
10 on Thursdays and Fridays, and I got my the days
11 that I was out from that first meeting with the
12 principal concerning Justin Kelly on April the 23rd,
13 I was out two more Thursdays, and one of the
14 Thursday was the State testing day. When he saw me
15 again, he made this other allegation about me. He
16 started with the first allegation on April 23rd. I
17 was out a few Thursdays, and when he saw me again,
18 here comes another one.

19 Q: So you're saying that, that he made this up?

20 A: He did.

21 Q: And what about Ms. Owens? What do you

22 A: My relationship with her? Well, Ms. Owens, I never
23 had a personal relationship with Ms. Owens, and I
24 worked there for three years, and I, I don't ever
25 recall even have a personal conversation with Ms.

Owens, and I'm just going to be up front with the Board. I don't even think she wants me in the meetings, planning and different stuff like that, and I reported Cathy, that's another second grade teacher, back in May for unprofessional conduct to the principal, and I gave Beth a copy of it, and I do have the e-mail about her being rude and unprofessional, and then I reported Cathy on the 28th, May 28th, the other second grade teacher, her and Beth are buddies, for leaving the playground because they said well, they made a report that me leaving the playground, but yet they're leaving the playground. And so my relationship, I'm going to be honest, has not been I really don't have Beth really doesn't have anything to do with me.

Q: So are you saying that she made that up?

A: She did.

Q: So you're saying that she's not telling the truth?

A: She's not.

Q: When she saw you take Student J by his face and turn him back to you?

A: Exactly. Exactly.

Q: All right. When did you have the conversation with Student J about I hate? Was it at the beginning of

1 the class? Was it in the middle of the class? When
2 did you have that conversation?

3 A: As I told Dr. Moore, I dropped my kids off at art

4

5 Q: 1:15ish.

6 Q: around 1:15, and on the way down as we was
7 approaching the art room, I heard I hate, and I know
8 Student J's voice.

9 Q: Well, try not to use his name, if you would.

10 A: Oh, sorry. We'd been trained to use PBIS, positive
11 behavior intervention and strategies. Not to
12 discipline children in front of other children. So
13 I went back to my room. Let them go on in the art
14 room. Went back to my room a few minutes, and then
15 came back, and knocked on the door and asked for
16 Student J.

17 Q: And when you were speaking with, with Student J, did
18 you see Ms. Owens and her husband coming down the
19 hall?

20 A: They passed by.

21 Q: So she's correct in that part of her statement?

22 A: She is.

23 Q: But the part where she said that you took his face
24 to turn it back towards you, you're saying she's not
25 being truthful?

1 A: Exactly. And, and the part that she went out to her
2 car and came back up. I only spoke with Student J
3 probably 10 seconds, if that.

4 Q: Well, maybe you're misunderstanding her testimony.
5 I think her testimony was that she had, had gone out
6 to her car to retrieve something before she saw you
7 in the hallway. Not, not in the middle of it is how
8 I understood it. Okay.

9 A: Well, her husband was with her when she

10 Q: Right. And so you're saying all that's correct?

11 A: Yes.

12 Q: It's just the part where she said that you took

13 A: Exactly.

14 Q: your, your fingers and turned his face back
15 towards you. That's not correct?

16 A: Correct.

17 Q: Now what about Ms. Wilson? Do you remember running
18 into her on June the 5th?

19 A: I do.

20 Q: And what's your version of what happened?

21 A: On that was June the 5th.

22 Q: It's Friday.

23 A: On Friday, June the 5th, I came into the Ross store,
24 and when I entered, Ms. Wilson was standing off to
25 the right, and she said, hey, Ms. Brown, how you

1 doing, and I replied fine, and she asked how was my
2 summer going, and also she told me she was glad to
3 be off, and I asked her was she waiting on somebody
4 since she was standing over to the side, and she
5 told me that she was waiting on her daughter, and
6 she pointed to her daughter who was in line waiting
7 to be checked out, and during the conversation I
8 asked had she spoken with Dr. Carpenter, and she
9 said about what. I said something about something
10 having been done to Student J in the hallway.

11 **MR. SMITH:** You can't say his name.

12 **MS. WHITE:** Say Student J.

13 **(Off the record)**

14 A: Student J in the hall.

15 Q: So you said you asked her about so back it up
16 one minute, Ms. Brown. So you said you all
17 explained, I mean you all exchanged pleasantries
18 about summer, shopping, whatever, and then you asked
19 her had Dr. Carpenter contacted her?

20 A: During the conversation, I don't know what part in
21 the conversation, but during the conversation I
22 asked her had Dr. Carpenter spoken with her, and she
23 said, no, about what, and I told her that there was
24 an allegation from Justin about something having
25 happened to Student J in the hallway, and and I

1 told her that was the third allegation that Justin
2 has made against me since April, and she said, Ms.
3 Brown, don't worry about anything. I've been having
4 trouble with this teacher since I been working for
5 them, and she said have a good summer and I love
6 you, and that's basically the essence of the
7 conversation.

8 Q: Had you provided her name as a witness when you met
9 with Dr. Carpenter and Ms. Ruppe on June the 1st?

10 A: He asked me did I have anybody that could say that I
11 was at that location and had seen me, and I told
12 him, well, she was in the room, Ms. Wilson, but I
13 don't know if she could testify.

14 Q: But you gave her name to Dr. Carpenter?

15 A: Yes.

16 Q: Okay. And did you not think it was a problem for
17 you to be talking to her and asking her if Dr.
18 Carpenter had contacted her when you had given her
19 name as a witness?

20 A: I do, because I, I hadn't been told not to talk to
21 nobody.

22 Q: So you're saying that

23 A: Or at least I don't recall.

24 Q: So are you saying that you don't recall, or are you
25 saying

1 A: I don't recall. Right.

2 Q: So you're not saying that it didn't happen at the
3 meeting?

4 A: Exactly.

5 Q: All right. Does it usually take that long for a
6 letter from Gaffney to get to your house, nine days?

7 A: Well, I don't know what happened with the mail, but
8 I do know early June my neighbor, and as a matter of
9 fact, I asked her on a Saturday could she write a
10 statement about her coming to me in June about the
11 mail problem. I was getting her mail, and other
12 people bringing mail to her house, and she had
13 called the post office, and she wanted me to
14 she came to my house, had a phone in her hand,
15 wanted me to speak with the people on the phone
16 about the mail problem and me bringing mail over to
17 her house and so forth, and she told me she was
18 going to provide me with a statement on Saturday,
19 and then when I went back that evening, she was
20 like, well, I called the post office, and they have
21 a record of me calling and you getting on the phone,
22 and when I went to the post office on Saturday, I
23 spoke with a lady named Verna, and she told me that
24 they don't keep records of complaints that they get,
25 but you're welcome to call. Her name is Claudia

1 Simmons.

2 Q: What so, so is Ms. Wilson incorrect when she
3 says that you told her on June the 5th, well, I'm not
4 supposed to be talking to you about it.

5 A: I did not tell her that.

6 Q: So she's not telling the truth?

7 A: She's not.

8 Q: Do you have some reason why she would not tell the
9 truth about that?

10 A: She's been doing it the whole time she's been
11 testifying she's been making up stuff.

12 Q: Well, do you have any reason that she might make up
13 stuff on you? I mean you've given me a reason for
14 Mr. Kelly, right, and you said that you and Ms.
15 Owens really didn't, you know, have a great
16 relationship, but what about Ms. Wilson? Why would
17 she make up stuff?

18 A: It seems to be her nature from what I've seen her do
19 today, and she's even told me. She's been in my
20 room during planning, and she told me that when she
21 worked at B D Lee, she had a lot of problems with
22 Ms. Jefferies and the problem with Ms. Jefferies,
23 she was calling her, her into the office all the
24 time with things that she said and did that she did
25 not say and do.

1 Q: Have you, yourself, had negative interactions with
2 Ms. Wilson?

3 A: I don't really have much contact because I'm busy
4 and having to get ready for my students and
5 everything.

6 Q: So is the answer to that no?

7 A: No.

8 Q: No negative interactions?

9 A: No.

10 Q: Okay. So you just think that she made this up, but
11 you're not real sure why?

12 A: I just from what I see, it's her personality
13 from all of this and all the stories you have before
14 the Board. It's just unreal.

15 Q: So, so it's your position that number one, you did
16 not touch Student J

17 A: I did not.

18 Q: in any way. That both Mr. Kelly and Ms. Owens
19 are lying?

20 A: They are.

21 Q: That you were honest in answering questions from Dr.
22 Moore?

23 A: I was.

24 Q: That you don't remember Dr. Carpenter giving you a
25 directive not to talk with anyone?

1 A: That's true.

2 Q: But you're admitting you talked with Ms. Wilson.
3 You just said you didn't know you weren't supposed
4 to, correct?

5 A: Yes.

6 Q: But you're admitting that you asked her, Ms. Wilson,
7 whether or not Dr. Carpenter had contacted her,
8 that, that's correct?

9 A: Had he contacted her.

10 Q: Okay.

11 A: Had he spoken with her.

12 Q: Okay.

13 MS. WHITE: Those are all the questions I
14 have.

15 MR. SMITH: Can I just do, oh, I'm sorry. The
16 Board goes first.

17 **MS. BROWN - EXAMINATION BY MS. FOWLER:**

18 Q: When you did receive that, the note to go to the
19 post office on, I forget that now, about the letter,
20 how did you get that note? It was in your mailbox?

21 A: It was a little card in my mailbox.

22 Q: And it was on there on June the 10th?

23 A: Yes, and I got home that evening, and it was in my
24 mailbox, but the people that live next door to me
25 are elderly, and but you're welcome to call her, and

1 I, you know, tried to get a little statement, but
2 you're welcome to call her.

3 Q: So did it have your name and address on the card to
4 come to the post office? I'm curious. I've never
5

6 A: I, I think so.

7 **MR. SMITH:** I think we got a copy of it for
8 you all, for the Board.

9 Q: I've never had one of those, so I really don't know
10 if it has your name and address. If it did, it
11 seems as if it had gone to another, another
12 neighbor's mailbox, they would have gotten that to
13 you immediately.

14 A: I don't know.

15 Q: Do you live in a small neighborhood or

16 A: Not too small.

17 Q: Because I live in a very small neighborhood, and we
18 kind of look out for each other when we get wrong
19 mail.

20 A: Yeah.

21 **(Off the record)**

22 **MR. SMITH:** Because you didn't get three
23 notices.

24 **MS. WHITE:** Sometimes they do, I think.

25 **MR. SMITH:** Yeah, sometimes if you don't pick

1 it up on time, they'll give you a notice, and
2 they'll tell you to come back to the post office and
3 pick it up, and they'll put the number of notices in
4 the box, so I don't think that happened in this
5 case, but here's what they gave us, and it's from
6 the school district when we asked for it.

7 **MS. WHITE:** Do you want that to be Six?

8 **MR. SMITH:** Yeah, we can make that Six.

9 **(Respondent's Exhibit Number Six was entered into**
10 **evidence.)**

11 **MR. SMITH:** I just have one more question.

12 **MS. BROWN - RE-EXAMINATION BY MR. SMITH:**

13 **Q:** Ms. Brown, would you tell the Board what you did in
14 terms of your educational background? Where did you
15 graduate from college?

16 **A:** My first degree was a bachelor of science in
17 criminal justice from USC Upstate. My master's was
18 in elementary education from Converse College. I
19 have an educational specialist degree in school
20 administration and supervision, and I have a
21 master's degree in reading which was paid for by
22 this District.

23 **Q:** Where did you get that?

24 **A:** From Winthrop University.

25 **MR. SMITH:** That's all. That's our case.

1 **MADAM CHAIR:** Each attorney may now present a
2 brief summation of their case, not to exceed five
3 minutes. Ms. White?

4 **MS. WHITE:** Madam Chair and members of the
5 Board, I'll stand up because I'm used to doing that
6 in Court even though this isn't Court, I'm tired of
7 sitting. I appreciate everybody's attention. You
8 know, we've been going now for about three and a
9 half hours, and I feel like you've listened very
10 attentively to, to all the testimony, and quite
11 frankly from my review of all this, and I, and I
12 know it kind of took to get to the point where Dr.
13 Moore kind of put it all together for you, but to do
14 it in chronological order, it happened just like she
15 arrived at the conclusion. That's the only
16 explanation that makes sense is that Mr. Kelly saw
17 what he saw and that although Ms. Brown didn't know
18 that he saw what had occurred, that she got a little
19 bit concerned about what Student J might say, what
20 he might do, was he upset, and so she went back to
21 the classroom, asked to see him, called him out in
22 the hall, and had a second conversation with him.
23 That's the conversation, that second conversation,
24 that Ms. Owens observed. That's how, how all this
25 went down, I believe. I can't explain. I, I have a

1 theory as to why the student did not himself say,
2 yes, this is what happened. First of all, English
3 is his second language. He is a Hispanic student.
4 It's a different, it's a different culture. I think
5 that Ms. Brown also made amends with the student,
6 and when she went back down there and, and probably
7 said something along the lines of we're good, right,
8 you're not upset, everything, everything's okay, and
9 that's why he reported that it didn't happen.
10 You've got two adults who have no reason to lie
11 about Ms. Brown. I mean you've got Mr. Kelly, a
12 first-year teacher, what in the world? He certainly
13 didn't want to involve himself in the middle of
14 this, you know, huge drama. Why would he make that
15 up? It just doesn't make any sense, and why would
16 Ms. Owens say that she's sure that she saw Ms. Brown
17 make physical contact with his jaw in a, in a
18 different way, the second incident. Why would she
19 make that up? The person who has the motivation not
20 to be truthful here is who? It's Ms. Brown who has
21 that motivation. These other individual don't have
22 it, and what about Ms. Wilson? What motivation does
23 she have to tell the Board that Ms. Brown at the end
24 of class came to her and said were you in the
25 classroom the whole time? Do you know what I think

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1 that conversation was about? She knew right then
2 that what, what if Student J says something, what if
3 Mr. Keller saw something. I need to start putting
4 all this together right now, and so she asked Ms.
5 Wilson were you in there the whole time. Ms. Wilson
6 tells her no, okay? So I think Ms. Brown started
7 putting she testified she's very educated,
8 she's very smart, she started putting all this
9 together as to here's what, here's what I'm going to
10 do about what happened on this day. Okay. So one
11 basis for her termination is that she did make
12 inappropriate physical contact with that student, as
13 reported by two adults who have no motivation to lie
14 about this. That in and of itself, put aside the
15 insubordination, okay, put aside the dishonesty,
16 that in and of itself is grounds for immediate
17 termination. She did not put her hands on that
18 student in a way to gently guide them into line, to
19 keep them from hurting somebody else, to keep them
20 from falling into a sink hole. She did it because
21 for whatever reason, she was ticked off at Student
22 J, and then went back to make amends, and when he
23 wasn't looking at her because he was looking at Ms.
24 Owens, guided his face back to look at her. Again
25 that is grounds for termination. But let's not stop

1 there. Then we have the dishonesty when she meets
2 with the superintendent and says I absolutely did
3 not make any physical contact with that student.
4 You've got two adults saying that she did who have
5 no reason to lie. And then thirdly she was
6 specifically instructed not to discuss her
7 employment status with anyone else. What does she
8 do? She runs into Ms. Wilson whose name she had
9 given as a witness. She runs into her at Ross and
10 proceeds to tell her what she needs to tell Dr.
11 Carpenter. So it's not just insubordination. I am
12 very familiar with the Hall case. I was a young
13 lawyer then. I went through all that. Call your
14 attention to the fact there's a descent, okay, which
15 is not controlling all, but read the descent. But
16 the other thing I would point out about the Hall
17 decision, and Mr. Darr will discuss this with you,
18 is it says that "there is no evidence that Hall's
19 insubordination affected her primary duties as a
20 media specialist." Here's the important sentence.
21 "Moreover, the record does not contain any evidence
22 showing she attempted to undermine the
23 investigation." Here clearly the evidence is, the
24 testimony is, that's exactly what she was attempting
25 to do was to undermine the investigation by telling

1 Ms. Wilson you remember how this happened, right?
2 You know who the student was, right? You know
3 exactly, you know, what you saw. Clearly that's
4 what she was attempting to do, so in no way is this
5 case on point with the Hall decision. So we have
6 gross insubordination, not just, you know,
7 disembodied by directive but actually attempting to
8 interfere with the investigation, dishonestly, and
9 then inappropriate physical contact with a student.
10 Any one of those standing alone would justify her
11 immediate termination, and we've got three reasons
12 here to do that, and I mean I certainly I will
13 say that my job as a school lawyer, the two hardest
14 things that I do are terminate people's employment
15 and expel people's children, but here I just don't
16 think that, that we can return somebody to work
17 where the superintendent says she's lost total faith
18 in her credibility. How can she believe anything
19 that she says? So for all those reasons, I would
20 ask that you uphold the recommendation of
21 termination.

22 **MR. SMITH:** Thank you. That was a great, I
23 appreciate that, but the fact is that is totally
24 absurd. And the reason why it's absurd, the person
25 in this Hall case was a person who was chaperoning

1 students in another state, and she went I guess to
2 be with her boyfriend, and the court said under
3 those circumstances, when she talked to three of the
4 witnesses during the course of the investigation,
5 that she couldn't be fired. That's what the Hall
6 case stands for. So whatever she's talking about, I
7 don't know. She's in loo loo land with regard to
8 that. The other thing, too, is if they believe that
9 the student now this is the key. If they
10 believe that this student didn't understand English,
11 they sent Ms. Torres out there who is their
12 translator. Ms. Torres did a much more thorough
13 conversation with the child along with the child's
14 mother. There was no Ms. Brown there, and the child
15 still said that Ms. Brown did not touch him. Now
16 that's what the credible evidence says. The child
17 said that Ms. Brown under no circumstances touched
18 him. That is the strongest evidence. Now let's
19 think about this thing in, in one sense. If that
20 child had been choked, slammed to the wall, or
21 touched in any kind of way inappropriately, you all
22 would have a lawsuit by some family member, and Ms.
23 Brown would probably be in jail, and so they're
24 saying, okay, Ms. Brown I guess they would be
25 saying Ms. Brown in a lawsuit didn't touch the

1 child. We're here where they're telling you she did
2 touch the child cause they want to get rid of her,
3 but the lawyers representing the school district
4 would say, no, he never touched, she never touched
5 the child would be their position at that point.
6 The key is it's not based on what her belief, what
7 her belief is in terms of whether Ms. Brown can be
8 believed or not. The child shows that she can be
9 believed, and every other witness in this case shows
10 that she can be believed, and the court said it's
11 not up to the superintendent's belief, cause the
12 superintendent fired that person in that case, it's
13 up to the School Board. You all have the obligation
14 to make the determination. That's why she can make
15 the recommendation and you all can turn them down.
16 If that was the case, then you all could just rubber
17 stamp whatever the superintendent wanted to do any
18 time you all wanted to, but you all are giving her a
19 fair hearing. Now the other thing, too, is this.
20 Sometime people in a stressful situation like Ms.
21 Brown, maybe you're given a directive by Mr.
22 Carpenter, we're not saying Mr. Carpenter did
23 anything wrong. He probably did tell her say, well,
24 don't talk to anybody, but she says she didn't
25 recall it. That's fine. There are a lot of

1 and she got a letter saying, and there was no
2 further contact with any school district members.
3 And the other thing, too, which is that they didn't
4 dispute was that the lady who called her about the
5 media situation to get the, the, whatever the
6 equipment was and where it was in the classroom,
7 contacted Ms. Brown, and she spoke to the lady. If
8 Ms. Brown had gotten that directive, she wouldn't
9 have spoken to that lady either, but and Mr.
10 Carpenter said it would have been okay for her to
11 say whatever she said to that lady about where the
12 equipment was in the school. I just think that Ms.
13 Brown is an unpopular teacher at Luther Vaughan.
14 She sued and got \$235,000, and she's been unpopular
15 at that school since she won that money from them in
16 2011 or 2012 whenever she got it, and it's hard for
17 her to make friends over there. It's hard for her
18 to be friends with Ms. Ruppe, and it's hard for
19 them, and it had a damper on it, but she did her job
20 as a school teacher. She's highly educated, highly
21 qualified to do her job. And the other thing too,
22 is the superintendent, and I respect the
23 superintendent, don't get me wrong, but I respect
24 the superintendent, but I think the superintendent's
25 theory is completely off base. She admitted under

1 oath, the superintendent, that she had no facts to
2 say that Ms. Brown came into that classroom twice
3 and got Student J out of that classroom twice. Not
4 one fact. She doesn't have one fact, one shred of
5 evidence not and she said she didn't ask any of
6 the other witnesses. Well, if you're doing a
7 thorough investigation, wouldn't that be the
8 question if that's your theory? And the other thing
9 is she never spoke to the, to the child. She never
10 spoke to the child. Never had the child's parent
11 come in. Never had Ms. Torres come in. None of
12 that. So the investigation was not complete, and
13 Ms. Brown didn't have any, didn't have any control
14 over the superintendent asking Torres those
15 questions. She didn't have any restraints on her
16 asking the other witnesses any questions whether
17 she'd been in there twice. She just comes up with
18 this theory, and that's all it is. There's no
19 factual basis for it. So to fire her on a factually
20 improper basis would be against the substantial
21 evidence rule that you guys have got to apply. The
22 other thing, too, is she was not wilfully dishonest
23 to anybody. Ms. Brown, as much as I know about her
24 and as much problem as she's had at that school
25 district, is a detailed person, and if she had

1 remembered the instruction from Mr. Carpenter, she
2 would have obeyed it, and when she got that letter
3 after, after July the 10th or June the 10th, there
4 was no contact with any employee whatsoever, and
5 then they asked her to come in, and I came in, and
6 we all sat down there with her, and you will note
7 that in this whole investigation process that they
8 said she violated and compromised, they gave you
9 nothing else after June the 1st, did they? Where are
10 the notes that the superintendent took of all those
11 so-called witnesses she spoke to? Where are those
12 notes? We asked for them. We don't have any notes
13 of her conversations with all those witnesses after
14 June the 1st, so the investigation which was
15 conducted by this man and this lady was over on June
16 the 1st. The only exception was with Ms. Brown, and
17 if that is the case, there is no situation where she
18 can come in and say, well, the investigation was
19 compromised because if you will notice, this lady,
20 Ms. Tracie Wilson, had already given her statement
21 on June the 1st. That was some four days before she
22 even spoke to Ms. Brown in Ross's. So the
23 investigation was not compromised, and I also ask
24 Ms., the same lady, Ms. Tracie Wilson, did she stand
25 beside the same statement she gave on June the 1st

1 when she talked to the rest of them later, she said
2 yes, and why do we know that? Because she didn't
3 write up another statement saying that the
4 investigation was compromised or that Ms. Brown
5 asked her to lie about any situation in this case.
6 Now with regard to this fellow named Justin, I think
7 you all pretty well conclude that he's telling a
8 lie. Why do we know he's telling a lie? Because no
9 witness, no witness confirms what he says. And then
10 they want to tell you, well, if Ms. Brown did touch
11 the child's jaw, the lady who was her primary
12 supervisor told you under oath that she didn't think
13 that was serious. She only thought that the serious
14 incident was where the child was being choked and
15 his face slammed into the wall and yelled at.
16 That's what she thought was serious because she said
17 the first incident she took notice of was the one
18 with Justin, when he came in some hours later like
19 3:10 the next day with this guidance counselor to
20 tell her what had gone on. So she wasn't even
21 concerned, and now the superintendent want to tell
22 you that she was concerned about that incident, but
23 she wasn't because the primary person in this case,
24 the principal, wasn't. This is a bogus case against
25 Ms. Brown. She wants to return to the classroom.

1 She does a good job. None of them have come in here
2 and told you she does a bad job. Fact is she's a
3 good teacher. What conversation she had, and you'll
4 read that Hall case, had nothing to do with the
5 classroom whatsoever, and on that basis, she can't
6 be fired by the superintendent or recommended, have
7 a recommendation for her firing, so I ask you all to
8 bring her back. You all have no enemies to punish
9 or anybody reward, but I think it ought to end
10 tonight. I think this whole situation ought to end
11 tonight. Her contract should be honored by the
12 school district, and, and I'll leave it in you all's
13 hands. Thank you.

14 **MADAM CHAIR:** We thank everyone for their
15 participation in the hearing and ask that you please
16 excuse us now so we can begin our deliberation. As
17 I indicated at the beginning, the Board will
18 deliberate in executive session at the close of the
19 summation. No votes will be taken in executive
20 session. The Board will vote in open session and
21 announce its decision. Within 10 days a written
22 decision of the Board will be issued consistent with
23 the Board's announced decision, the evidence
24 presented, and applicable law.

25 **(Off the record)**

CERTIFICATE

This is to certify that the foregoing transcript of Cherokee County School Board hearing, consisting of one hundred sixty-six (166) pages, is a true and correct transcript of the testimony given at said hearing; said hearing was reported by the method of voice writer with backup.

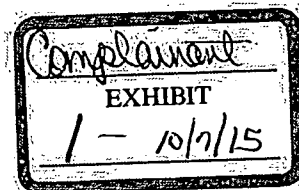
I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 31st day of October, 2015.



Judy R. Urso
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 1-24-21



JUSTIN
KELLY,
ART
TEACHER

May 29, 2015

Yesterday, Thursday, May 28, I witnessed Sharon Brown, a second grade teacher, grabbing a student violently by his lower jaw and throat, and forcing his body against the wall while proceeding to verbally assault him. He did not appear to be doing anything wrong. He was walking appropriately to class when she grabbed him. I do not think that she was aware that I was present. I just happened to look outside my art room door and witness it.

Justin Kelly

Justin Kelly
(Art Teacher)

BETH
OWENS,
2ND
GRADE
TEACHER

On Thursday, May 28, I had just dropped
my students off in the gym around 1:15
and I was on my way back to my classroom.
I noticed Miss Brown and [redacted] in the
hallway outside of the art room. [redacted]
back was against the wall. Miss Brown
was bent over so they were at eye level.
I observed [redacted] turn his head in my
direction, away from Miss Brown. Miss Brown
then took her fingers, placed them on his
chin and turned his head so he was again
facing in her direction. I continued on to
my room and didn't observe any further
interaction between Miss Brown and the
student. After school, on the same day, I
tified Principal Ruppe of the physical interaction
observed between Miss Brown and [redacted].
Principal Ruppe requested a statement from me
with the Literacy Day / Field Day on Friday,
I hadn't gotten around to it.

Beth Owens
6-1-15

(2nd Grade
Teacher)

NAN
RUPPE,
PRINCIPAL

6-1-15

Talk with Student -

Student said he was at end of line because he was ~~tying~~ ^{tying} his shoe. He walked into class with other students and went to seat. Mr. Kelly was in classroom when he arrived.

Miss Brown came to class and asked Mr. Kelly to see the student. He went outside room to speak to Miss Brown. Nothing unusual happened when he spoke to Miss Brown. He didn't remember what it was about.

[redacted] was asked if Miss Brown ever put her hand on him, and student said no.

[redacted] was asked what he thought of Miss Brown as a teacher, and he said, "She's nice."

Written by - Nan Ruppel, Principal
June 1, 2015

Mrs. Torres, 5K TA who speaks Spanish, called parent, 12:05pm to report the allegation and investigation response by CCSB. Mrs. Torres said parent is okay with everything and said she would talk to [redacted] in Spanish this afternoon about everything.

Written by - Nan Ruppel, Principal
June 1, 2015

CARL CARPENTER

From: Nan Ruppe
Sent: Friday, June 5, 2015 3:57 PM
To: CARL CARPENTER
Subject: phone calls

I spoke to Brenda Torres by phone, 6-5-2015, to verify information regarding conversation with parent. Mrs. Torres was asked by principal to call parent of student in order to inform her of allegation of mistreatment by teacher. She was asked to call parent as a Spanish translator because mom does not speak English.

Following the conversation by phone, Mom came to school and signed out student. She reported to Mrs. Torres she would talk to her son in Spanish to see what she could find out.

Mrs. Torres was absent from school on Tuesday, June 2, 2015, so she did not speak to mom about her talk with her son until Wednesday, June 3, 2015. Mom told Mrs. Torres on Wednesday, June 3, 2015, that her son said teacher did not touch him. He told his mother the teacher said he was disrespectful. Student told teacher because you're so mean.

This was all Mrs. Torres said about her conversation with student's mother.

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TRACI
WILSON,
BEHAVIOR
INTERVENTIONIST

June 1, 2015

On Thursday, May 28, 2015 Mr. Justin Kelly asked me, Tracie Wilson, to keep an eye out for his last period art class Miss Sharon Brown's class. So I did and I was walking by and knocked on the door Mr. Kelly verified that it was me and a student let me into the classroom. The students were currently seated and settling down. Miss. Brown came to the door standing between the door and the wall she didn't come into the art room completely and asked to see a student, whose name I cannot remember, and stated that the student was not in trouble. Mr. Kelly said OK and the student got up and went with her and she pushed the door up behind her. I cannot remember if the student came back or if the student stayed with her. Mr. Kelly informed the students that he wanted to do a fun activity with them since it was the last day he would have their class. He decided to play "Heads Up Seven Up" where he picked seven students to come up front and the rest sit at their desk. He explained the rules of the game because many had never played it before. He explained to the students sitting to put their heads down on the desk close their eyes and put their thumbs up in the air and one student standing will quietly touch their thumb finger and they will put their thumb down then anyone who has thumbs down will stand and take a guess at who picked them. (Repeat). We played about 3 to 5 rounds. One of the male students got mad because he lost during the game and started saying that he hated black people and laid in the floor, so took him out and talked with him and reinforced the positive behavior matrix allowing him to calm down. We went back to class and I noticed time was winding down for the class to be over. The student and I returned to the art room and I informed Mr. Kelly it was almost time for the students special area time to be over and he glanced at the clock and said oh, yea and said let's line them up so he lined them up by the quietest table. Miss. Brown was late coming to pick them up so one student whose leaves early was sent to his regular schedule class and the other students were lined up and I asked Mr. Kelly do you want to walk Miss Brown's to class to her, I told him I will bring up the caboose if he walks in front. We were getting ready to take the students down the hall when Miss. Brown came to the door and asked can I speak to you Mrs. Wilson and I said sure and we both step to the side of the art room door hallway and she asked me if I had to stay with Mr. Kelly and her class the whole time and I told her no they had some commotion in the room and I had stepped in to lend a hand. She said oh, okay and the students were standing there looking and waiting on her and she took them on down the hall. I went back to work. Mr. Kelly went on to prepare for the end of the day.

Tracie Wilson
Tracie Wilson

Luther Vaughan Elementary School

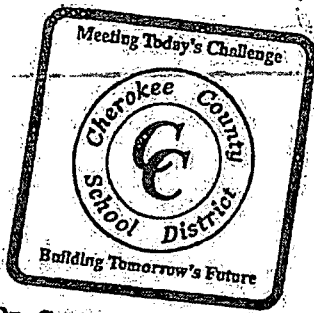
Behavior Interventionist

On June 5, 2015 I was at Ross Clothing store in Spartanburg and checking out when Miss Brown came into the store and I said hi to her. I asked how was her summer going or something about shopping. She said hi back to me and she asked me had Dr. Carpenter spoke with me yet or called me. I looked at her all puzzled and told her no. She stated she had given Dr. Carpenter my name to speak on the incident that had taken place at school with her and another student. I told her I didn't know anything about the incident. She stated we are not supposed to be discussing this and I said to her than don't discuss it because I didn't know exactly what she was talking about. Miss Brown proceeded to tell me that she came to the art room to drop off her class and when she arrived I was already in the classroom waiting with Mr. Justin Kelly for her class to arrive and she took [redacted] with her to talk to him in the hall way and she did bring or return the student back to class before it was over and that I was there to witness this taking place. She stated to me you remember that day. I stated to her I did not recall what she was stating and I did not know what student she was talking about. She stated it was [redacted] you do know it was [redacted] I looked at her and told her I don't know who the student was nor did I recall the exact same situation that she recalled. Miss. Brown stated you do know that it was [redacted] I looked at her and said I don't know who it was. She proceeded to tell me again what she saw and that I was supposed to have seen the same things that she saw. Miss Brown stated again that she isn't supposed to be discussing this with me anyway. I stated to her than you have a good day shopping and she started stating Mr. Kelly has reported on her three times since April and she doesn't know why unless he is trying to get a promotion or trying to get ahead by reporting on her. I once again told her that I did not know what she was talking about and did not have a clue of anything she was saying. Finally, a Hispanic student from school from Luther Vaughan came over and told her hey and we both looked around for the parents and we spoke to the student and I told Miss Brown to have a great day and enjoy the summer she said and you to and love ya and I walked out the store with my daughters.

Tracie Wilson

LVES Behavior Interventionist

DR. CARL
CARPENTER,
DIRECTOR
OF
HUMAN
RESOURCES



Dr. Carl A. Carpenter, II
Director of Human Resources

Cherokee County School District
Office of Human Resources
Post Office Box 460
Gaffney, South Carolina 29342
Telephone: (864) 206-2218

June 1, 2015

VIA CERTIFIED MAIL

Sharon Brown
216 Ardmore Road
Spartanburg, SC 29306

This correspondence is to notify you that you are being placed on administrative leave with pay, effective immediately. The reason is because you allegedly grabbed a student by his lower jaw and throat and forced his body against the wall. We will continue to investigate this matter and will be in touch with you soon.

This administrative leave will continue until you have been contacted by Dr. Quincie L. Moore, Superintendent or me. If you have not done so, please provide me with a current telephone number that I may use to contact you if the need arises.

You are restricted from going on any school property without our expressed permission. In addition, you should not have any contact with school district employees or students in any manner while you are on administrative leave.

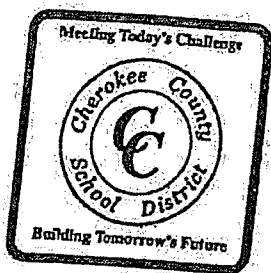
If you have any questions regarding this matter, please do not hesitate to contact me at 864-206-2210.

Sincerely,

Carl A. Carpenter, II, Ph.D.
Director of Human Resources

CC: Dr. Quincie L. Moore, Superintendent
Nan Ruppe, Principal
Personnel File

DR. QUINCIE
MOORE,
SUPERINTENDENT



**Cherokee County School District
Office of the Superintendent**

P. O. Box 460
Gaffney, S. C. 29342
Telephone: (864) 206-2233

Dr. Quincie L. Moore, Superintendent

VIA CERTIFIED MAIL

August 11, 2015

Ms. Sharon Brown

216 Ardmore Road

Spartanburg, SC 29306

Dear Ms. Brown:

I am writing to follow up on our meeting on July 31, 2015, which also was attended by Dr. Carl Carpenter, Director of Human Resources. Also present at your request was your attorney, Fletcher Smith, Esq., along with Andrea White, Esq., the District's attorney.

At the start of the meeting, you were informed that the purpose of the meeting was for you to share with me your side of an incident involving a student in your class, [REDACTED]. The incident in question was reported as occurring on May 28, 2015. As you were informed, Luther Vaughan Elementary School art teacher Justin Kelly reported to Principal Nan Ruppe that he observed an incident on that date in which you grabbed [REDACTED] "violently by his lower jaw and throat, and forcing his body against the wall while proceeding to verbally assault him."

You were made aware of this report on June 1, 2015, by Dr. Carpenter, who informed you that while the matter was under investigation, you would be on administrative leave with pay. During the investigation, you also were asked by Dr. Carpenter whether you had any witnesses that you believed could provide information about the May 28th incident. You gave Dr. Carpenter the names of Tracie Wilson, Luther Vaughan Elementary School Behavior Interventionist, and Luther Vaughan Elementary School teacher Beth Owens.

During his meeting with you on June 1st and in a subsequent letter dated that same day, Dr. Carpenter reminded you that you were not to have any contact with District employees or students while you were on administrative leave. During our meeting, you stated that you "did not recall" Dr. Carpenter telling you that you should not contact any District staff and further advised that you did not receive his June 1st letter until June 11,

When I asked you about the May 28th incident, you denied grabbing [REDACTED]. You said that you requested that Jose come out of Mr. Kelly's art class to talk with you in the hallway about his use of the words "I hate," but reiterated that at no time did you make physical contact with him.

We then continued to discuss the June 1st directive given to you by Dr. Carpenter that you should not have any contact with District staff while on administrative leave. When I asked you whether you had discussed the May 28th incident with anyone, you told me that you had run into Tracie Wilson at a Ross department store in Spartanburg on June 5th. You said that you had a very brief (3-5 minute) conversation with Ms. Wilson, in which you asked her how her summer was going and whether she had been contacted by Dr. Carpenter about the May 28th incident. You denied any other discussion with Ms. Wilson and also reiterated that you did not remember Dr. Carpenter telling you that you should not have contact with any District employees.

We then proceeded to read you the written statement provided by Ms. Wilson, which she had given to Nan Ruppe at the end of June. You replied that Ms. Wilson's statement describing your encounter at Ross was not accurate and also stated, in response to my inquiry, that you did not know of any reason why Ms. Wilson would report the facts of the encounter so differently than you.

At the conclusion of our meeting, I advised you that I was very disappointed and concerned about your actions in speaking with Ms. Wilson about this matter, particularly after you had provided her name to Dr. Carpenter as a witness. I explained that your talking with Ms. Wilson about her conversation with Dr. Carpenter had significantly adversely impacted the District's ability to complete its investigation into the May 28th incident. I then told you that I would review the entire situation and get back in touch with you with my conclusions and decision about your employment status.

Earlier this week, I asked that Ms. White contact Ms. Fletcher to advise that I have lost confidence and trust in you as a teacher in the Cherokee County School District, and that, in lieu of me proceeding to make a recommendation for your termination, I was willing to accept your resignation. Ms. White has informed me that you have rejected that alternative, which has led to this letter.

Ms. Brown, based on my review of your conduct in reference to the May 28th incident and the events subsequent to that incident, I have decided to recommend the termination of the contract you were issued for the 2015-16 school year. Your actions, in willfully violating a specific administrative directive that was given to protect both you and the District as this matter was investigated, have led me to conclude that I have lost confidence in your ability to conduct yourself in a professional manner and to abide by directives given to you.

I also have concluded that you were dishonest in your answers to me, both about the May 28th interactions with [REDACTED] and about your encounter with Ms. Wilson on June 5th. Specifically, while you have denied touching the student, it was reported by Ms. Owens, whose name you provided as a witness, that she observed

you physically guiding the student by his face to look at you as you spoke to him. Based on Ms. Owens' description of what she observed, I have concluded that the incident reported by Mr. Kelly was a different incident involving the same student. While you have denied making any physical contact with the student contrary to what was reported by Ms. Owens, your dishonesty in reporting other information causes me to question whether you did, in fact, touch the student in the manner as reported by Mr. Kelly. Certainly, if you did grab the student in a forceful or violent manner, that would serve as an additional ground for your immediate termination.

I also believe that you were untruthful in reporting the facts to me regarding your discussion with Ms. Wilson at Ross on June 5th. While you stated that Ms. Wilson's statement was not truthful, you agreed that Ms. Wilson had no reason to report the facts inaccurately. Alternatively, you had a clear motivation to downplay that encounter.

Based on the above, I am recommending your immediate termination to the District Board of Trustees pursuant to the provisions of S.C. Code § 59-25-430. As stated in S.C. Code § 59-25-470, you have the right to request a hearing before the Board of Trustees regarding my recommendation, provided that you make a request for a hearing no later than **fifteen (15) calendar days** after your receipt of this letter. This request must be in writing and may be addressed to me. Please be advised that if you do not request a hearing within the specified time period, you will waive all rights under the Teacher Employment and Dismissal Act, and the Board will proceed to vote on my recommendation, with the Board's decision regarding your employment being final.

Should you have any questions, you may contact me directly or you may have Ms. Smith call Ms. White.

Sincerely,

Quincie L. Moore

Quincie L. Moore, Ph.D.
Superintendent

C: Dr. Carl Carpenter
Andrea E. White, Esq.
Fletcher Smith, Esq.

SHARON
BROWN,
2ND
GRADE
TEACHER

June 1, 2015

On Thursday, May 28th [redacted]
was heard going down the hallway
saying "I hate." At the time I was
headed toward art room (near it).

I dropped kids off at art. I went
back to my room and decided that
I needed to deal with "I hate."

So, I went (walked) back to the art
room and asked to speak with [redacted]

I conferenced with [redacted] about "I hate"

outside of art room.
[redacted] said he would not use the words
again.

I felt [redacted] had heard [redacted]
now use "I hate."

Miss Brown
2nd Grade Teacher
(864) 253-9975
(864) 431-4123

June 8, 2015

I, Sharon Brown, did not grab a student violently by his lower jaw and throat, and force "his body against the wall while proceeding to verbally assault him" on May 28, 2015.

Sharon Brown


Second Grade Teacher
Luther Vaughn Elementary School

Complaint Ex 2

Thump Drive

More U. Brown

Miss Brown's
classroom

classroom

hallway

classroom

Mrs. Owens
Room



Miss Brown
spoke with
Jose outside
of art room

Art
Room

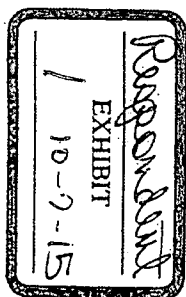
hallway

Mrs. Owens and her husband were
walking down the hall and passed by
Miss Brown and Jose

cafeteria

Gym

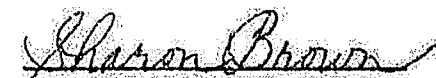
Mrs. Owens claims that "On Thursday, May 28, I had just
dropped my students off in gym around 1:15 and I was on my
way back to my classroom. I noticed Miss Brown and Jose in
the hallway."



June 8, 2015

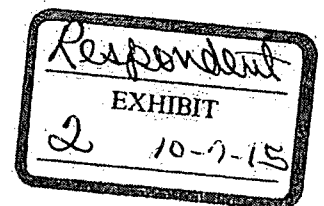
I, Sharon Brown, did not grab a student violently by his lower jaw and throat, and force "his body against the wall while proceeding to verbally assault him" on May 28, 2015.

Sharon Brown



Second Grade Teacher

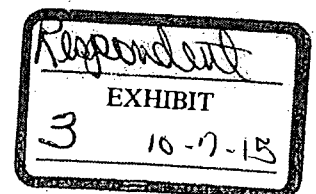
Luther Vaughn Elementary School



June 1, 2015

On May 29 at approximately 3:10 p.m., Justin Kelly, the art teacher, came to my office and told me that he witnessed a teacher doing something disturbing and he wanted to tell me about it so that he could get advice on what to do. He told me that the day before (Thursday), he saw Miss Brown shoving a student up against the wall and squeezing his lower face and neck with her hands and yelling at him outside the art room. I told him that he needed to report this to Ms. Ruppe. I walked with him to the office and told Ms. Ruppe that he had witnessed something and needed to let her know. I left him with Ms. Ruppe and returned to my office.

Ruby Byers 6/1/15
Ruby Byers (Guidance) *CR*
June 1, 2015



Special Area, 2014-2015

	Monday	Tuesday	Wednesday	Thursday	Friday
8:00-8:40 1 st per.	PE - Earle M - Deyton CL - Bolin *Rotate each 12 th week. *Team Plan	PE M - Black	PE - Black M - Penland	PE - Clawson A - Fernandez	PE A - Clawson CL - Jones/Parris
8:45-9:25 2 nd per.	PE - Reece M G/T-LV CL - Brown	PE M - Owens G/T-LV CL - Clawson	PE - Earle M - Deyton G/T-LV CL - Bolin *Rotate each 12 th week. *Team Plan	PE - Lyda A - Reece G/T-LV CL - Owens	PE A - Lyda G/T-LV
9:30-10:10 3 rd per.	PE - Brady M - Lyda L - Emory	PE - Reece M - Brady L - Lyda *Team Plan	PE - Lyda M - Reece L - Brady *Team Plan	PE - Brady A - Smalley L - McKeown	PE A - Brady L - Reece CL - Earle
10:15-10:55 4 th per.	PE - Parris M - Jones L CL - Mayes *Team Plan	PE - Jones M - Parris L CL - Fernandez	PE - Parris M L - Jones CL - Black *Team Plan	PE - Jones A - Parris L CL - Bolin	PE - Smalley A - Jones L - Parris CL - Deyton
11:00-11:40 5 th per.	PE - Bennett M - Smalley L - Penland CL *Team Plan	PE - Penland M - Bennett L - Smalley CL *Team Plan	PE - Smalley L - Bennett CL	PE - Penland A - Bennett L CL - Emory	PE - Bennett A - Penland L CL - McKeown
11:45-12:25 6 th per.	Lunch for Special Areas				
12:30-1:10 7 th period	PE - Mayes M - Fernandez L - Black CL *Team Plan	PE - Fernandez M - Mayes L CL	PE - Fernandez L - Mayes CL - Bennett *Team Plan	PE - Black A - Mayes L CL - Penland	PE - Mayes A - Black L - Fernandez CL - Smalley
1:15-1:55 8 th per.	PE - Brown M - Clawson L - Owens CL - Brady *Team Plan	PE - Clawson M - Brown L CL - Lyda	PE - Clawson/Owens L - Brown CL - Reece *Team Plan	PE Owens A - Brown L - Clawson CL	PE - Brown A - Owens L CL - Jones/Parris
(2:00-2:25) 9 th Per.					

X →

Respondent
EXHIBIT
4 10-7-15

Court of Appeals of South Carolina.

**Judy HALL, Respondent, v. THE BOARD OF TRUSTEES OF SUMTER
COUNTY SCHOOL DISTRICT NO. 2, Appellant.**

No. 2811.

Decided: March 16, 1998

Andrea E. White, of Childs & Halligan, Columbia, for appellant. J. Cabot Seth, of Jones, Seth & Shuler, Sumter, for respondent.

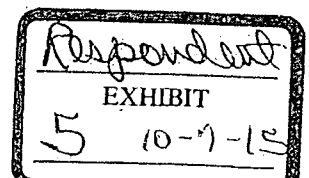
The Board of Trustees of Sumter County School District Number 2 appeals the circuit court's reversal of the Board's decision to terminate the employment of Judy Hall. The Board argues substantial evidence supports its findings with respect to Hall's unfitness for teaching and insubordination. We disagree and affirm the circuit court's decision to reinstate Hall's employment.¹

FACTS

Respondent Judy Hall served as a media specialist for Furman High School in Sumter County for fifteen years. In 1996, Margaree Simon, another Furman High teacher, asked Hall to chaperone the senior class trip to Disney World. Hall initially declined the invitation. Later, when another teacher could not go, Hall agreed to travel with the class, basing her decision on an agreement with Simon that she would serve as a chaperone only while traveling to and from Florida and during a visit to a shopping mall. She would be "off duty" at all other times. Once in Florida, Hall stayed with a friend in a different hotel. Hall returned with the class to Sumter at the end of the trip.

Prior to the trip, Furman High School's principal, Renee Mathews, approved Hall's designation as a chaperone.² She did not, however, learn of Hall's agreement with Simon until after the class returned. When she questioned Hall about her decision to stay apart from the students, Hall acknowledged that she stayed in a separate hotel with her friend, but that Simon-the trip's lead organizer-approved the arrangement. It is conceded there is no written policy for chaperoning off-campus events or trips.

Mathews reported her findings to Dr. Frank Baker, superintendent of Furman's school district. On May 6, Dr. Baker met with Hall and placed her on administrative leave. Baker admonished Hall not to discuss the matter with any other employees pending closure of his investigation. Hall later met with Baker again and admitted discussing the matter with three employees, including Simon. On May 16, Baker recommended that the Board terminate Hall's employment based on Hall's failure to supervise the class during the trip and Hall's insubordination stemming from her discussion with co-employees.



The Board accepted Baker's recommendation and terminated Hall's employment. Hall filed a petition for judicial review of the Board's decision. The circuit court reversed and the Board appeals from that ruling.

SCOPE OF REVIEW

Our review of a school board decision terminating a teacher's employment is normally limited to determining whether it is supported by substantial evidence. *Felder v. Charleston County School Dist.*, 327 S.C. 21, 25, 489 S.E.2d 191, 193 (1997). This court may reverse an administrative decision if that decision was "clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record" such that the "substantial [rights] of a party have been prejudiced." S.C.Code Ann. § 1-23-380(A)(6)(e) (Supp.1997); *Lark v. Bi-Lo*, 276 S.C. 130, 132-33, 276 S.E.2d 304, 305 (1981). Moreover, this court may reverse an administrative decision if substantial rights of the appellant have been prejudiced due to an error of law. S.C.Code Ann. § 1-23-380(A)(6)(d) (Supp.1997); *Lark*, 276 S.C. at 132-33, 276 S.E.2d at 305.

DISCUSSION

Local school boards have the power to employ and discharge teachers. S.C.Code Ann. § 59-19-90(2) (1990). Our General Assembly permits the termination of a teacher's employment without affording a reasonable time for the teacher to rectify the offending behavior-only under certain narrow circumstances. Section 59-25-430 of the Teacher Employment and Dismissal Act provides: "Any teacher may be dismissed at any time who shall fail, or who may be incompetent, to give instruction in accordance with the directions of the superintendent, or who shall otherwise manifest any evident unfitness for teaching." S.C.Code Ann. § 59-25-430 (1990). Other deficiencies or shortcomings, however, must be addressed by giving the teacher notice and a reasonable time for improvement. S.C.Code Ann. § 59-25-440 (1990); *Adams v. Clarendon County Sch. Dist. No. 2*, 270 S.C. 266, 273, 241 S.E.2d 897, 900 (1978). Failure to improve within this time constitutes a "good and sufficient" reason warranting the termination of employment. S.C.Code Ann. § 59-19-90(2); *Adams*, 270 S.C. at 272-73, 241 S.E.2d at 900.

In this case, Hall's competence as a teacher has not been challenged. To the contrary, the only evidence shows that her performance for the past fifteen years was satisfactory, the highest rating generally given to teachers. Nor has Hall failed to give instruction in accordance with the superintendent's directions.³ Therefore, the only basis for terminating Hall without giving her a reasonable opportunity to rectify the offending behavior must involve evident unfitness for teaching.

Section 59-25-430 sets forth a non-exclusive list of examples of unfitness for teaching. Examples include "persistent neglect of duty, willful violation of rules and regulations of [the] district board of trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics." *Id.* It is undisputed that Hall's conduct does not fall within any of these specifically delineated categories.

The Board argues Hall's failure to supervise and insubordination demonstrate her evident unfitness for teaching, thereby justifying her dismissal without providing her with a reasonable time for improvement. We disagree.⁴

Although the Teacher Employment and Dismissal Act contemplates "evident unfitness for teaching" to encompass a broad variety of deficiencies, the Act was also intended to prevent the abuse of a school board's power of termination. *Adams*, 270 S.C. at 272 & n. 6, 241 S.E.2d at 900 & n. 6. Consistent with this requirement, South Carolina's appellate courts have upheld immediate termination only where evidence of unfitness for teaching was "undeniably and abundantly present." *Kizer v. Dorchester County Vocational Educ. Bd. of Trustees*, 287 S.C. 545, 550, 340 S.E.2d 144, 147 (1986). The following cases illustrate the appropriate application of this standard.

In *Kizer*, the South Carolina Supreme Court affirmed a school board's immediate termination where the teacher, among other things, referred to fellow teachers and students as "stupid," obstructed the provision of emergency medical service for a pregnant student suffering a miscarriage, used profanity, and otherwise created a school environment filled with "turmoil, tension, conflict, fear and an absence of trust and respect . at war with the interests of society." *Id.* at 550-51, 340 S.E.2d at 147.

More recently, the supreme court extended unfitness for teaching to a teacher's participation in an unauthorized student protest, contrary to the specific directive of the principal that the students return to class. *Felder*, 327 S.C. at 23, 489 S.E.2d at 192. The court found a clear link between the teacher's insubordination, her unfitness for teaching, and her ability to perform her job duties in a professional manner. *Id.* at 25, 489 S.E.2d at 193. The court also affirmed the school board's finding that the teacher made a false statement to her superior. *Id.* at 25-26, 489 S.E.2d at 193.

In *Hendrickson v. Spartanburg County School District Number 5*, this court affirmed a teacher's immediate termination where the teacher slapped a student and could not maintain control of her temper or classroom. 307 S.C. 108, 112-13, 413 S.E.2d 871, 873-74 (Ct.App.1992). We also upheld an immediate termination where a principal failed to supervise instruction in accordance with the superintendent's directions. *Barr v. Board of Trustees of Clarendon County Sch. Dist. No. 2*, 319 S.C. 522, 530-31, 462 S.E.2d 316, 320-21 (Ct.App.1995), cert. denied, (Apr. 4, 1996). This conduct, the court held, demonstrated a "persistent neglect of duty." *Id.* at 530, 462 S.E.2d at 321.

By contrast, when a teacher's conduct does not demonstrate unfitness for teaching of the type contemplated by the previously cited decisions, procedural safeguards must be followed to allow the teacher reasonable time to correct the problem. This delineation is an important one. As noted in *Johnson v. Spartanburg County School District Number 7*, "[t]here must be a distinction between the cases, or it renders the legislature's intent to create procedural safeguards for educators a nullity." 314 S.C. 340, 343, 444 S.E.2d 501, 503 (1994) (assistant principal demoted without an opportunity to modify offensive behavior and without being given notice that he risked demotion).

I. Failure to Supervise

The most cogent argument the Board makes is that the students were entrusted to Hall for the duration of the trip and that “common sense” would dictate that she had a duty to supervise them at all times. It also maintains Hall should have reported the agreement concerning her limited chaperone duties to her principal because the arrangement was outside of the norm.

As noted earlier, Hall's presence was not needed because the trip already had more than the required number of chaperones. Moreover, the Board introduced no evidence to contradict Hall's testimony about her agreement with Simon. In addition, the Board admitted no written policy existed which set out the responsibilities of a chaperone. Hall did exactly what she agreed to do: supervise the students on the trip to and from Florida and chaperone them at an Orlando shopping mall. Regardless of what common sense would appear to dictate, the immediate termination of a teacher with fifteen years experience for reasons unrelated to the discharge of her teaching responsibilities cannot be upheld under these circumstances. Unlike the situations presented in *Felder*, *Kizer*, *Hendrickson*, and *Barr*, Hall's “objectionable” behavior was sanctioned by the trip's lead teacher and was not persistent, abusive, or in flagrant violation of a supervisor's teaching directives.

II. Insubordination

At common law, insubordination was defined as a wilful or intentional disregard of the lawful and reasonable instructions of an employer. E.g., *Freeman v. King Pontiac Co.*, 236 S.C. 335, 346-47, 114 S.E.2d 478, 483 (1960). Notwithstanding this broad definition, our supreme court has limited its application in the context of teacher employment to cases where insubordination evidences “unfitness to teach, substantially interfere[s] with the performance of [a teacher's] duty, and constitute[s] unprofessional conduct.” *Felder*, 327 S.C. at 25, 489 S.E.2d at 193. Other state courts that have upheld termination for insubordination have established a similar connection.⁵ We note that the cases relied on by the dissent do not involve teachers.

Without deciding whether Dr. Baker's instructions were reasonable or lawful, it is undisputed that Hall disobeyed his instructions by discussing the situation with three fellow teachers. We find, however, that the Board produced insufficient evidence to show that Hall's alleged insubordination demonstrated evident unfitness for teaching. See *Anonymous v. State Board of Medical Examiners*, 329 S.C. 371, 376-380, 496 S.E.2d 17, 20-21 (1998) (evidence in administrative hearing must substantially support conclusion of alleged misconduct); *Kizer*, 287 S.C. at 550, 340 S.E.2d at 147 (evidence of unfitness for teaching must be “undeniably and abundantly” present).

We recognize that section 59-25-430 defines “unfitness for teaching” in a non-exclusive manner. Nevertheless, the type of conduct referred to in the statute—persistent neglect of duty, wilful violation of rules and regulations, drunkenness, conviction of a crime, gross immorality, dishonesty, illegal use, sale or possession of drugs—clearly exceed Hall's acknowledged failure to comply with Dr. Baker's general admonition “not to have any discussion with other employees.”

Although Dr. Baker testified he issued his directive because "the matter was under investigation," there is no evidence that Hall's insubordination affected her primary duties as a media specialist. Moreover, the record does not contain any evidence showing she attempted to undermine the investigation. In fact, one of the three conversations used to justify her termination occurred when a fellow teacher unassociated with the senior trip heard Hall was upset and called to check on her.⁶ Dr. Baker did not know whether Hall initiated these conversations or their substance. While we recognize that a single act of disobedience could, under some circumstances, be sufficient to justify a teacher's termination even though it was unrelated to that teacher's classroom performance, the scant evidence introduced here is insufficient to show Hall's unfitness for teaching within the meaning 59-25-430.

The decision of the circuit court judge is therefore

AFFIRMED.

I respectfully dissent. The majority concludes that Hall's insubordination cannot constitute "an evident unfitness for teaching" as contemplated by S.C.Code Ann. § 59-25-430 (1990), thereby causing the Board's decision to be controlled by an error of law. The majority, however, overlooks the evidence before the Board concerning Hall's gross unprofessional conduct and insubordination. I believe that Hall's insubordination, standing alone, constituted "an evident unfitness for teaching" and, given our scope of review, would reverse the trial court.

The General Assembly specifically empowered local school boards to "[e]mploy and discharge teachers." S.C.Code Ann. § 59-19-90(2) (1990). Section 59-25-430 states that teachers may be dismissed at any time for "an evident unfitness for teaching." In addition, section 59-25-430 provides a non-exclusive list of examples of unfitness for teaching, which, as the majority notes, includes: "persistent neglect of duty, willful violation of rules and regulations of district board of trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics."

I agree with the majority that insubordination fits within the statutory framework of section 59-25-430. See *Felder v. Charleston County Sch. Dist.*, 327 S.C. 21, 489 S.E.2d 191 (1997). Our common law reflects the general public policy that insubordination should not go unpunished. The supreme court defined insubordination as "a wilful or intentional disregard of the lawful and reasonable instructions of the employer." *Porter v. Pepsi-Cola Bottling Co.*, 247 S.C. 370, 374, 147 S.E.2d 620, 622 (1966). In *Porter v. Pepsi-Cola Bottling Company*, the court explored the policy behind permitting a termination of an employment contract for insubordination, stating:

Among the fundamental duties of the employees is the obligation to yield obedience to all reasonable rules, orders, and instructions of the employer, and wilful or intentional disobedience thereof, as a general rule, justifies a rescission of the contract of service and the peremptory dismissal of the employee, whether the disobedience consists in a disregard of the express provisions of the contract, general rules or instructions, or particular commands. This rule is not restricted to employees in subordinate positions, but applies to those employed in executive or supervisory capacities, although with respect to the latter it is recognized that they are not bound to such strict adherence to directions as is one whose employment involves the exercise of

less degree of responsibility and discretion. The fact that an employee holds a position of authority over others, involving the exercise of executory and supervisory powers, does not relieve him from the duty of obedience to orders of the superiors.

Id. at 375, 147 S.E.2d at 622. The supreme court revisited the insubordination issue again in *Young v. McKelvey*, 286 S.C. 119, 333 S.E.2d 566 (1985), where Justice Ness, in a concurring opinion, added, "In all employment contracts, the employee has an obligation to obey all reasonable rules, orders and instructions of his employer. As a general rule, willful disobedience will justify a rescission of the employment contract and peremptory dismissal of the employee." Id. at 124, 333 S.E.2d at 568 (citing *Freeman v. King Pontiac Company*, 236 S.C. 335, 114 S.E.2d 478 (1960)). Accordingly, insubordination can constitute such an egregious offense against the employer that it can be an evident unfitness for teaching. Each case must be judged by how material the insubordination was to the overall duties and responsibilities of the teacher.

I believe that the majority erroneously concludes that "the Board produced insufficient evidence that Hall's alleged insubordination demonstrated evident unfitness for teaching."¹ While some instances of insubordination by a teacher may not affect fitness, this case is not one of them. According to the principal's May 3, 1996, report, the principal first instructed Hall not to discuss the events of the field trip with other staff members because of other teachers' attempts to mislead her concerning the facts of the field trip. Given the principal's desire to uncover the truth about a situation that ultimately could have led to the termination of not only Hall but other teachers on the field trip, the principal's instructions were eminently reasonable. After receiving the principal's report, which conveyed the principal's concerns that there was a concerted effort by some of the teachers to deceive her, the superintendent also ordered Hall not to discuss the case with other members of the staff. Likewise, the superintendent was acting reasonably by addressing the concerns of the parents and to protect the integrity of the school district. Hall's insubordination revolved around the grave subject of the unprofessional conduct of a number of teachers. The result of Hall's decision to discuss the events of the field trip with other members of the staff was that she impeded the fact-finding mission of both her principal and her superintendent by forever tainting the results of their investigation. Thus, I think that the majority incorrectly ruled as a matter of law that Hall's insubordination was not actionable as an evident unfitness for teaching under section 59-25-430.²

Whether Hall's insubordination was material enough to affect her fitness as a teacher was a determination that the school board was particularly qualified to make. After hearing the evidence, the Board decided that Hall's insubordination was egregious enough to warrant dismissal under section 59-25-430. We must affirm the Board's decision if it is supported by substantial evidence. *Kizer v. Dorchester County Vocational Educ. Bd. of Trustees*, 287 S.C. 545, 548, 340 S.E.2d 144, 146 (1986) ("Substantial evidence" is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the Board reached or must have reached in order to justify its action."). I believe that the majority opinion amounts to an improper substitution of their interpretation of the facts. In my view, there is substantial evidence to support the Board's decision.

I, therefore, would reverse the trial court and reinstate the Board's decision to terminate Hall under section 59-25-430.

FOOTNOTES

1. We decide this case without oral argument pursuant to Rule 215, SCACR.
2. The school district's policy states that principals are responsible for ensuring that each field trip has an adequate number of chaperones. At the high school level, one chaperone is required for every fifteen students. In this case, eight chaperones supervised approximately forty students, giving the group nearly three times the number of chaperones it required.
3. Dr. Frank Baker, the superintendent, testified: "I have known Ms. Hall . since she started to work at Hillcrest, and I really have nothing negative to say about her performance. I have nothing negative to say about her in terms of her support of the District and in terms of her performance as it relates to beyond the classroom with extracurriculars and things of that nature. And in all truthfulness . I do not have anything negative to say on that."
4. Some of the other chaperones on the trip may well have been subject to termination under this Code section. The record reveals that two married women teachers were accompanied on the trip by men other than their spouses, without notice to or approval by the school. Hall, however, is unmarried and only met her male friend in Florida after separating from the students. Moreover, her principal must have known that Hall would be meeting him there since his name appeared on the approved list of adults on the trip.
5. E.g., Board of Educ. of W. Yuma Sch. Dist. RJ-1 v. Flaming, 938 P.2d 151, 159 (Colo.1997) (insubordination supported by teacher's disregard for express directions of her superiors concerning use of force in classroom); Board of Educ. v. Harris, 218 Ill.App.3d 1017, 161 Ill.Dec. 598, 606, 578 N.E.2d 1244, 1252, appeal denied, 142 Ill.2d 651, 164 Ill.Dec. 914, 584 N.E.2d 126 (1991) (continued refusal to accept classroom assignment constituted insubordination); Childs v. Roane County Bd. of Educ., 929 S.W.2d 364, 365-66 (Tenn.Ct.App.), appeal denied, (Sept. 9, 1996) (insubordination finding supported where teacher did not control her classroom and maintained questionable grading methods); Ray v. Minneapolis Bd. of Educ., Special Sch. Dist. No. 1, 295 Minn. 13, 202 N.W.2d 375, 378 (1972) (insubordination must be "constant and continuing"); Merchant v. Board of Trustees of Pearl Mun. Separate Sch. Dist., 492 So.2d 959, 962-63 (Miss.1986) (insubordination supported by finding of repeated violations of school financial policies).
6. Judge King found Hall's conversations did not impede the superintendent's investigation, but we do not necessarily agree that lack of prejudice would excuse clear acts of insubordination.
1. Obviously, a teacher's function encompasses more than that of an instructor and a judgment on fitness to teach should be based on much more than just classroom performance.
2. Any assertion by the majority that the Board should have proceeded under S.C.Code Ann. § 59-25-440 (1990) is misplaced. Section 59-25-440 requires the supervisor to first admonish

a teacher for conduct which could lead to dismissal and then allow a reasonable time for improvement. Notice and a reasonable time for improvement cannot cure the damage caused by Hall's insubordination. The damage caused by Hall's insubordination was complete at the time of her insubordination. Assuming that Hall does not repeat her insubordination, section 59-25-440 would leave the board without recourse to punish Hall for her insubordination.

HEARN, Judge:

STILWELL, J., concurs. HOWELL, C.J., dissents in a separate opinion.

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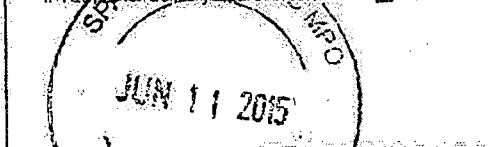
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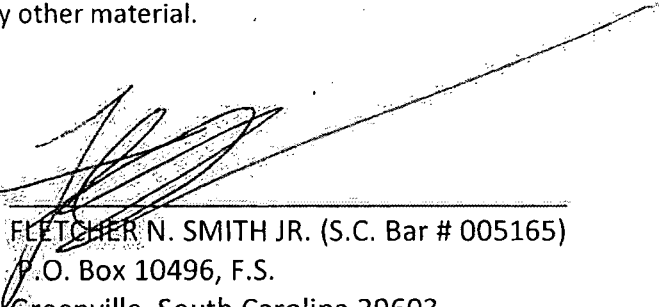
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Certificate of Counsel

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by all of the parties and not any other material.



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