

RECEIVED

JUN 22 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Circuit Court Judge Bentley Price

Case 2018-CP-10-00123
Appellate Case No. 2020-001460

Andrew HaLevi, Ph.D.,

Appellant,

vs.

Charleston County School District,

Respondent.

**RECORD ON APPEAL
VOLUME I OF II**

BLOODGOOD & SANDERS, LLC
Nancy Bloodgood, SC Bar No.: 6459
Lucy C. Sanders, SC Bar No.: 78169
242 Mathis Ferry Road, Suite 201
Mt. Pleasant, SC 29464
(843) 972-0313
Attorneys for the Appellant

RICHARDSON PLOWDEN & ROBINSON, PA
Gene Matthews, Esquire
1900 Barnwell Street
PO Drawer 7788
Columbia, SC 29202
(803) 771-4400
Counsel for Respondent

INDEX

VOLUME I

Orders

Form 4 Order Denying Defendant's Motion for Summary Judgment.....	3
Order Granting Defendant's Motion for Summary Judgment.....	6

Pleadings

Summons and Complaint	29
Answer to Complaint	45
Defendant's Motion in <i>Limine</i>	50
Plaintiff's Response to Defendant's Motion in <i>Limine</i>	68
Defendant's Motion for Summary Judgment	71
Plaintiff's Response to Defendant's Motion for Summary Judgment	260

VOLUME II

Pleadings (continued)

Continuation of Plaintiff's Response to Defendant's Motion for Summary Judgment, starting with Exhibit 2.....	277
Defendant's Reply to Plaintiff's Response to Motion for Summary Judgment ..	514
Defendant's Motion to Alter or Amend Judgment	536
Plaintiff's Response to Defendant's Motion to Alter or Amend Judgment.....	542
Notice of Appeal	543

Transcripts

June 24, 2020 Transcript for Summary Judgment Hearing 571

September 23, 2020 Transcript for Motion to Alter or Amend Hearing 593

Certificate of Compliance.....611

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1000123

Andrew HaLevi, PhD et al
PLAINTIFF(S)

Charleston County School District
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Defendant's Motion for Summary Judgment is denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

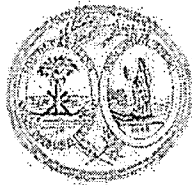
For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/24/2020.

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.



Charleston Common Pleas

Case Caption: Andrew HaLevi PhD , plaintiff, et al VS Charleston County School District
Case Number: 2018CP1000123
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

- Electronically signed on 2020-06-24 15:31:30 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.:

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

**ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

THIS MATTER came before this Court on Wednesday, June 17, 2020 concerning the Motion for Summary Judgment filed by Defendant Charleston County School District ("CCSD"), pursuant to Rule 56, SCRPC, concerning all claims brought against them by the Plaintiff Andrew HaLevi ("Plaintiff" or "HaLevi"). This Court issued a "Form 4" order denying the motion on Thursday, June 25, 2020.

Thereafter, on Monday, July 6, 2020, CCSD filed a timely Motion to Alter or Amend the initial decision of the Court. This motion was heard before the Court on Wednesday, September 23, 2020. Attorneys for both parties submitted briefs and presented oral arguments to the Court on all claims presented in the case.

After considering all pleadings and arguments made by counsel, this Court hereby GRANTS the Defendant's Motion to Alter or Amend, GRANTS the Defendant's Motion for Summary Judgment, and DISMISSES all claims brought by Plaintiff in this matter with PREJUDICE, with each side to bear its own costs and fees.

PLAINTIFF'S CLAIMS

Plaintiff is a former principal at Clark Academy, an alternative program within CCSD for at-risk high school students. He was eventually reassigned from this position in May 2016 based

on an incident related to his actions regarding a then-16-year old female student named Erica Hamilton. Specifically, Plaintiff boarded a school bus, demanded that the student remove and return pants she was given due to a perceived dress code violation. After retrieving the pants, Plaintiff left the student without pants and scantily-clad in front of fellow students on the bus.¹

Plaintiff was not fired due to this incident. Rather, following a period of paid administrative leave over the summer, he accepted a reassignment to teach at Stall High School in the 2016-17 academic year without a loss of pay.

Following the 2016-17 academic year, CCSD offered to continue to employ Plaintiff as a teacher for the 2017-18 academic year. Plaintiff refused the offer, and instead decided to accept a teaching position in Israel, where he currently lives and works.

In his Complaint, Plaintiff has brought three claims:

- Plaintiff's First Cause of Action is for Defamation, based on (1) the "innuendo" resulting from his being placed on a paid leave following his confrontation with Erica, and subsequently being reassigned to a teaching position, (2) CCSD's alleged "repeated failure to speak up on his behalf and support his actions," and (3) comments made by School Board Member Chris Collins in response to a media inquiry from *The Chronicle*, a newspaper in the Charleston area.
- Plaintiff's Second Cause of Action is for an alleged Violation of Due Process under State Constitution and State Law, based on Plaintiff's allegation that CCSD's actions deprived Dr. HaLevi of a "property interest" without due process because "Dr. HaLevi's grievance was first delayed and then Dr. HaLevi was denied a hearing before the Board." During the pendency of the case, Plaintiff also asserted a claim based on an alleged "liberty interest."
- Plaintiff's Third Cause of Action is for an alleged Breach of the Covenant of Good Faith and Fair Dealing, based on his employment contract for the 2015-16 academic year, and CCSD's alleged "deliberate failure to

¹ Due to Plaintiff's actions, the student and her mother brought suit against Plaintiff and CCSD in *Erica Hamilton and Linda Hamilton v. Andrew HaLevi, Charleston County School District and Charleston County*, C/A No.: 2018-CP-10-01864 (the "Erica Hamilton Lawsuit"). That case is now resolved.

publically support Dr. HaLevi in his administrator position; its failure to properly investigate the bus incident; its failure to publicize accurate facts about the bus incident; its refusal to restore Dr. HaLevi to his administrator position; and its failure to correct the public record and restore Dr. HaLevi's reputation after the Department of Education found there was no basis for any disciplinary action against him..."

For the reasons detailed below, these claims must be dismissed with prejudice.

FACTUAL RECORD

A. Plaintiff's Confrontation with Erica Hamilton.

On April 22, 2016, Plaintiff was serving as the head official of the Clark Academy, an alternative high school with a small enrollment and very low teacher-student ratio designed to assist troubled students to graduate from high school. One of the students, Erica Hamilton, was then 16 years old and arrived at school that day in a dress that Plaintiff thought violated the school's dress code. Erica was wearing "boxer" style or "boy short" style panties under her dress. Plaintiff insisted that Erica put on pants – like hospital scrubs – in order to return to class, but throughout the morning, Erica refused to do so. After the lunch period, Erica agreed to wear the hospital scrubs and returned to class.

Following the lunch period, but unknown to Plaintiff, Erica exchanged clothes with one of her friends and was no longer wearing her dress. Instead, she was wearing the pants, an "Aeropostale" jacket, and her underwear.

Erica had not returned the pants by the end of the school day, so Plaintiff boarded Erica's bus. Plaintiff reported in his initial statement that he saw Erica in the last row of the bus, and told her he needed the pants before allowing the bus to proceed. While students on the bus were yelling, Plaintiff repeated that the bus would depart when he retrieved the pants.² Plaintiff did not confirm

² At his deposition, Plaintiff attempted to distance himself from his initial statement by arguing that he was "trying to give a broad summary – of what happened. So if I had had more time and had the ability to explain, I would have said – I would have written that I told her that I needed to

that Erica was still wearing her blue dress shirt, but “could see that Erica had a blue top on and I assumed it was the same blue shirt dress that she came to school with and that I saw her wearing all day.” The bus driver offered to bring the pants back to school on the following Monday, but Plaintiff refused the offer. After about 5 minutes, Erica took off the pants and threw them towards Plaintiff.

According to Plaintiff, after retrieving the pants, he heard Erica shouting through a bus window that “she was in her underwear.” Other staff members confirmed to Plaintiff that Erica was wearing a different blue top and “sitting in her panties.”

Shortly thereafter, Plaintiff returned the pants to Erica, who put them on and exited the bus. She left school after her mother arrived to pick her up.

B. CCSD’s Investigation of Plaintiff’s Confrontation with Erica.

Immediately following the confrontation on the bus, Plaintiff prepared his initial statement, and also called Jennifer Coker, CCSD’s Executive Director for Alternative Programs, to report the incident. Plaintiff indicated to Coker that, due to a religious holiday, he would be unavailable until Sunday. Separately, Coker also received a call from CCSD’s Director of Security, Michael Reidenbach, who told Coker that police were investigating the incident.

On Sunday evening, April 24, 2016, Coker told Plaintiff that CCSD was placing him on an administrative leave with pay during the investigation. Coker thought that it was “egregious” that Plaintiff had left a student on the bus with no pants.

speak with her about the pants and other issues before I can let the bus proceed.” Plaintiff later admitted that he told Erica that he “needed the pants before allowing the bus to leave,” but that his command was a “part of a larger context in which I asked Erica to come off the bus.” There is no dispute, however, that Plaintiff demanded that Erica return the pants before the bus could leave. In fact, he admitted that “I don’t think it’s unreasonable for someone to say that he seemed to be focused on the pants, but that was – but that’s not an accurate estimation of what I was doing on that bus.”

CCSD Employee Relations officials Will Suggs and Beverly Varnado assisted Coker with the investigation into the incident, which concluded in one week. Suggs and Varnado interviewed Plaintiff on Monday, April 25, 2016. In his interview, Plaintiff took no responsibility for the confrontation, and blamed Erica entirely, based in part on his belief that Erica should have stopped the confrontation on the bus by explaining to him why she did not want to return the pants to him. CCSD also reviewed statements by various staff members, and because Erica would not come to school to be interviewed, CCSD reviewed her statement to police.

By April 29, 2016, CCSD had finished its investigation into the incident and issued an internal report, which found as follows:

This investigation into allegations that Andrew HaLevi acted in an aggressive, inappropriate, and unprofessional manner toward a student has not revealed any reason to believe his actions were of criminal intent. The investigation did reveal many concerns, including the following:

- Dr. HaLevi does not appear to have the skills needed to manage student behavior.
- Dr. HaLevi has not taken any responsibility for his failure to manage the incident that led to the investigation; rather, he has deflected all blame to others and has refused to see how he had multiple opportunities to make decisions that may have led to a positive outcome.
- Dr. HaLevi has jeopardized any confidence the stakeholders of Clark Academy may have had in his ability to lead the school.

C. Plaintiff's Paid Administrative Leave and Reassignment.

On May 2, 2016, Coker contacted Plaintiff to tell him that he was going to be replaced at Clark Academy. On May 3, 2016, CCSD's Executive Director Michele English-Watson indicated that three issues had "collectively compromised the District's confidence in your ability to lead a school" – failing to issue contracts appropriately, failure to manage the incident of April 22, 2016 appropriately, and systemic issues related to Plaintiff's ineffective decisions.

The letter also advised Plaintiff that “[w]ork assignments for you will be forthcoming,” and that she had not yet “determined what role you may have in Charleston County School District for the 2016-2017 school year; that information will be shared with you once a decision is made.”

Plaintiff sent a lengthy response to the District Superintendent on May 9, 2016, to which the Superintendent Postelwait responded by letter on May 13, 2016. Superintendent Postlewait stated that she approved the recommendation to place Plaintiff on administrative leave and to place an interim leader at Clark Academy, and that she would be involved in any decisions regarding Plaintiff’s future role in the District.

While on administrative leave, on July 26, 2016, Plaintiff met with Associate Superintendent Terri Nichols and Executive Director English-Watson, and indicated at the meeting that he would be open to a teaching position. At the meeting, he accepted a position as an English teacher at Stall High School for the 2016-2017 school year without loss of pay.

D. Press Reports Concerning the Incident.

The incident of April 22, 2016 was reported in the news media, but was not reported to Plaintiff’s satisfaction. Plaintiff wrote his own letter to the *Post and Courier*, which was published on May 4, 2016, in which he criticized the newspaper for “failing to follow basic principles of journalism when covering complex issues at Charleston area schools.”

On the same day, another Charleston newspaper, *The Chronicle*, published a story by Barney Blakeney entitled “Local Principal Likely to Be Reassigned after Demanding Student Take Off Her Pants.” The article reported that CCSD Board Member Chris Collins had opined that Plaintiff “should have been arrested when the incident occurred and then fired,” although Collins also noted that “CCSD administrators have indicated that HaLevi won’t be fired, but most likely

will be moved to another position.” Collins also opined that Plaintiff should not have demanded the pants, that “[y]ou don’t embarrass a child or cause her to be exposed in front of other students,” and that he thought Plaintiff should be fired, but did not think that there was board support to do it.

At his deposition, Collins confirmed that, in making these comments, he was not speaking for the Board of Trustees or CCSD, and that his comments “absolutely” did “not reflect the opinions of the school district or its board.” He also never claimed to be speaking on behalf of CCSD, and actually admitted that he had not even spoken to other Board Members about firing Plaintiff.

Collins also reported that he actually intended his statements to be very critical of CCSD, in that he believed that CCSD’s African-American employees were treated more harshly than white CCSD employees, and that he believed Plaintiff would not be fired because he is white. Doubling down on his criticism of CCSD, Collins testified that he believed that “certain board members...didn’t want African-Americans to be in a high position” and specifically accused Board Members Coats and Ducker of harboring these racist sentiments.

E. Plaintiff’s Grievances and Departure from CCSD.

After accepting his position, Plaintiff filed a grievance with CCSD on August 29, 2016, which *inter alia* alleged that he had been denied “due process rights” and demanded that CCSD’s Board of Trustees hear his case in executive session. The Chair of the Board of Trustees, Cindy Coats, responded by letter on October 18, 2016, and directed Plaintiff to follow the proper grievance process described in Policy GBK. After Plaintiff requested and received guidance from

CCSD's General Counsel as to the grievance process, Plaintiff's grievance went through the following steps:

- Plaintiff submitted his grievance to Jennifer Coker on or about November 7, 2016. Plaintiff met to discuss his grievance with Coker on November 28, 2016, and received a five-page written response from Coker dated December 12, 2016. Coker addressed each of Plaintiff's issues except his complaint about the comments of Board of Trustee member Chris Collins.
- Plaintiff appealed Coker's decision to the next-level supervisor, Executive Director Michele English-Watson, which was heard on January 11, 2017. English-Watson issued a written response on January 26, 2017, in which she upheld Coker's decision.
- Plaintiff appealed English-Watson's decision to the next appropriate official, Interim Chief Academic Officer Valerie Evans Harrison, which was heard on February 15, 2017. Following her review, Harrison issued a written response on March 2, 2017 upholding CCSD's decision to transfer Plaintiff from Clark Academy.
- Plaintiff appealed Harrison's decision to Superintendent Postlewait, who held the grievance conference on April 20, 2017. Following her review of the case, Superintendent Postlewait found that "the heart of the matter is whether you exercised good judgment in the handling of the April 22, 2016, incident" and that she did not believe Plaintiff exercised such good judgment. She also pointed to perceived inconsistencies in his representations to the District, and noted that Plaintiff had received significant due process. She also noted that she based her decision on Plaintiffs' handling of the incident of April 22, 2016, and not on the other issues referenced in English-Watson's letter of May 3, 2016.
- Plaintiff appealed Superintendent Postlewait's decision to CCSD's Board of Trustees, which was placed on the Board's agenda for the Board's meeting on June 26, 2017. According to Board meeting minutes, following executive session, the Board voted to uphold Superintendent Postlewait's decision by a vote of 9-0. The Board Chair notified Plaintiff of its decision by letter dated June 29, 2017.

Following the 2016-17 academic year, Plaintiff turned down the teacher contract that CCSD offered him for the 2017-18 academic year. Shortly thereafter, he left for Israel and began teaching in the fall of 2017 at the Jerusalem School for the Arts. This lawsuit followed.

LEGAL STANDARD

Under Rule 56, SCRCP, summary judgment is appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner. *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). Summary judgment is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Gecy v. S.C. Bank & Tr.*, 422 S.C. 509, 516, 812 S.E.2d 750, 754 (S.C. App. 2018). “[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Hancock v. Mid-S. Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

LEGAL DECISION

I. PLAINTIFF HAS FAILED TO PRESENT EVIDENCE SUFFICIENT TO AVOID SUMMARY JUDGMENT ON HIS DEFAMATION CLAIM.

Plaintiff seeks to support his defamation claim on three bases:

- (1) his being placed on a paid leave following his confrontation with Erica, and being reassigned to a teaching position, which defamed him by “innuendo,”
- (2) CCSD’s alleged “repeated failure to speak up on his behalf and support his actions,” and
- (3) comments made by Chris Collins in response to a media inquiry from *The Chronicle*, a newspaper in the Charleston area.

For the reasons listed below, none of these bases are sufficient to support a defamation claim against CCSD, and for that reason, Plaintiff’s defamation claim must be dismissed.

A. Plaintiff's "innuendo" defamation claim – based on being placed on paid leave and reassigned to a teaching position – is not actionable under South Carolina law.

Plaintiff alleges that CCSD defamed him by "innuendo," specifically by placing him on a paid leave after the incident of April 22, 2016, and by failing to return plaintiff to work promptly after the incident and a subsequent demotion of plaintiff from administrator to teacher were defamatory.

These allegations, and the undisputed facts in the record, do not support a claim for defamation by "innuendo." There are four elements required to state a claim for defamation: (1) a false and defamatory statement; (2) an unprivileged publication of false and defamatory statement to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Fountain v. First Reliance Bank*, 398 S.C. 434, 441, 730 S.E.2d 305, 309 (2012).

In a claim for defamation by "innuendo," the "insinuation is as actionable as a positive assertion if it is false and malicious and the meaning is plain." 398 S.C. at 441-42, 730 S.E.2d at 309 (emphasis added). Plaintiff's argument in this case fails for the same reason that the argument failed in *Fountain*, where a plaintiff alleged that First Reliance Bank's refusal to extend him a loan "insinuated that he was an unfit businessman." 398 S.C. at 442, 730 S.E.2d at 309. The Supreme Court found that summary judgment was appropriately granted, noting as follows:

Under the proper standard, we believe Fountain failed to adduce facts sufficient to withstand summary judgment that Ewart's statement was defamatory by innuendo. During his deposition, Fountain claimed the statement was "inappropriate" and "he just wouldn't say it being a banker," but this falls far short of establishing an implied defamatory meaning. Moreover, even assuming that Fountain did present sufficient evidence to establish a defamatory meaning through innuendo, the alleged defamation—that Fountain had a checkered business and financial history and was therefore a poor lending risk—was indisputably true. Without contradiction, the record reveals Fountain participated in a failed business venture and has a history of neglecting to repay his obligations. Thus, even assuming Fountain adduced sufficient evidence that the statement implied through innuendo

that he was a poor lending risk, it could not be deemed defamatory because it was unquestionably true.

398 S.C. at 443-44, 730 S.E.2d at 310 (emphasis added).

For the same reason, Plaintiff's "insinuation" or "innuendo" argument fails. CCSD placed Plaintiff on a paid leave while CCSD investigated the incident by questioning students, staff members, and Plaintiff himself. It is undisputed that this is the normal protocol followed by CCSD in like instances. The investigation found, as Plaintiff himself admits, that he took Erica's pants and left her exposed to other students only in her panties. It is unsurprising that CCSD (1) took the time necessary to complete its investigation, (2) took time over the summer to determine Plaintiff's next assignment, and (3) lost faith in Plaintiff's ability as a leader due to his handling of the incident.

Further, it also does not matter that Plaintiff thought that CCSD could have handled the matter differently. It is undisputed that CCSD followed normal protocol, and was well within its authority to investigate the matter, interview witnesses, and draw the conclusion that it did, which notably did not result in Plaintiff's termination.

In this regard, Plaintiff's claim even pales in comparison to other defamation by "innuendo" claims that have been dismissed, and where employees were actually fired. For instance, in *Johnson v. Dillard's Inc.*, 2007 WL 2792232, at *18 (D.S.C. Sept. 24, 2007), there was no defamation by "innuendo" even where the plaintiff could show that she was escorted out of the store by the off-duty police officer, because there was no evidence that the "positive assertion" was false and malicious and that its meaning was plain. In *Hampton v. Conso Prod., Inc.*, 808 F.Supp. 1227, 1237 (D.S.C. 1992), the court found that a reasonable trier of fact could not find that the defendant acted maliciously in requesting the plaintiff to go on medical leave and receive medical treatment at the defendant's expense, where the plaintiff alleged that these acts

gave the impression to others that the plaintiff was mentally ill and/or in need of medical confinement. Likewise, the court dismissed an “innuendo” claim where the plaintiff was fired in close proximity to an altercation between the plaintiff and his supervisor, allegedly leaving other employees “with the mindset that [plaintiff] had done something improper,” because plaintiff “has not alleged facts to show that the meaning was plain.” *Simmons v. Sci. Int'l Applications Corp.*, 2012 WL 761716, at *3-4 (D.S.C. Feb. 13, 2012), *report and recommendation adopted*, 2012 WL 761726 (D.S.C. Mar. 8, 2012). *See also, Fredrich v. Dolgencorp, LLC*, No. 3:13-CV-01072-JFA, 2014 WL 4417407, at *16 (D.S.C. Sept. 8, 2014) (“Aside from bare allegations and the fact that he was terminated, Plaintiff has failed to provide evidence that the Defendant’s actions on the day of his termination amounted to any defamatory conduct insinuating that he stole money, that he was incompetent as a store manager, or that he was prejudice. An employer terminating an employee for misconduct cannot by itself be held to be defamatory, something more is needed.”).

Furthermore, and similar to the finding in *Fountain*, it is also true that Plaintiff’s undisputed actions compromised CCSD’s faith in Plaintiff’s ability to serve in an administrative leadership role. As in *Fountain*, this is a complete bar to this basis of Plaintiff’s defamation claim.

For this reason, Plaintiff’s defamation claim based on an “innuendo” theory must be dismissed with prejudice.

B. CCSD’s Alleged “Failure to Speak Up” on Behalf of Plaintiff.

In his deposition, Plaintiff explained this basis for his defamation action as follows:

Q. I think you’ll agree with me that CCSD does not control what *The Post and Courier* says and does?

A. -- I agree that they’re not the ones editing the paper, but I certainly don’t agree that the school district doesn’t have a responsibility to be fair and consistent when providing information to -- to the newspaper.

Q. Okay. How is it unfair or inconsistent in that regard?

A. The district clearly knew early on that I didn't do anything illegal. They also should have known, based upon a proper investigation, that I didn't do anything unprofessional or lack of -- or use poor judgment, which later the state, you know, concluded.³ At a minimum, even if they came to the initial conclusion, they should have responded to -- to my pointing out that factually these things are simply wrong in the report. So they had a -- they had a responsibility to provide, at a minimum, accurate information based upon a proper investigation.

(emphasis added).

Thus, Plaintiff is attempting to conjure an affirmative "duty" of an employer to contact a newspaper to publish the opinions of an employee regarding an investigation into his misconduct. This theory of defamation is unknown in South Carolina, and appears to be unknown throughout the United States. A few moments of reflection are sufficient to determine why such a theory is unavailing. If it were so, every public entity and every employer in South Carolina would have the duty to issue a statement -- presumably to the satisfaction of the employee -- whenever the employee believed that a news report of an investigation into his or her conduct reflected poorly or inaccurately on him or her. *See Neloms v. Charleston Cty. Sch. Dist.*, 2019 WL 6092279, at *14 (D.S.C. June 19, 2019), *report and recommendation adopted*, 2019 WL 4409459 (D.S.C. Sept. 16, 2019) ("An employer's refusal to issue a public statement at its employee's behest, however, generally does not give rise to a standard defamation claim.").

Therefore, to the extent that Plaintiff relies on this theory to support his defamation claim, it must be dismissed with prejudice.

³ Plaintiff may be referencing the decision of the State Board of Education ("State Board") in which the South Carolina Department of Education ("SCDE") requested that the Board suspend Plaintiff's educator certificate. On September 12, 2017, the State Board found that the SCDE presented insufficient evidence to justify suspending Plaintiffs' license. For reasons stated in Defendant's Motion in *Limine*, this evidence is inadmissible. In any event, it is irrelevant to Plaintiff's defamation claim, as Plaintiff himself testified under oath that he was not relying on the state's licensure decision to support his defamation claim.

C. CCSD is not a proper defendant regarding statements made by Board Member Chris Collins.

Finally, Plaintiff relies on certain statements attributed in the media to Chris Collins, a CCSD Board Member, to support his defamation claim against CCSD. For the reasons listed below, Plaintiff's reliance on these statements to support his defamation claim is misplaced.

It is undisputed that Collins admitted that he was not acting as an agent of CCSD, or a spokesman for CCSD or its Board, concerning this matter. The South Carolina Tort Claims Act (SCTCA) expressly states that "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude" is an exception to South Carolina's waiver of immunity. S.C. Code Ann. § 15-78-60(17). "Scope of official duty" means (1) acting in and about the official business of a governmental entity and (2) performing official duties. S.C. Code Ann. § 15-78-30(i). *Benekritis v. Johnson*, 882 F. Supp. 521, 528 (D.S.C. 1995) (suit barred under SCTCA where after-school pickup basketball game conducted in gymnasium one mile from the school was not "official business" of school district and its employee participants were not performing "official duties"); *Farr v. Lott*, 2019 WL 2051300, at *1 (S.C. App. May 8, 2019) (lawsuit barred against governmental entity under SCTCA where public employee was not acting in the scope of his employment). For this reason alone, CCSD is not a proper defendant concerning Plaintiff's defamation claim, which must be dismissed.

D. Because Plaintiff was a "Public Official" for purposes of his defamation claim, he is barred from asserting a defamation claim against CCSD under the South Carolina Tort Claims Act.

Furthermore, I find that, for purposes of his defamation claim, Plaintiff was a "public official" and therefore required to show that the person making a defamatory claim was acting

with “actual malice.” *Gause v. Doe*, 317 S.C. 39, 42, 451 S.E.2d 408, 409 (S.C. App. 1994). For this reason, under the SCTCA, the defamation claim against CCSD is barred and must be dismissed.

While South Carolina appellate courts have not yet ruled that a high school principal is a “public official” for the purposes of defamation claims, the preponderance of courts that have considered the matter have found that principals are public officials for these purposes.⁴ See *Cronin v. Pelletier*, 2018 WL 3965004, at *2 (Conn. Super. Ct. July 26, 2018) (principal of a public high school was a public official under the principles of the law of defamation); *Collins v. Taos Bd. of Educ.*, 893 F. Supp. 2d 1193, 1205 (D.N.M. 2012) (“After considering the case law, the Court predicts that the New Mexico Supreme Court would classify a public school principal as a public official within the meaning of *Rosenblatt*.”); *Williams v. Detroit Bd. of Educ.*, 523 F. Supp. 2d 602, 610 (E.D. Mich. 2007), *aff’d*, 306 Fed. App’x 943 (6th Cir. 2009) (“This Court is persuaded by the Supreme Court of Vermont’s reasoning in *Palmer* and the opinions of other courts concluding that principals are public officials to the extent their defamation claims involve communications relating to their conduct as principals.”); *Warren v. Birmingham Bd. of Educ.*, 739 So. 2d 1125, 1133 (Ala. Civ. App. 1999) (affirming trial court’s holding that an elementary school principal was a public official); *Jee v. New York Post Co.*, 671 N.Y.S.2d 920, 924 (Sup. Ct. 1998), *aff’d*, 260 A.D.2d 215, 688 N.Y.S.2d 49 (1999) (Principal must be considered a “public official” for the purposes of the defamation law.); *Johnson v. Robbinsdale Indep. Sch.*

⁴ While one South Carolina case found that *assistant* principals are not “public officials” for purposes of defamation law, South Carolina appellate courts have not addressed whether *principals* are such “public officials.” *Goodwin v. Kennedy*, 347 S.C. 30, 44, 552 S.E.2d 319, 327 (S.C. App. 2001). *Goodwin* observed a split in authority from other jurisdictions over whether a principal is such a “public official,” but since *Goodwin* was decided, the preponderance of cases nationwide classifies principals as “public officials” for purposes of defamation claims.

Dist. No. 281, 827 F.Supp. 1439, 1443 (D. Minn. 1993) (finding that “public school principals criticized for their official conduct are public officials” where principal sued students’ parents after they wrote a letter critical of the principals’ conduct); *Palmer v. Bennington School District*, 159 Vt. 31, 615 A.2d 498 (1992), (summary judgment properly granted to the school district on the principal’s defamation claim, holding that he was a “public official” and that he failed to show that the school board published the statements with “actual malice.”); *Junior-Spence v. Keenan*, 1990 WL 17241, at *4 (Tenn. Ct. App. Feb. 28, 1990) (finding that principal was a public official because she was an authority figure and a government representative to the students and parents with whom she dealt and her actions affected the taxpayers in the State); *Stevens v. Tillman*, 855 F.2d 394, 403 (7th Cir. 1988) (finding that principal was a public official where “her performance as public official was open to public comment” and, while not an elected public official, “she possessed great discretion over the operation of the [school]” and “how she used that discretion was the subject of legitimate public debate”); *State v. Defley*, 395 So.2d 759, 761 (La. 1981) (concluding that a school supervisor would be considered a public official because the position “ ‘is such that the public has an independent interest in the qualification and performance of the person who holds it, beyond the general public interest in the qualifications and performance of all government employees,’”); *Reaves v. Foster*, 200 So.2d 453, 456 (Miss. 1967) (holding that school principal was a public official, reasoning that statements criticizing her acts were “fair comment in a matter concerning a large sector of the county’s population, in the handling of a matter connected with government, and in an effort by those involved to better conditions in the school as they deemed it” and that the State Constitution “provides ... a common school system, and the laws provide for the selection of the trustees and county superintendents, and the

appointment by the superintendent and board of trustees of the principal to be in charge of a school where the young of the county are given an opportunity to secure an education at the taxpayers' expense."); *Kapiloff v. Dunn*, 27 Md. App. 514, 343 A.2d 251, 258 (1975) (finding that a high school principal was a public official under the *New York Times* standard and that the principal's "suitability for the position was a matter of public or general interest or concern").

For this reason alone, CCSD is not a proper party regarding Plaintiff's defamation claim. As a public official, Plaintiff must show that the defendant acted with "actual malice" in order to state a defamation claim. As set forth in *Scott v. McClain*, 272 S.C. 198, 250 S.E.2d 118, 120 (1978)

When a libel action is brought by a public official against critics of his official conduct, the constitutional guarantees of freedom of speech and press prohibit the public official from recovering damages for a defamatory falsehood relating to his official conduct unless the libelous statement was made with actual malice that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

272 S.C. at 201, 250 S.E.2d at 120 (citations omitted) (emphasis added); *Botchie v. O'Dowd*, 315 S.C. 126, 432 S.E.2d 458 (1993) (plaintiff was a "public official" for the purposes of his defamation action against his employer, and was therefore required to prove actual malice).

Under the SCTCA, a governmental entity⁵ is not liable for a loss resulting from "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code Ann. § 15-78-60(17) (emphasis added). As stated in *Gause*, 317 S.C. 39, 42, 451 S.E.2d 408, 409 (S.C. App. 1994)

The SCTCA clearly excludes a governmental entity's liability for an individual's loss stemming from a state employee's conduct that constitutes actual malice. We therefore agree with the trial court that the SCTCA bars Gause's slander claim against the MBPD because Gause must prove the MBPD employee's conduct constituted actual malice in order to recover on this claim.

⁵ CCSD is, by statute, a "governmental entity" under the SCTCA. S.C. Code Ann. § 15-78-30(d) and (h).

317 S.C. at 42, 451 S.E.2d at 409.

In an effort to revive his defamation claim, Plaintiff has argued that he was not technically “principal,” as his administrative title as head of the Clark Academy was “Program Manager.” Nevertheless, there is a voluminous and undisputed record of Plaintiff’s own sworn testimony establishing that both CCSD and Plaintiff considered him to be the “Principal” of Clark Academy.

For these reasons, Plaintiff’s claim for defamation against CCSD based on the comments of Chris Collins must be dismissed with prejudice.

II. PLAINTIFF CANNOT SUSTAIN HIS CLAIM FOR AN ALLEGED VIOLATION OF DUE PROCESS UNDER THE STATE CONSTITUTION AND STATE LAW.

In his Complaint, Plaintiff references a “property interest” in continued employment, which is not relevant in any manner to this case, as CCSD never deprived Plaintiff of continued employment or other legally-recognized property interest. As set forth in South Carolina law, Plaintiff cannot grieve “position or salary” as an administrator under the Teacher Employment and Dismissal Act. *Henry-Davenport v. School District of Fairfield Co.*, 391 S.C. 85, 89, 705 S.E.2d 26, 28 (2011) (legislature, in enacting S.C. Code Ann. § 59-24-15,⁶ overruled *Johnson v. Spartanburg County School Dist. No. 7*, 314 S.C. 340, 444 S.E.2d 501 (1994)).

The legislature enacted section 59-24-15 after the *Johnson* decision, and the plain language of the statute directly contradicts the holding in *Johnson*. The statute plainly states that an administrator has no rights in her “position or salary,” and the

⁶ S.C. Code Ann. § 59-24-15 provides that “Certified education personnel who are employed as administrators on an annual or multi-year contract will retain their rights as a teacher under the provisions of Article 3 of Chapter 19 and Article 5 of Chapter 25 of this title but no such rights are granted to the position or salary of administrator. Any such administrator who presently is under a contract granting such rights shall retain that status until the expiration of that contract.” (emphasis added).

legislature made no exception or distinction concerning the administrator's status as a certified educator.

391 S.C. at 89, 705 S.E.2d at 28.

For this reason alone, Plaintiff cannot maintain a “due process” claim, as the State has explicitly determined – both through the legislature and the courts – that he has no property right to the position or salary of an administrator.

Furthermore, even if Plaintiff could demonstrate that he was denied a “property interest” – which he cannot – he cannot show that he was deprived of “due process.” If anything, he received significant due process, including several stages of an internal grievance where he presented the evidence he believed was favorable to him, meetings and reviews by numerous officials including the District Superintendent herself, and review by the Board of Trustees. “(D)ue process is flexible and calls for such procedural protections as the particular situation demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 902, 47 L. Ed. 2d 18 (1976); *Sundberg v. DiRocco*, 2017 WL 3394314, at *13 (M.D. Pa. Aug. 8, 2017) (“Due process does not require flawless or perfect process. Neither does it require courtesy. Constitutionally adequate process alone suffices.”).

Finally, in his arguments to the Court, Plaintiff relied on a line of cases involving a person’s good name, reputation, honor, or integrity” in an effort to revive his claim. This theory is equally unavailing as a matter of law. Such cases have nothing to do with a “property interest.” Rather, they concern a more limited “liberty interest,” and they have no bearing on this case for the reasons set forth in *Johnson v. Morris*, 903 F.2d 996, 999-1000 (4th Cir. 1990) and *Foreman v. Griffith*, 81 Fed. App’x 432, 439-440 (4th Cir. 2003) (“Because the plaintiff remained employed by his public employer, we concluded that he suffered no damage to his employment status, and thus, could not be heard to complain that he had been made unemployable as the result of the

publication...We also concluded that any harm to the plaintiff's chances for career advancement with his public employer did not result from the publication of the reasons for his demotion, but from the reasons for the demotion itself.") (citing *Johnson*).

In short, Plaintiff cannot maintain a "due process" claim, and for these reasons, his due process claim must be dismissed with prejudice.

III. PLAINTIFF CANNOT SUSTAIN HIS BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING BECAUSE HE CANNOT DEMONSTRATE ANY BREACH OF CONTRACT ON THE PART OF CCSD.

Plaintiff stated that his Third Cause of Action is based on the following set of allegations in his Complaint:

The District's deliberate failure to publically support Dr. HaLevi in his administrator position; its failure to properly investigate the bus incident; its failure to publicize accurate facts about the bus incident; its refusal to restore Dr. HaLevi to his administrator position; and its failure to correct the public record and restore Dr. HaLevi's reputation after the Department of Education found there was no basis for any disciplinary action against him, breach the covenant of good faith and fair dealing in Dr. HaLevi's employment contract.

Under South Carolina law, an implied covenant of good faith and fair dealing exists in every contract. *Tharpe v. G.E. Moore Co.*, 254 S.C. 196, 174 S.E.2d 397 (1970). However, there is no breach of an implied covenant of good faith where a party to a contract has done what provisions of the contract expressly gave him the right to do. *Adams v. G.J. Creel & Sons, Inc.*, 320 S.C. 274, 277, 465 S.E.2d 84, 85 (1995). Furthermore, and importantly, South Carolina law does not recognize a separate cause of action for "breach of an implied covenant of good faith and fair dealing." *RoTec Servs., Inc. v. Encompass Servs., Inc.*, 359 S.C. 467, 472, 597 S.E.2d 881, 884 (S.C. App. 2004).

In this case, Plaintiff does not – and cannot – claim that CCSD terminated his employment.

Rather, in sum, Plaintiff bases his breach of contract claim on his complaints that CCSD did not do what he wanted it to do – (1) agree to conduct an investigation into the Erica Hamilton incident as Plaintiff, not CCSD, saw fit, (2) have CCSD publicly agree that Plaintiff did nothing wrong in demanding that Erica remove her pants on the bus, and publish only those facts and opinions that he – not CCSD or other witnesses – believed were important, and (3) immediately restore him to his administrative position at Clark Academy. CCSD had absolutely no contractual duty to do any of these things.

Plaintiff may be dissatisfied with CCSD's investigation, or the fact that the investigation found that he had acted improperly in demanding that Erica Hamilton remove her pants on the bus, or the fact that CCSD placed him on leave until the parties agreed that he could teach at Stall High School without loss of pay for the 2016-2017 academic year. Plaintiff's contract does not guarantee that CCSD will act in a manner that satisfies him.

As stated above, Plaintiff has absolutely no contractual or statutory right to remain in the principal's position at Clark Academy. Under South Carolina law, Plaintiff has no right to the position or salary of an administrator. *Henry-Davenport*, 391 S.C. at 89, 705 S.E.2d at 28 (plain language of S.C. Code Ann. § 59-24-15 states that a school administrator has no rights in her "position or salary" and the legislature made no exception or distinction concerning the administrator's status as a certified educator). Indeed, the contract at issue states clearly as follows:

The District's administrative assignments are discretionary with the Superintendent. In the event of any change in the District's organizational chart, reduction in force, or whenever it is deemed in the best interest of the District, the Superintendent may reassign, upon notice to and consultation with the affected employee, consistent with S.C. Code Ann. § 59-24-15 (Supp. 1999).

Further, Plaintiff has failed abjectly to point to anything in the contract, the record, or in law that gives him the right to direct how CCSD conducts investigations into his own conduct, or

requires CCSD to follow his instructions as to how it responds to the findings of the investigation. In short, Plaintiff is attempting to conjure a claim for breach of the implied covenant of good faith and fair dealing without producing evidence of a breach of contract. *Adams*, 320 S.C. at 277, 465 S.E.2d at 85; *RoTec Servs.*, 359 S.C. at 472, 597 S.E.2d at 884; *Horton v. Darby Elec. Co.*, 360 S.C. 58, 599 S.E.2d 456 (2004) (former employee had no right of recovery against employer based on breach of employment contract and implied covenant of good faith and fair dealing, where the employer had good faith belief that it had sufficient good cause to terminate employee). This failure to produce evidence of a breach of contract is fatal to his claim.

For these reasons, Plaintiff's claim for breach of the implied covenant of good faith and fair dealing must be dismissed with prejudice.

CONCLUSION

For the reasons stated above, after considering all pleadings and arguments presented by counsel, this Court hereby GRANTS the Defendant's Motion to Alter or Amend, GRANTS the Defendant's Motion for Summary Judgment, and DISMISSES all claims brought by Plaintiff in this matter with PREJUDICE, with each side to bear its own costs and fees.

AND IT IS SO ORDERED.

The Honorable Bentley Price
Presiding Judge
Ninth Judicial Circuit

_____, 2020
Charleston, South Carolina



Charleston Common Pleas

Case Caption: Andrew HaLevi PhD , plaintiff, et al VS Charleston County School District
Case Number: 2018CP1000123
Type: Order/Dismissal

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-10-15 14:30:40 page 23 of 23

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
Andrew HaLevi, Ph.D.,	)	Case No.: 2018-CP-10- <u>123</u>
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	(JURY TRIAL REQUESTED)
	)	
Charleston County School District,	)	
	)	
Defendant.	)	

FILED
 2018 JAN 11 PM 3:10
 JULIE J. ARSTRONG
 CLERK OF COURT

The Plaintiff, complaining of the Defendant, alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff was a resident of Charleston County at all times pertinent to this complaint and was employed by Defendant Charleston County School District ("CCSD") from 1995- 2017.

2. Charleston County School District ("CCSD") is the elected body charged with operating a public school system in Charleston County pursuant to state law.

3. All actions pertinent to this Complaint took place in Charleston County.

FACTS

4. Dr. HaLevi was an English teacher at Burke High School from 1995-2006, during which time he was named CCSD *Teacher of the Year* and runner up for SC Teacher of the Year.

5. In 2008, Dr. HaLevi became the Program Director (principal) of Clark Academy, an alternative program for at-risk high school students.

6. Dr. HaLevi was wrongfully removed as Program Director of Clark Academy by Defendant District's Superintendent in May, 2016 based on an inaccurate complaint received from a student.

7. Dr. HaLevi filed a grievance which was seriously delayed and mishandled.
8. Dr. HaLevi appealed Defendant Superintendent's final grievance report to the Board of Trustees on May, 17, 2017 but he denied a hearing before the Board.
9. In May of 2016, Dr. HaLevi was originally disciplined for three (3) issues but the Superintendent's final report on his grievance, sets aside two (2) of the three (3) issues used to justify his removal as Program Director.
10. Prior to May of 2016, Dr. Postlewait already had singled Dr. HaLevi out. On Thursday, April 21, 2016 she called Dr. HaLevi out of a Secondary Learning Community Meeting to ask him why he appeared so uncomfortable when she was speaking earlier in the day to all the CCSD principals about her frustrations with the Charleston Teacher Alliance (CTA). She evidently incorrectly associated him with that organization.
11. Dr. HaLevi told Dr. Postlewait he was not uncomfortable and that he had no connection with the CTA since becoming a CCSD administrator in 2008.
12. The next day, Friday, Dr. HaLevi contacted his direct supervisor, Jennifer Coker, regarding an incident in which a female student took off her pants on the bus.
13. Dr. HaLevi asked Ms. Coker to be present the following Monday when he addressed the incident with the student and her mother. Ms. Coker agreed to attend the meeting and asked for information so she could be prepared.
14. Before leaving school on Friday, Dr. HaLevi requested the bus video from Durham Bus Services so it would be available for the parent meeting on Monday.
15. Dr. HaLevi dealt with discipline issues like this on a daily basis at Clark Academy and many which were much more serious; he had more experience than almost anyone else in the District in dealing with highly disruptive students.

16. Prior to the scheduled meeting, on Sunday night Dr. HaLevi was notified by Ms. Coker that he was being placed on paid administrative leave pending an investigation. Ms. Coker indicated that the leave would likely be two days and that she was doing it based primarily on social media posts by the female student's uncle.

17. Dr. HaLevi objected to being placed on leave before having the opportunity to speak to Ms. Coker as he knew his sudden absence from the School would make it appear that he had done something improper, which he had not.

18. Dr. HaLevi met with Beverly Varnado and Will Suggs on Monday, April 25th to review a written statement he had provided to Ms. Coker immediately after the incident.

19. Dr. HaLevi told Dr. Suggs and Ms. Varnado that the bus video would make clear that he remained at the front of the bus at all times and was non-confrontational while the student remained at the back of the bus.

20. Will Suggs told Dr. HaLevi that the bus video was not available despite the fact the bus was put into service recently and equipped with video cameras.

21. Dr. HaLevi told Dr. Varnado and Mr. Suggs that the absence of a video was deeply problematic because any taken statements from students now, more than 60 hours after the incident, would be influenced by communication between them and on social media, and that the chaotic situation on the bus would make any student statement highly suspect.

22. Dr. Varnado and Mr. Suggs dismissed Dr. HaLevi's suggestion that video from students' phones be requested even though every student not only had a phone, but were using their phone at the time. If anything unusual happened on the bus, it would have been captured on video by the students on the bus.

23. On April 26, *The Post and Courier* published a front page article about the incident. The District did not speak up on behalf of Dr. HaLevi.

24. On April 27, *The Post and Courier* published a second article saying that there would be no criminal charges filed. Again, the District did not speak up on behalf of Dr. HaLevi.

25. On Wednesday, April 27, Dr. HaLevi was notified by several teachers that John O'Connell, an Assistant Principal in the District, introduced himself to the students at Clark as the Program Director for the remainder of the year" and that "things had been done wrong at Clark, but that for now on, I would make sure that things would be done right."

26. On Friday, April 29, Dr. HaLevi was approached by a neighbor, who said that Ms. Merriweather, an assistant principal at Burke High School sent an e-mail to the Burke faculty saying farewell as she had been asked to serve as the Interim Program Director of Clark through the end of the year.

27. Dr. HaLevi was told later by an anonymous District Office administrator that this decision was made on April 27th although no one at the District notified Dr. HaLevi.

28. On May 1, in a last ditch effort to protect his professional reputation, Dr. HaLevi sent an e-mail to Dr. Postlewait and other District administrators with an OpEd regarding the Post and Courier's sensationalized and inaccurate coverage of the disciplinary incident. A District Office Administrator was told by Jennifer Coker that because of the OpEd, "things were going to get much worse for Andrew in the District."

29. On May 3, Dr. HaLevi met with Michele English-Watson, Jennifer Coker, and Will Suggs. Ms. English Watson gave him a letter notifying him that he was being removed from his position at Clark Academy due to contract issuance problems, failure to handle a dress code incident properly, and concerns about his leadership.

30. Dr. HaLevi was told he would remain on paid administrative leave, but needed to be ready to report to a new work assignment at any time and could not appeal.

31. Because the May 3rd letter detailing the reasons for his removal was "so full of misinformation, inaccuracies omissions, and contradictions," Dr. HaLevi asked Dr. Postlewait, in a letter dated May 9, to "personally review the case in order to render a decision that reflects best professional practices and the highest ethical standards." At this point, it should have been clear that the investigation was deeply flawed and had been conducted in a grossly negligent manner.

32. On May 13, Dr. Postlewait replied stating "there is no formal avenue for appeal". She offered her "assurance that I will be involved in any decisions regarding your role in the District."

33. On June 29, 2016, Dr. HaLevi was contacted by *The Post and Courier* about its intention to do a follow up story on his employment.

34. Dr. HaLevi immediately notified John Emerson and Erica Taylor at the District Office "in order to ensure that there is an accurate and consistent message about my employment." He reminded them that he had not heard from the District in more than 6 weeks regarding his employment.

35. The District then offered the following statement to *The Post and Courier* regarding his status: "The District determined that Dr. HaLevi's talents could be used elsewhere, and not at Clark Academy" and that "Dr. HaLevi is currently working on special projects in the Office of Student Services."

36. CCSD Policy states, "when it becomes necessary to transfer administrative and other central level staff within the CCSD for reasons deemed appropriate by the superintendent,

employees affected by the transfers shall be advised in a conference, followed by written notice, of the new assignment." The District's statement to *The Post and Courier* was, therefore, false.

37. On July 25, 2016, Dr. HaLevi was called to the District office to attend a meeting with Terri Nichols. After more than three months and with the 2016-2017 school year about to begin, he assumed the meeting involved his reassignment. Instead, Ms. Nichols asked him about a missing computer at Clark Academy and whether he had a "secret" bank account at Clark. Dr. HaLevi replied that District staff was present at all times when he removed his personal belongings at Clark and he did not know anything about a missing computer.

38. Regarding the "secret" bank account, Ms. Nichols explained that the secretary/bookkeeper reported that Dr. HaLevi would occasionally pay for students' college application fees with money she could not identify. Dr. HaLevi replied that he paid for student fees out of his own personal account when students were not able to pay the fees themselves and school resources could not be used. He did not tell students because he did not want them to feel embarrassed or indebted to him.

39. After Ms. Nichols admitted that all Clark money was accounted for and all accounts in balance, Dr. HaLevi asked if she had any information about his reassignment. She said she did not and did not have a timetable for a reassignment.

40. Dr. HaLevi told her he felt like his position in the District and future employment prospects were being compromised by the District's failure to reassign him in a timely manner.

41. On July 29, Dr. HaLevi was contacted by Bill Briggman and offered an English teaching position at Stall High School which he accepted. On August 9, John Emerson provided to the public redacted student and teacher statements related to the alleged investigation of the

April 22, 2016 dress code incident. This information was provided as a result of a FOIA request made by *The Post and Courier* in early July.

42. After reviewing the documents from the FOIA request and concluding that student and teacher statements were misrepresented and/or ignored in the District's investigation, Dr. HaLevi filed a grievance against Jennifer Coker, Michele English Watson, Dr. Postlewait, and Chris Collins on August 29, 2016.

43. Will Suggs acknowledged receipt of the grievance on August 30th.

44. On September 22, in response to a dress code incident at Moultrie Middle School, the CCSD released the following statement: "We do not feel that Principal Cumback intentionally set out to embarrass the student. Mr. Cumback explained to the parent that the dress code violations are distracting to both male and female students and everyone is treated equally." No such explanatory statement was ever offered on Dr. HaLevi's behalf; it is not even clear that an investigation even took place.

45. Dr. HaLevi was told on October 18, 2017 by the District Board Chair that grievance he filed on August 29 was being returned because the policy "requires that you start with your immediate supervisor and work your way up the chain of command."

46. The District Board Chair's letter was written more than six (6) weeks after the grievance was submitted and contradicts Policy "GBK" that states "it is important that grievances be settled as soon as possible."

47. On October 21, Dr. HaLevi replied asking for assistance to identify to whom his grievance should be submitted given that the individuals being grieved were his direct supervisors.

48. On October 28, Dr. HaLevi received a letter from John Emerson directing his grievance appeal to Jennifer Coker.

49. On October 31, Dr. HaLevi requested written procedures regarding the grievance process from John Emerson which he did not receive.

50. On November 7, Dr. HaLevi resubmitted the original grievance to Jennifer Coker and included a second request for written procedures governing the grievance process.

51. On November 15, Dr. HaLevi received a letter from attorney Andrea White of Duff, White & White, LLC with an entirely new employee grievance process enclosed indicating that the new grievance procedures "have not been submitted in final form to the Superintendent" but that "Dr. Postlewait has reviewed the procedures and maintains a copy in her office."

52. This was the first time Dr. HaLevi had been made aware of these undisclosed, unpublished "procedures" that remained in Draft form and were "subject to revision."

53. It appears that that a new process was created especially for Dr. HaLevi's grievance.

54. On November 28th, three (3) months after his original grievance was submitted, Dr. HaLevi was then asked to present his grievance in a meeting to Jennifer Coker.

55. On December 12th, Dr. HaLevi received an e-mail from Ms. Coker that rejected the part of his grievance dealing with Coker's actions, but deferred any decisions on those parts of the grievance that related specifically to Dr. Postlewait and Chris Collins as they were above Ms. Coker's position in the chain of command.

56. This inaction and delay is precisely why Dr. HaLevi originally submitted the grievance to the CCSD Board Chair.

57. Nevertheless, following the instructions included in Ms. Coker's letter, Dr. HaLevi directed his grievance appeal up the chain-of-command to Michele English Watson on December 16th.

58. On January 4, 2017, Dr. HaLevi was contacted by Michele English Watson to schedule a grievance hearing, and on January 11, 2017, the meeting was held.

59. On January 26th, Dr. HaLevi received Ms. English Watson's response to his grievance, which like Ms. Coker's response, rejected the parts of the grievance dealing with her actions, but deferred any decisions on those parts of the grievance that related specifically to individuals above her chain of command.

60. Inexplicably, Ms. English Watson directed the next level of grievance to Dr. Valerie Harrison, who was not involved in any of the decisions regarding the investigation. In fact, she is not even mentioned in any of the original reports. The only possible explanation for directing the grievance to Dr. Harrison was to further delay and create additional obstacles for Dr. HaLevi.

61. After Dr. Harrison rescheduled twice, Dr. HaLevi finally met with Dr. Harrison on February 15th for his third grievance hearing.

62. As Dr. Harrison had not been part of the investigation and was not included on any of the original reports, Dr. Harrison appeared to know absolutely nothing about his case. She did not seem interested in the details and did not follow up on some of the most obvious problems in the investigation and subsequent reports that Dr. HaLevi brought to her attention.

63. On March 2, Dr. Harrison rejected the parts of the grievance, deferring judgement on those parts of the grievance that related specifically to individuals above her chain of command.

64. On March 8, Dr. HaLevi formally appealed his grievance to Dr. Postlewait.

65. In the appeal, Dr. HaLevi asked that she come prepared with information that Ms. Coker, Ms. English Watson, and Dr. Harrison refused to follow up with or address but that was central to his grievance such as the student's two plus year record of disciplinary referrals and consequences at Clark taken from Powerschool and/or Educator's Handbook; a comprehensive history of the student's disciplinary history; a copy of the letter that indicates a change of work placement to work somewhere other than Clark; a copy of his personnel file, including yearly reviews; the District policies referenced in the Investigative report used to justify his removal from Clark; and a written procedure from the District about how to proceed with the part of the grievance related to Trustee Chris Collins.

66. On March 24, 2017, Dr. HaLevi was contacted by Andrea White who told him that Dr. Postlewait did not plan to meet with him until April 18th, which was later rescheduled to April 20th due to a conflict with Passover.

67. Ms. White also noted that Dr. Postlewait "will have at her disposal all of the information to which you refer in your appeal letter. At that time, Dr. Postlewait will provide you with information regarding how you may address your concerns related to Trustee Chris Collins with the Charleston County School District Board of Trustees."

68. During the meeting on April 20th, Dr. HaLevi made a 40 minute presentation that focused on the larger context of the dress code incident, inconsistencies and misinformation in the District's investigation, and problems with the grievance process.

69. Dr. Postlewait used the final 20 minutes to ask questions that were generally unrelated to the dress code incident— technical questions that focused on whether Dr. HaLevi's

salary had been impacted and whether he understood she had the authority to move administrators for any reason.

70. The grievance policy that the District had developed gave the Superintendent ten (10) days from receipt of the grievance to arrange a meeting and ten (10) days to respond after the meeting.

71. In reality, the Superintendent took 31 days to arrange a meeting and 21 days to respond. Superintendent Postlewait's written response was delivered to Dr. HaLevi after 5 p.m. on May 11th and focused on the minor discrepancies in his two written responses to the dress code incident on April 22, 2016.

72. Dr. HaLevi's first response, written on April 22, 2016, was sent to Jennifer Coker in order to prepare her for a parent meeting she agreed to attend on April 25, 2016. This response was not meant to be a definitive account of the situation. Rather, it was meant to capture the essence of the situation, which is that Dr. HaLevi boarded a bus in order to resolve an ongoing disciplinary situation, one component of which was the return of pants. Dr. HaLevi never intended to convey the idea that the only reason he boarded the bus was to get a student to return pants. This was made clear during the April 25th meeting with Dr. Varnado and Will Suggs, and emphasized again in his May 9th letter to Superintendent Postlewait.

73. Using this discrepancy to justify his removal as the Program Director of Clark Academy is disingenuous and emphasizes how the complete lack of due process in the case adversely impacted the outcome and resulted in an arbitrary decision.

74. On May 17th, Dr. HaLevi notified Superintendent Postlewait that he was appealing his grievance to the full Board.

75. The Board refused to hear Dr. HaLevi's appeal.

76. Dr. HaLevi did not agree to be a CCSD teacher in 2017 when his one year contract expired.

77. Meanwhile, the Department of Education had started a disciplinary proceeding against Dr. HaLevi to determine whether his educator certificate should be suspended for unprofessional conduct.

78. The Department of Education issued an Order on September 17, 2017 dismissing the matter and finding, among other things:

- a. Dr. HaLevi did not know the student had swapped clothes with another student and was not wearing the dress she brought to school that day;
- b. Dr. HaLevi could not have seen the student's attire from the front of the bus;
- c. There was no evidence to indicate the student was only attired in her hoodie and underwear;
- d. There was no evidence the student informed Dr. HaLevi before disrobing that she would only be left in her underwear if she gave back the scrubs;
- e. Dr. HaLevi was unaware that by returning the scrubs the student would be disrobed; that Dr. HaLevi had not acted in an unprofessional manner; and
- f. There was no evidence of inappropriate or unprofessional conduct.

79. Although the State Board of Education found insufficient evidence to justify discipline against Dr. HaLevi on September 12, 2017, the District has made no attempt to contact Dr. HaLevi or restore his reputation.

FIRST CAUSE OF ACTION
(Defamation *Per Se* and Defamation *Per Se* by *Innuendo*)

80. Dr. HaLevi incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

81. While acting as agents of Defendant, Dr. Postlewait and other CCSD employees have published, affirmatively and through intentional omission, false and defamatory comments to third persons and in print media about Dr. HaLevi.

82. Specifically, Defendant's sudden placement of Dr. HaLevi on prolonged leave, subsequent demotion from an administrative position to a teaching position, and repeated failure to speak up on his behalf and support his actions falsely inferred and insinuated to students, their families, teachers, administrators, and the public that he was unfit for his profession and constitute defamation *per se*.

83. Defendant's statements, actions, and inactions are actionable *per se*.

84. Defendant's publication of these defamatory statements is not privileged due to the manner and circumstances surrounding the publication.

85. These defamatory statements and actions were made with common law malice.

86. The publication and re-publication of these false statements by Defendant have caused Dr. HaLevi to suffer severe damages to his personal and professional reputations.

87. Dr. HaLevi has suffered and seeks actual and consequential damages in the form of lost future wages, lost future benefits, psychological harm, emotional distress, anxiety, inconvenience, mental anguish, and humiliation. Dr. HaLevi also seeks special damages associated with the loss of his professional reputation.

SECOND CAUSE OF ACTION
(Violation of Due Process under State Constitution and State Law)

88. Dr. HaLevi incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

89. Public school teachers have a property interest in continued employment and, commensurate with that property interest, the state must provide notice and an opportunity to be

heard before a teacher may be deprived of the right to continued employment. *Young v. Charleston County Sch. Dist.*, 397 S.C. 303, 304, 725 S.E.2d 107, 107 (2012). Due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses. *Id.*

90. Pursuant to S.C. Code Ann. § 59-25-470 a grievance hearing *must* be held when requested.

91. S.C. Code Ann. § 59-25-450 applies to administrative and supervisory personnel, as well as teachers. *Barr v. Board of Trustees*, 319 S.C. 522, 462 S.E.2d 316 (Ct. App. 1995).

92. Dr. HaLevi's grievance was first delayed and then Dr. HaLevi was denied a hearing before the Board.

93. CCSD's actions deprived Dr. HaLevi of due process and caused him damages.

94. Dr. HaLevi seeks actual and consequential damages as well as attorney fees pursuant to S.C. Code § 15-77-300.

THIRD CAUSE OF ACTION
(Breach of Covenant of Good Faith and Fair Dealing)

95. Dr. HaLevi incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

96. Dr. HaLevi entered into a continuing contract to be an administrator with Defendant CCSD each school year. The last employment contract he signed as an administrator was for the 2015-2016 academic year.

97. In every contract of employment there is an implied covenant of good faith and fair dealing.

98. The District's deliberate failure to publically support Dr. HaLevi in his administrator position; its failure to properly investigate the bus incident; its failure to publicize

accurate facts about the bus incident; its refusal to restore Dr. HaLevi to his administrator position; and its failure to correct the public record and restore Dr. HaLevi's reputation after the Department of Education found there was no basis for any disciplinary action against him, breach of the covenant of good faith and fair dealing in Dr. HaLevi's employment contract.

99. Dr. HaLevi seeks actual and consequential damages for the District's breach in of the covenant of good faith and fair dealing.

Wherefore, having fully stated his Complaint against Defendant, Dr. HaLevi prays for actual and consequential damages, special damages, and such other legal and equitable relief the Court deems appropriate, including attorney fees pursuant to S.C. Code 15-77-300, costs, and post-judgment interest.

Bloodgood & Sanders, L.L.C.



Nancy Bloodgood, SC Bar No.: 6439

Lucy C. Sanders, SC Bar No.: 78169

242 Mathis Ferry Road, Suite 201

Mt. Pleasant, S.C. 29464

Telephone: (843) 972-0313

Email: nbloodgood@bloodgoodsanders.com

lsanders@bloodgoodsanders.com

Attorneys for Plaintiff

Charleston, South Carolina

Date: 1-9-2018

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

ANSWER TO COMPLAINT

FILED
2018 FEB -7 AM 11:49
CLERK OF COURT
JULIE J. ANDERSON

Defendant Charleston County School District ("CCSD") hereby answers the Complaint of Plaintiff, Andrew HaLevi, Ph.D., denying all allegations not explicitly admitted, as follows:

JURISDICTION & VENUE

1. In Paragraphs 1 through 3, Plaintiff alleges facts relevant to the identity of the parties, and jurisdiction and venue. Upon information and belief, Plaintiff is a resident of Charleston. CCSD believes that jurisdiction and venue are proper in this Court. Unless otherwise admitted, the remaining allegations in Paragraphs 1 through 3 of Plaintiff's Complaint are denied.

PLAINTIFF'S ALLEGATIONS

2. In Paragraphs 4 through 79 of Plaintiff's Complaint, Plaintiff attempts to set forth the facts and circumstances related to his claims. Documents related to Plaintiff's work record speak for themselves, and to the extent Plaintiff's allegations are inconsistent with this record, they are denied. Further, the Defendant denies any and all allegations that Defendant engaged in any conduct that was unlawful or inappropriate in any manner, especially with regard to Plaintiff. The Defendant further denies any and all allegations of misconduct made by Plaintiff against other CCSD employees, as alleged in his Complaint. Unless otherwise admitted, the allegations in Paragraphs 4 through 79 of Plaintiff's Complaint are denied.

FIRST CAUSE OF ACTION
(DEFAMATION PER SE AND DEFAMATION PER SE BY INNUENDO)

3. Defendant incorporates its responses to Paragraphs 1 through 79 of Plaintiff's Complaint as if fully set forth herein.

4. The allegations in Paragraphs 80 through 87 of Plaintiff's Complaint are denied.

SECOND CAUSE OF ACTION
(VIOLATION OF DUE PROCESS UNDER STATE CONSTITUTION AND STATE LAW)

5. Defendant incorporates its responses to Paragraphs 1 through 87 of Plaintiff's Complaint as if fully set forth herein.

6. The factual allegations in Paragraphs 88 through 94 of Plaintiff's Complaint are denied. To the extent Plaintiff has made legal assertions in these allegations, no response is required.

THIRD CAUSE OF ACTION
(BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING)

7. Defendant incorporates its responses to Paragraphs 1 through 94 of Plaintiff's Complaint as if fully set forth herein.

8. The factual allegations in Paragraphs 95 through 99 of Plaintiff's Complaint are denied.

NOW THEREFORE, having fully answered the allegations in Plaintiff's Complaint, the South Carolina Board of Nursing now sets forth its **DEFENSES AND AFFIRMATIVE DEFENSES**:

FOR A FIRST DEFENSE

1. Plaintiff has failed to state a claim for which relief can be granted, and his lawsuit must be dismissed under Rule 12(b)(6) or Rule 12(c), SCRPC.

FOR A SECOND DEFENSE

2. Plaintiff cannot establish the elements of the claims he has attempted to state, and he is therefore barred from recovery.

FOR A THIRD DEFENSE

3. The Defendant denies that it has engaged in any type of defamatory conduct with regard to Plaintiff, and furthermore, assert absolute privilege, qualified privilege, truth, lack of malice, and lack of publication as defenses and/or affirmative defenses to any such claim by Plaintiff.

FOR A FOURTH DEFENSE

4. Plaintiff cannot demonstrate that he has suffered any damages related to any of his causes action, or that he has properly mitigated any of the damages.

FOR A FIFTH DEFENSE

5. Plaintiff's claims may be barred by the equitable doctrine of "unclean hands," *res judicata*, collateral estoppel, and/or and Plaintiff's failure to exhaust administrative remedies.

FOR A SIXTH DEFENSE

6. Plaintiff's claims may be barred by the applicable statute of limitations.

FOR A SEVENTH DEFENSE

7. Plaintiff has failed to properly allege any breach of contract at to the Defendant.

FOR AN EIGHTH DEFENSE

8. Plaintiff has received adequate due process under the South Carolina Constitution from the Defendants.

FOR A NINTH DEFENSE

9. Defendant is immune to Plaintiff's tort claims under the following provisions of the S.C. Tort Claims Act: S.C. Code Ann. § 15-78-20, S.C. Code Ann. § 15-78-30, S.C. Code Ann. § 15-78-60(4), S.C. Code Ann. § 15-78-60(5), S.C. Code Ann. § 15-78-60(17), S.C. Code Ann. § 15-78-70, S.C. Code Ann. § 15-78-110, and S.C. Code Ann. § 15-78-120.

FOR A TENTH DEFENSE

10. That to the extent this action is one seeking to collect punitive damages brought against the Defendant, such an action for punitive damages is barred as a matter of law for a number of reasons, including: the due process clause of the Fifth Amendment as applied to the states through the Fourteenth Amendment to the United States Constitution; an arguable extension of the prohibition of the excessive fines clause of the Eighth Amendment, as applied to the states through the Fourteenth Amendment; an arguable extension of the provisions of the Sixth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment; relevant provisions of the South Carolina Constitution, including, but not limited to, Article I, Section 3; and the South Carolina Tort Claims Act; all of which are asserted as bars to recovery of punitive damages against the Defendant.

11. That, moreover, as the present case and statutory law standard to measure and confer power to a jury to award punitive damages under South Carolina law has not been formulated to comport with federal or state constitutional rights and guarantees, lacks objective criteria, lacks a meaningful standard, is void for vagueness, and violates constitutional due process and equal protection procedural protection, an award of punitive damages would violate the Defendant's constitutional rights and guarantees.

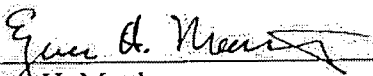
12. That, further, the Plaintiff has failed as a matter of law to state a claim for which punitive damage relief is available against the Defendant.

WHEREFORE, having fully answered the Complaint herein, the Defendant Charleston County School District requests that:

1. That the relief sought by Plaintiff be denied in each and every respect;
 2. That the claims asserted by Plaintiff be dismissed in their entirety with prejudice;
- and,
3. That Defendant be awarded its costs and attorney's fees under applicable case and statutory laws and such other and further relief as this Court may deem just and proper.

Dated this the 5th day of February, 2018.

RICHARDSON PLOWDEN & ROBINSON, P.A.


Eugene H. Matthews
Post Office Drawer 7788
Columbia, South Carolina 29202
T: (803) 771-4400
F: (803) 779-0016
Email: gmatthews@RichardsonPlowden.com

**COUNSEL FOR DEFENDANT CHARLESTON COUNTY
SCHOOL DISTRICT**

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

**DEFENDANT'S
MOTION IN *LIMINE***

NOW COMES Defendant Charleston County School District ("CCSD"), by and through counsel, and files this Motion in *Limine* with regard to matters that Plaintiff may seek to introduce at trial in the above-referenced matter. The purpose of a motion in *limine* is to prevent disclosure of irrelevant or potentially prejudicial matter to the jury. *State v. Floyd*, 295 S.C. 518, 520, 369 S.E.2d 842, 843 (1988).

In this motion, CCSD respectfully requests that this Court exclude any evidence related to (1) the proceedings convened by the South Carolina Department of Education concerning Plaintiff's Educator Certificate, (2) the recommendations of the hearing officer, or (3) the decision of the South Carolina State Board of Education concerning the same.

For the reasons stated below, the Court should GRANT CCSD's Motion in *Limine*, and any other such relief as the Court deems just and proper.

FACTUAL BACKGROUND

Following the confrontation between Plaintiff and student Erica Hamilton on April 22, 2016, and Plaintiff's subsequent reassignment from Clark Academy to teach at Stall High School, the South Carolina Department of Education ("SCDE") contacted Plaintiff on September 8, 2016,

concerning the potential suspension of his teaching license ("Educator Certificate"). SCDE has the exclusive authority to initiate proceedings to suspend or revoke a teaching license. S.C. Code Ann. § 59-25-150. The final administrative decision regarding revocation or suspension of licenses is left to the South Carolina State Board of Education. S.C. Code Ann. § 59-25-260. (*See Order of the South Carolina State Board of Education, attached as Exhibit "A"*).

Notably, CCSD did not seek to suspend or revoke Plaintiff's teaching license, and was not a party to the administrative action concerning Plaintiff's teaching license. In fact, CCSD presumed Plaintiff would maintain a valid teaching license, which was required for Plaintiff to complete his teaching assignment during the 2016-17 academic school year.

SCDE convened a hearing on July 14, 2017 – notably after Plaintiff had completed his teaching assignment at Stall High School for the 2016-17 academic school year – to present evidence to a hearing officer concerning its inquiry into Plaintiff's fitness to hold his teaching license. According to the Order of the State Board, "[b]oth SCDE and HaLevi made appearances and presented evidence at the hearing." Again, CCSD was not a party to the hearing and was not represented by counsel at SCDE's hearing.

After the hearing on July 14, 2017, Plaintiff left the country to begin teaching in Israel, where he continues to teach today.

On September 12, 2017, the State Board convened to consider the hearing officer's report and ruled that SCDE presented insufficient evidence to justify suspension or revocation of Plaintiff's license. As a result, SCDE's administrative proceeding regarding Plaintiff's teaching license was concluded and dismissed.

LEGAL ARGUMENT

Any reference to SCDE's administrative proceeding concerning Plaintiff's license is inadmissible in the trial of the current matter for the following reasons:

- (1) The SCDE's proceeding did not include CCSD as a party, and in any event, has no collateral estoppel effect on the proceedings before this Court;
- (2) The decision of the State Board to permit Plaintiff to retain his license has no bearing on, and is not relevant to, the action before the Court.
- (3) The SCDE has authority over licensing decisions but has no authority to overrule the disciplinary actions of a School District (and made no attempt to do so here), and reference to the proceeding would confuse the jury; and

I. A licensure proceeding before the SCDE has no precedential or collateral estoppel value in the matter before the Court.

A hearing convened by the SCDE concerning Plaintiff's license, or a decision of the State Board concerning Plaintiff's license, simply has no bearing on Plaintiff's claims for defamation, due process, and breach of contractual term of good faith and fair dealing.

In essence, by introducing this evidence into the record, Plaintiff seeks to extract preclusive effect from a proceeding that applies an entirely separate legal standard, and even an entirely different focus, from that of the CCSD and its decisions on assignment and discipline of its administrative personnel.

This matter is nearly identical to one recently presented to the State Employee Grievance Committee (the "SEGC"), which is statutorily charged to review grievance appeals of state employees. (*See Order of the State Employee Grievance Committee, attached as Exhibit "B"*). In that case, the discharged state employee sought to introduce into evidence before the SEGC a decision of the Law Enforcement Training Council ("LETC") allowing the discharged employee to remain eligible to be certified as a law enforcement officer. In rejecting the employee's request,

the Order noted that the LETC has an entirely different statutory mandate than the SEGC. While the LETC was charged to determine whether an officer has engaged in conduct that might disqualify him from obtaining a law enforcement certification administered by the South Carolina Criminal Justice Academy, the SEGC was charged to determine whether an officer's termination from employment was supported by substantial evidence. The SEGC also had the power to reverse the employer's decision to terminate the employee, while the LETC did not. (*Exhibit "B," pp. 2-3*).

Notably, like the LETC, the SCDE has no power to set aside a School District's discipline or assignment of an employee, and did not even attempt to do so here. Like the LETC, the SCDE is only empowered to determine whether it will permit a licensee to maintain eligibility to practice in the profession that it regulates. These proceedings have absolutely no "collateral estoppel" effect on proceedings before this Court.

In this regard, Plaintiff's desire to reference the proceedings before the State Board is directly contrary to, and must be denied under, the S.C. Supreme Court's ruling in *Shelton v. Oscar Mayer Foods Corp.*, 325 S.C. 248, 251, 481 S.E.2d 706 (1997). In *Shelton*, the S.C. Supreme Court considered whether a decision from a hearing for unemployment benefits before the Employment Security Commission ("ESC") could be used as the basis for collateral estoppel in a subsequent proceeding. In answering "no," the Supreme Court found as follows:

The purpose of the ESC hearings is to quickly provide benefits to persons becoming unemployed through no fault of their own. S.C. Code Ann. § 41-27-20 (1986). The legislature intended to minimize procedural hurdles before the ESC so as to enable unemployed claimants to obtain prompt decisions regarding entitlement to unemployment benefits from the ESC. The purposes of the ESC are in conflict with the doctrine of collateral estoppel; therefore, public policy dictates the findings made during an ESC hearing should not receive collateral estoppel effect.

Further, the narrow issue the ESC decides is simply whether the claimant is qualified to receive employment benefits. See S.C. Code Ann. § 41-35-120. Thus,

the jurisdiction of the ESC is limited. By focusing on a narrow issue, the ESC is able to expeditiously determine whether an employee is entitled to unemployment benefits. This serves the purpose of providing benefits quickly to employees who are unemployed through no fault of their own. To apply collateral estoppel to ESC decisions would result in ESC hearings becoming forums for employers and employees to engage in lengthy civil litigation of claims relating to an employee's discharge. Thus, the intent underlying the employment security law would be frustrated.

Employers normally are not compelled to intensely contest ESC hearings because the stakes are not great in such hearings. An ESC hearing only determines whether an employee was discharged for cause and thus disqualified from receiving unemployment benefits. A wrongful termination lawsuit determines whether the employer wrongfully discharged the employee and seeks to place blame on the employer. The damages available in a wrongful discharge lawsuit are much greater than unemployment benefits. Thus, an employer has more incentive to fully contest a civil suit.

325 S.C. at 253, 481 S.E.2d at 708.

The same interests here compel a finding that proceedings before the SCDE are not preclusive or binding on this Court.

- The respective standards of review, and jurisdictions of the bodies, are quite different. Like the ESC or LETC, the SCDE's licensing proceeding has a very narrow mandate. It has the authority to decide whether it is willing to permit a teacher to maintain her teaching license. Its authority extends no further, and absolutely cannot reverse the decision of a School District to discipline or reassign an employee.
- The SCDE – not the School District – is a party to the licensing proceeding and is responsible for presenting evidence to the Hearing Officer and State Board.

To allow this evidence into the record before the Court would not only violate the S.C. Supreme Court's ruling in *Shelton*, it would also fundamentally alter the legislatively-approved separate plans designed for (1) adjudicating eligibility for teaching certification, and (2) permitting School Districts – not Courts or the SCDE – to make routine decisions regarding assignment of administrative and teaching duties. See *Snipes v. McAndrew*, 280 S.C. 320, 323, 313 S.E.2d 294, 296 (1984) ("We are of the opinion that policy decisions concerning where an employee will best

serve the school district are better left to school officials, not the courts. Unless the legislature decides to require full, adversarial hearings for teachers upon their transfer, reassignment, or demotion to another certificated position, this Court will not require such a hearing.”).

In essence, Plaintiff’s demand would fundamentally alter the requirements placed upon School Districts. In *Shelton*, the Court observed that “[e]mployers normally are not compelled to intensely contest ESC hearings because the stakes are not great in such hearings.” 325 S.C. at 253, 481 S.E.2d at 708. Similarly, other than meeting requirements imposed by law – such as presenting witnesses secured by subpoena – individual School Districts are not required to support or oppose the SCDE’s efforts. Like the ESC hearings, if this Court were to allow the results of SCDE license proceedings into evidence, the decision would radically alter the incentives for School Districts to litigate SCDE licensing hearings.

For this reason alone, the Court should grant CCSD’s Motion in *Limine*.

II. The decision of the State Board to permit Plaintiff to retain his license has no bearing on, and is not relevant to, the action before the Court.

At its most elementary level, “relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Rule 401, SCRE. Evidence that is not relevant is not admissible. Rule 402, SCRE.

Neither the decision of the State Board to dismiss SCDE’s inquiry into Plaintiff’s teaching license, nor SCDE’s decision to investigate whether to suspend Plaintiff’s license, are admissible in this action. The reasons supporting this conclusion are many:

1. SCDE had no role in CCSD’s investigation of the Erica Hamilton incident.
2. SCDE had no role in CCSD’s decision to reassign Plaintiff.

3. CCSD had no role in SDCE's decision to initiate an inquiry into Plaintiff's fitness for a teaching license.
4. SCDE's own licensure hearing was convened over 1 year after the incident, and was also convened after the conclusion of Plaintiff's grievance process at CCSD. SCDE's actions had no bearing of any kind on the CCSD's investigation into the incident and CCSD's decisions made following the incident. *Hollins v. Wal-Mart Stores, Inc.*, 381 S.C. 245, 253, 672 S.E.2d 805, 808 (S.C. App. 2008) (the trial court properly excluded officer's testimony about alleged tortfeasor's prior record because plaintiff failed to demonstrate that Wal-Mart knew of the arrest or should have known about it).
5. The actions of SCDE, and the subsequent decision of the State Board to permit Plaintiff to retain his license, have no relevance to the elements of any claims now pending before the Court, and therefore cannot make the "existence of any fact that is of consequence to the determination of the action more probable or less probable."
6. CCSD was not a party to the administrative proceeding brought by SCDE. *Daufuskie Island Util. Co., Inc. v. S.C. Office of Regulatory Staff*, 420 S.C. 305, 315, 803 S.E.2d 280, 285-86 (2017) (Settlement Agreement was not relevant evidence as defined in Rule 401, and was therefore inadmissible at the PSC hearing, where the applicant seeking rate increases was not party to the agreement).

For these reasons alone, the Court should grant CCSD's Motion in *Limine*.

III. Because the SCDE has no authority to overrule the reassignment or disciplinary decisions of a School District in a licensing matter, admission of evidence relevant to those proceedings would be substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.

Even if evidence is relevant, it should be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Rule 403, SCRE. A trial judge's decision regarding the comparative probative value and prejudicial effect of evidence should be reversed only in exceptional circumstances. *Jamison v. Ford Motor Co.*, 373 S.C. 248, 269, 644 S.E.2d 755, 766 (S.C. App. 2007) (citations omitted).

In the case before the Court, the SCDE's after-the-fact licensing investigation, or the State Board's opinions of the evidence presented to its hearing officer, do not matter in the least to the proceeding before this Court. If there are genuine issues of material fact in the record before the Court, it is this Court – not an administrative agency – that is charged with making those factual determinations. *Patten v. Wal-Mart Stores E., Inc.*, 300 F.3d 21, 27 (1st Cir. 2002) (admitting EEOC findings of “cause” or the EEOC’s investigative file would clearly undercut the district court’s function as an independent fact-finder). Thus, documents related to the SCDE licensing proceeding have no probative value.

Further, as numerous courts have found, admission of documents from an administrative agency purporting to decide a factual matter are properly excluded as likely to cause undue confusion and prejudice. *See, e.g., Jo A. Yochum v. FJW Inv., Inc.*, 715 Fed. App’x 174, 178 (3rd Cir. 2017) (“The District Court properly excluded the Unemployment Compensation proceedings under Federal Rule of Evidence 403 because the evidence would unnecessarily confuse the jury and risk inviting them to place more weight on the agency’s findings than on their own. This conclusion is far from arbitrary or fanciful.”); *Rogers v. Deane*, 594 Fed. App’x 768, 770-71 (4th Cir. 2014) (Order by state licensing board reprimanding party properly excluded where factual findings contained in order were disputed); *Martinelli v. Penn Millers Ins. Co.*, 269 Fed. App’x 226, 229 (3rd Cir. 2008) (EEOC Determination letter was properly excluded where the letter’s claim to be a “determination as to the merits,” coupled with the fact that it originated from an authoritative government agency, could confuse and mislead the jury and unfairly prejudice defendant); *Guerra v. N. E. Indep. Sch. Dist.*, 496 F.3d 415, 419 (5th Cir. 2007) (EEOC determination letter properly excluded where evidence “spoke directly to the ultimate issue in the

case” and “would likely have prejudiced the jury since the EEOC made its own factual determination that age discrimination occurred”).

For this reason alone, the Court should grant CCSD’s Motion in *Limine*.

CONCLUSION

For the reasons stated above, the Court should GRANT CCSD’s Motion in *Limine*, and any other such relief as the Court deems just and proper.

Dated this the 8th day of May, 2020.

RICHARDSON PLOWDEN & ROBINSON, P.A.

s/Eugene H. Matthews

Eugene H. Matthews, #10193

Post Office Drawer 7788

Columbia, South Carolina 29202

T: (803) 771-4400

F: (803) 779-0016

Email: gmatthews@RichardsonPlowden.com

**COUNSEL FOR DEFENDANT CHARLESTON COUNTY
SCHOOL DISTRICT**

EXHIBIT A
ORDER OF THE SC STATE BOARD OF
EDUCATION

**BEFORE THE
SOUTH CAROLINA STATE BOARD OF EDUCATION**

In the Matter of the Discipline	)	
Of the Educator Certificate of	)	
Andrew HaLevi	)	ORDER OF DISMISSAL
	)	(DISCIPLINARY)
Educator Certificate #177191	)	
_____	)	

SUMMARY OF THE CASE

The South Carolina State Board of Education (State Board) considered this matter on September 12, 2017. On September 8, 2016, the South Carolina Department of Education (SCDE) sent Andrew HaLevi (HaLevi) a notice of his right to a hearing regarding the possible suspension of his South Carolina Educator Certificate, by regular and certified mail, return receipt requested, delivery restricted to addressee. HaLevi timely requested a hearing. On July 14, 2017, a hearing was held concerning HaLevi's alleged unprofessional conduct toward a student for a dress code violation. Both SCDE and HaLevi made appearances and presented evidence at the hearing.

After considering the evidence presented, the State Board hereby dismisses this action against HaLevi's educator certificate.

FINDINGS OF FACT

This case is a disciplinary matter in which SCDE is requesting suspension of HaLevi's educator certificate for unprofessional conduct. The State Board has jurisdiction in this matter, pursuant to S.C. Code Ann. § 59-25-150 (2004).

HaLevi holds a valid South Carolina Educator Certificate and was employed by the District as the Principal of Clark Academy (Clark), a school for over-age, at-risk children. HaLevi had held this position since the school's inception, approximately eight (8) years.

On April 22, 2016, HaLevi was involved in an incident with a female student which ultimately resulted in him being reassigned to another school. This incident involved a dress code violation and the resulting disciplinary measures that were imposed when the student failed to comply with school rules.

HaLevi noted that the student's dress was too short upon her arrival at school that morning. He addressed the matter with her and asked that she show him that she was wearing

HaLevi, Andrew
Order of Dismissal
September 12, 2017
Page 2

shorts under the dress, which would have resolved the dress code issue. The student refused. She was offered a pair of scrubs to put on under the dress and also refused those. Finally, after in-school suspension for an extended period and consultation with her mother, she put on the scrubs and was allowed to go back into class. The student was informed that she would need to return the scrubs before going home that day.

The student did not return the scrubs at the end of the day and HaLevi addressed this issue with her as she sat on the back seat of her bus waiting to go home. HaLevi stood in the front of the bus and requested that she return the scrubs. From his vantage point, he could see that she was wearing something blue which coincided with her dress that violated the dress code, but he could not see her full attire. She initially refused to return the scrubs but then took them off and threw them toward the front of the bus. Another student picked them up and threw them to HaLevi. As HaLevi exited the bus, the student in question as well as other students screamed that she was now in only her underwear. The School Resource Officer confirmed this and the scrubs were returned to the student to wear home.

HaLevi was unaware that the student had swapped clothes with another student and was therefore no longer wearing the dress she originally wore to school that day. Instead, she was wearing a blue hoodie and the scrubs. The testimony of the School Resource Officer corroborates that HaLevi could not have seen the complete attire of the student from his vantage point at the front of the bus and that he was genuinely surprised to learn that the student was only attired in a hoodie and her underwear. Further, there is no evidence that the student informed him prior to disrobing that she would be left in her underwear if she gave the scrubs back or that HaLevi was otherwise aware that by returning the scrubs she would be disrobed.

After considering the evidence presented at the July 14, 2017 hearing, the State Board finds that the evidence demonstrates that HaLevi did not act in an unprofessional manner. HaLevi's position as principal of Clark required that he be the chief disciplinary officer. Clark was a last chance school for students dealing with a variety of complex emotional issues. As such, the students regularly displayed disciplinary issues which created an environment where strict school discipline was a necessity. HaLevi's requirement that the scrubs be returned at the end of the day and his actions to retrieve the scrubs from a recalcitrant student were products of

HaLevi, Andrew
Order of Dismissal
September 12, 2017
Page 3

that strict school discipline. The facts presented establish that HaLevi had a reasonable belief that the student was in the clothes she came to school in and that requesting the return of the scrubs would leave her in those same clothes to return home in. The Board finds no evidence of inappropriate or unprofessional conduct. Accordingly, the Board hereby dismisses this action.

CONCLUSIONS OF LAW

Certified education personnel who are employed as administrators retain their rights as a teacher under the provisions of Article 3 of Chapter 19 and Article 5 of Chapter 25 of Title 59. S.C. Code Ann. §59-24-15 (2004). Accordingly, the disciplinary statutes cited below apply to HaLevi.

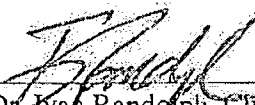
"The State Board of Education may, for just cause, either revoke or suspend the certificate of any person." S.C. Code Ann. § 59-25-150 (2004). Just cause includes, *inter alia*, "unprofessional conduct". S.C. Code Ann. § 59-25-160 (3) (2004).

The State Board finds that the evidence presented is insufficient to justify discipline under the rubric of unprofessional conduct and this action against HaLevi's educator certificate #177191 is hereby dismissed.

AND IT IS SO ORDERED.

South Carolina State Board of Education

By:


Dr. Ivan Randolph, Chair

Columbia, South Carolina
September 12, 2017

EXHIBIT B
ORDER OF THE STATE EMPLOYEE
GRIEVANCE COMMITTEE

**STATE OF SOUTH CAROLINA
STATE EMPLOYEE GRIEVANCE COMMITTEE**

Philip Hunter,

Appellant,

v.

South Carolina Department of Public Safety,

Respondent.

ORDER

This matter is before the South Carolina State Employee Grievance Committee on Appellant's motion in limine. As Committee Attorney, I am vested with the authority to "rule on all motions, and all legal issues." S.C. Ann. Code § 8-17-340(c). Appellant's motion seeks to exclude from the Committee any evidence or reference to the events giving rise to Appellant's termination (*i.e.*, the traffic stop that occurred October 4, 2014), contending collateral estoppel binds the Committee to accept the findings of the South Carolina Criminal Justice Academy's ("SCCJA") Law Enforcement Training Counsel ("LETC"). Motion at 1. For the following reasons, Appellant's motion is denied.

While it is true that in some instances an administrative proceeding may have preclusive effect in a subsequent case, *see Bennett v South Carolina Dep't of Corrections*, 305 S.C. 310, 408 S.E.2d 230 (1991)—this is not one of those instances. Appellant asks the Committee to find collateral estoppel binds the Committee to the findings of the LETC proceeding. However, Appellant's request is foreclosed by the South Carolina Supreme Court's ruling in *Shelton v. Oscar Mayer Foods Corp.*, 325 S.C. 248, 252–53, 481 S.E.2d 706, 708 (1997). In *Shelton*, the Court considered whether a decision from a hearing for unemployment benefits before the

Employment Security Commission ("ESC") could be used as the basis for collateral estoppel in a subsequent proceeding. In answering "no," the Court found as follows:

The purpose of the ESC hearings is to quickly provide benefits to persons becoming unemployed through no fault of their own. S.C. Code Ann. § 41-27-20 (1986). The legislature intended to minimize procedural hurdles before the ESC so as to enable unemployed claimants to obtain prompt decisions regarding entitlement to unemployment benefits from the ESC. The purposes of the ESC are in conflict with the doctrine of collateral estoppel; therefore, public policy dictates the findings made during an ESC hearing should not receive collateral estoppel effect.

Further, the narrow issue the ESC decides is simply whether the claimant is qualified to receive employment benefits. See S.C. Code Ann. § 41-35-120. Thus, the jurisdiction of the ESC is limited. By focusing on a narrow issue, the ESC is able to expeditiously determine whether an employee is entitled to unemployment benefits. This serves the purpose of providing benefits quickly to employees who are unemployed through no fault of their own. To apply collateral estoppel to ESC decisions would result in ESC hearings becoming forums for employers and employees to engage in lengthy civil litigation of claims relating to an employee's discharge. Thus, the intent underlying the employment security law would be frustrated.

Employers normally are not compelled to intensely contest ESC hearings because the stakes are not great in such hearings. An ESC hearing only determines whether an employee was discharged for cause and thus disqualified from receiving unemployment benefits. A wrongful termination lawsuit determines whether the employer wrongfully discharged the employee and seeks to place blame on the employer. The damages available in a wrongful discharge lawsuit are much greater than unemployment benefits. Thus, an employer has more incentive to fully contest a civil suit.

325 S.C. at 253, 481 S.E.2d at 708. The same interests here compel a finding that proceedings before the LETC are not preclusive or binding on the Committee.

To begin, the respective standards of review and jurisdiction of the bodies are different. Like the ESC, the LETC has a very narrow mandate. It has the authority to decide whether it is willing to permit a law enforcement officer to maintain eligibility for certification as a law enforcement officer. Its authority extends no further, and it absolutely cannot reverse the decision of a law enforcement agency to terminate an officer's employment. The LETC

proceeding applied an entirely different standard of review to an entirely different issue than what is currently before the Committee. The LETC was charged with determining whether the Appellant was engaged in conduct that might disqualify him from obtaining a law enforcement certification administered by the SCCJA—not whether his termination was supported by substantial evidence.

Next, the investigation conducted by the LETC is separate and unrelated to Appellant's termination. The LETC is responsible for conducting an investigation into an officer's certification eligibility. Only after the LETC has conducted its own separate investigation can it deny or withdraw an officer's certification under the relevant standards, S.C. Reg. § 37-025 and § 37-026. Also, termination is not necessarily a predicate to a certification investigation by the LETC. Law enforcement agencies are required to notify SCCJA whenever any certified law enforcement officer is separated from their employer, "regardless of the reason," within 15 days. S.C. Reg. § 37-022.

Further, the forums, the LETC and the instant hearing, differ in procedure and substance and thus are approached differently by litigants. Parties do not present matters in the same fashion before the LETC as they do before the Committee. For example, the Court in *Shelton* observed that "[e]mployers normally are not compelled to intensely contest ESC hearings because the stakes are not great in such hearings." 325 S.C. at 253, 481 S.E.2d at 708. Like the ESC hearings, if the Committee were to grant preclusive effect to LETC hearings, the decision would raise the stakes and thus radically shift the incentives to litigate in the different forums.

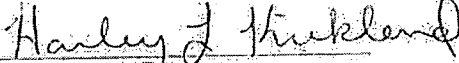
Lastly, to rule in Appellant's favor would not only run counter to the South Carolina Supreme Court's precedent in *Shelton*, it would also fundamentally alter the separately designed, legislatively-approved schemes for (1) adjudicating eligibility for law enforcement certification,

and (2) adjudicating an adverse action under the State Employee Grievance Procedure Act. It is the Committee alone—not the LETC—that decides whether Appellant has shown there was substantial evidence to support an agency's decision to terminate an employee. *See* S.C. Code § 8-17-340.

In conclusion, Appellant's request must be denied, due to the overwhelming weight of authority in opposition. Under the South Carolina Supreme Court's decision in *Shelton*, and the distinct regulatory and statutory schemes instituted by the General Assembly, it is clear Appellant's ruling from the LETC can have no preclusive effect on the instant proceedings. Accordingly, evidence and references to the events surrounding the October 4, 2014 traffic stop will be permitted.

THEREFORE, for the reasons discussed above, the Committee denies the Appellant's motion.

IT IS SO ORDERED.


Harley L. Kirkland
Committee Attorney

November 5, 2018
Columbia, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR
	)	
COUNTY OF CHARLESTON	)	THE NINTH JUDICIAL CIRCUIT
	)	
Andrew HaLevi, Ph.D.,	)	Case No.: 2018-CP-10-00123
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S RESPONSE TO
	)	DEFENDANT CHARLESTON COUNTY
Charleston County School District,	)	SCHOOL DISTRICT'S MOTION IN
	)	LIMINE
Defendant.	)	
	)	
	)	
	)	

Plaintiff files this Response to Defendant Charleston County School District's (CCSD's) Motion in Limine requesting that South Carolina Department of Education (SCDE) proceedings, recommendations and final decision regarding the Plaintiff's teaching license be excluded as evidence at trial.

LEGAL ARGUMENT

A. The SCDE proceedings against Plaintiff are a Public Record.

All of the SCDE hearings are public and reported each month on the State Board's website under "Educator Licensure Cases (ELC)" (<http://ed.sc.gov/state-board/state-board-of-education/feature-boxes/educator-licensure-cases-elc/>). The State Board of Education refers to these ELC cases as "disciplinary cases" and states that they are public record:

State Board of Education Orders of Disciplinary Action

Written orders of disciplinary action are public records, maintained by the State Board of Education. For questions about disciplinary actions, contact the Office of General Counsel at 803-734-8783.

Public records are an exception to the hearsay rule per South Carolina Rules of Evidence, Rule 803 (8). Therefore, the proceedings, the recommendations and the final decision contained in the ELC regarding Plaintiff are not hearsay.

B. The SCDE proceedings are relevant to the issues in this case.

Rule 401 defines relevancy as “any evidence having the tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”

The SCDE Order denying the suspension or removal of Plaintiff’s teaching license explicitly states Plaintiff did not use unprofessional behavior or poor judgement. (“The Board finds no evidence of inappropriate or unprofessional conduct.”) This is similar language that Defendant used to justify Plaintiff’s discipline by Defendant and his removal as Program Director. Specifically, in a letter from Superintendent Postlewait to Plaintiff dated May 11, 2017 Dr. Postlewait stated, “[T]hat does not change the fact that you used poor judgment in your handling of the matter on April 22nd.” At issue in the ELC case was whether Plaintiff’s conduct justified discipline. That is the same issue here (just with different consequences), so the ELC Order proceedings, recommendations and final order are relevant. While the opinion of the SCDE Hearing Officer is not in any way binding on the jury (i.e., there is no collateral estoppel)¹, “references to” the proceedings should be permitted.

C. Defendant is not prejudiced by Plaintiff referring to the SCDE proceedings, the recommendations it made or its decision.

Rule 403 excludes relevant evidence if it could cause prejudice, confusion, or be a waste of time. Defendant is not prejudiced by the ELC Order as Defendant was present and

¹ Although Defendant makes a lengthy argument about collateral estoppel, this is a red herring as Plaintiff has never suggested that collateral estoppel applies in this case.

participated at every step of the ELC hearing. Defendant's counsel was present during the entire ELC hearing and was consulted repeatedly by the State Board's attorney during the hearing. Defendant coordinated the witnesses that the State called during the hearing. Defendant's attorney and the State Board's attorney sat at the same table during the proceedings and consulted frequently while all the witnesses and Plaintiff were testifying. Further, the ELC hearing followed the South Carolina Rules of Civil Procedure; the parties were sworn; and an official record was created.

While the SCDE hearing was focused on Plaintiff's educator's certificate, the reason for the hearing was identical to the reason Defendant used to justify Plaintiff's removal as Program Director- whether Plaintiff properly handled a discipline issue. While Defendant originally gave Plaintiff three (3) reasons for his removal, Defendant's Superintendent dismissed two (2) of the reasons prior to the ELC hearing and, thus, the only reason remaining for Plaintiff's removal by Defendant as Program Director by CCSD was the same sole issue decided in the ELC hearing.

As the ELC Recommendations and Order are public records and relevant, and because they do not prejudice Defendant, who participated in the ELC hearing, they are admissible evidence.

BLOODGOOD & SANDERS LLC

S/ Nancy Bloodgood
 Nancy Bloodgood, SC Bar No.: 6459
 242 Mathis Ferry Road, Suite 201
 Mt. Pleasant, SC 29464
 Telephone: (843) 972-0313
 Email: nbloodgood@bloodgoodsanders.com
Attorneys for Plaintiff

Charleston, South Carolina

Date: May 29, 2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

**DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

NOW COMES Defendant Charleston County School District ("CCSD"), by and through counsel, and files this Motion for Summary Judgment pursuant to Rule 56, SCRPC, concerning all claims brought against them by the Plaintiff Andrew HaLevi ("Plaintiff" or "HaLevi"). For the reasons stated herein, CCSD respectfully requests that the Court GRANT its Motion for Summary Judgment, DISMISS all claims brought against it by Plaintiff with PREJUDICE, and GRANT any other such relief as the Court deems just and proper.

PLAINTIFF'S CLAIMS

Plaintiff is a former principal at Clark Academy, an alternative program with CCSD for at-risk high school students. He was eventually reassigned from this position in May 2016 based on an incident related to his actions regarding a 16-year old female student named Erica Hamilton ("Erica"), in which Plaintiff boarded a school bus, demanded that Erica remove pants she was given due to a perceived dress code violation, and return the pants to him. After retrieving the pants, Plaintiff left Erica without pants and scantily-clad in front of fellow students on the bus.¹

¹ Due to Plaintiff's actions, Erica and her mother brought suit against Plaintiff and CCSD in *Erica Hamilton and Linda Hamilton v. Andrew HaLevi, Charleston County School District and*

Plaintiff was not fired due to this incident. Rather, following a period of paid administrative leave over the summer, he accepted a reassignment to teach at Stall High School in the 2016-17 academic year without a loss of pay.

Following the 2016-17 academic year, CCSD offered to continue to employ Plaintiff as a teacher for the 2017-18 academic year. Plaintiff refused the offer, and instead decided to accept a teaching position in Israel, where he currently lives and works. (*Deposition of Andrew HaLevi, hereinafter the "HaLevi Deposition," pp. 17-18, 29-32*).

In his Complaint, Plaintiff has brought three claims:

- Plaintiff's First Cause of Action is for **Defamation**, based on (1) his being placed on a paid leave following his confrontation with Erica, (2) CCSD's alleged "repeated failure to speak up on his behalf and support his actions falsely inferred and insinuated to students," and (3) comments made by School Board Member Chris Collins in response to a media inquiry from *The Chronicle*, a newspaper in the Charleston area. (*Plaintiff's Complaint*, ¶¶ 82-87; *HaLevi Deposition*, p. 76, lines 2-24).
- Plaintiff's Second Cause of Action is for an alleged **Violation of Due Process under State Constitution and State Law**, based on Plaintiff's allegation that "CCSD's actions deprived Dr. HaLevi of due process and caused his damages" because "Dr. HaLevi's grievance was first delayed and then Dr. HaLevi was denied a hearing before the Board." (*Plaintiff's Complaint*, ¶¶ 92-93).
- Plaintiff's Third Cause of Action is for an alleged **Breach of the Covenant of Good Faith and Fair Dealing**, based on his employment contract for the 2015-16 academic year, and CCSD's alleged "deliberate failure to publically support Dr. HaLevi in his administrator position; its failure to properly investigate the bus incident; its failure to publicize accurate facts about the bus incident; its refusal to restore Dr. HaLevi to his administrator position; and its failure to correct the public record and restore Dr. HaLevi's reputation after the Department of Education found there was no basis for any disciplinary action against him..." (*Plaintiff's Complaint*, ¶ 98; *HaLevi Deposition*, p. 171, lines 8-17).

For the reasons detailed below, these claims must be dismissed with prejudice.

Charleston County, C/A No.: 2018-CP-10-01864 (the "Hamilton Lawsuit"), which was recently resolved among the parties.

FACTUAL BACKGROUND

A. Plaintiff's Confrontation with Erica Hamilton.

On April 22, 2016, Plaintiff was serving as the principal of the Clark Academy, an alternative high school with a small enrollment and very low teacher-student ratio designed to assist troubled students to graduate from high school. One of the students, Erica Hamilton, was then 16 years old and arrived at school that day in a dress that Plaintiff thought violated the school's dress code. (*HaLevi Statement, dated April 22, 2016, attached as Exhibit "A"*). Erica was wearing "boxer" style or "boy short" style panties under her dress. (*Deposition of Erica Hamilton, hereinafter the "Hamilton Deposition," pp. 68-70*). Plaintiff insisted that Erica put on pants – like hospital scrubs – in order to return to class, but throughout the morning, Erica refused to do so. After the lunch period, Erica agreed to wear the hospital scrubs and returned to class. (*Exhibit "A"*).

Following the lunch period, but allegedly unknown to Plaintiff, Erica exchanged clothes with one of her friends and was no longer wearing her dress. Instead, she was wearing the pants, an "Aeropostle" jacket, and her underwear. (*Hamilton Deposition, pp. 97-100*).²

Erica had not returned the pants by the end of the school day, so Plaintiff "boarded bus 808 to ask for the pants." (*Exhibit "A"*). Plaintiff reported that he saw Erica in the last row of the bus, and told her he needed the pants before allowing the bus to proceed. (*Exhibit "A"*). While students on the bus were yelling, Plaintiff repeated that the bus would depart when he retrieved the pants. (*Exhibit "A"*).³ Plaintiff did not confirm that Erica was still wearing her

² In his statement, Plaintiff states that he saw Erica in the "blue shirt dress" at the final change of classes. (*Exhibit "A"; HaLevi Deposition, p. 105, lines 10-16*). It is undisputed that this was not the case when Erica was on the bus. Rather, at that time, Erica was wearing the pants, an "Aeropostle" jacket, and her underwear.

³ At his deposition, Plaintiff attempted to distance himself from his statement by arguing that he

blue dress shirt, but “could see that Erica had a blue top on and I assumed it was the same blue shirt dress that she came to school with and that I saw her wearing all day.” (*Exhibit “A”*). The bus driver offered to bring the pants back to school on the following Monday, but Plaintiff refused the offer. After about 5 minutes, Erica took off the pants and threw them towards Plaintiff. (*Exhibit “A”*).

After retrieving the pants, according to Plaintiff, he heard Erica shouting through a bus window that “she was in her underwear.” (*HaLevi Deposition, p. 106, lines 14-23*). The bus driver and/or the School Resource Officer confirmed to Plaintiff that Erica was wearing a different blue top and “sitting in her panties.” (*Exhibit “A”; HaLevi Deposition, p. 107, lines 4-24; pp. 109-111*).

Shortly thereafter, Plaintiff returned the pants to Erica, who put them on and exited the bus. She left school after her mother arrived to pick her up. (*Exhibit “A”; HaLevi Deposition, pp. 111-112*).

B. CCSD’s Investigation of Plaintiff’s Confrontation with Erica.

Immediately following Plaintiff’s confrontation with Erica on the bus, Plaintiff called Jennifer Coker, CCSD’s Executive Director for Alternative Programs, to report the incident. Plaintiff also indicated to Coker that, due to a religious holiday, he would be unavailable until

was “trying to give a broad summary – of what happened. So if I had had more time and had the ability to explain, I would have said – I would have written that I told her that I needed to speak with her about the pants and other issues before I can let the bus proceed.” (*HaLevi Deposition, p. 121, lines 4-10*). Plaintiff later admitted that he told Erica that he “needed the pants before allowing the bus to leave,” but that his command was a “part of a larger context in which I asked Erica to come off the bus.” (*HaLevi Deposition, p. 122, lines 1-13*). There is no dispute, however, that Plaintiff demanded that Erica return the pants before the bus could leave. In fact, he admitted that “I don’t think it’s unreasonable for someone to say that he seemed to be focused on the pants, but that was – but that’s not an accurate estimation of what I was doing on that bus.” (*HaLevi Deposition, p. 122, line 25; p. 123, lines 1-3*).

Sunday. (*Deposition of Jennifer Coker, hereinafter the "Coker Deposition," p. 24, lines 1-8; p. 29, lines 4-8*). Separately, Coker also received a call from CCSD's Director of Security, Michael Reidenbach, who told Coker that police were investigating the incident. (*Coker Deposition, p. 26, lines 23-25; p. 27, lines 1-14*).

On Sunday evening, Coker told Plaintiff that CCSD was placing him on an administrative leave with pay during the investigation. (*Coker Deposition, p. 29, lines 13-24*). Coker thought that it was "egregious" that Plaintiff had left a student on the bus with no pants. (*Coker Deposition, p. 34, lines 15-17*).

CCSD Employee Relations officials Will Suggs and Beverly Varnado assisted Coker with the investigation into the incident, which concluded in one week. In addition to his statement of April 22, 2016, Suggs and Varnado interviewed Plaintiff on Monday, April 25, 2016. (*Coker Deposition, pp. 36-39; HaLevi Deposition, p. 130, lines 5-20; Affidavits of Wilbert Suggs and Beverly Varnado*). In his interview, Plaintiff took no responsibility for the confrontation, and blamed Erica entirely, based in part on his belief that Erica should have stopped the confrontation on the bus by explaining to him why she did not want to return the pants to him. (*Affidavits of Wilbert Suggs and Beverly Varnado*). CCSD also reviewed statements by various staff members, and because Erica would not come to school to be interviewed, CCSD referred to her statement to police. (*Coker Deposition, pp. 40-42*) (*See Statements of Students and Staff, attached as Exhibit "B"*).

By April 29, 2016, CCSD had finished its investigation into the incident and issued an internal report, which found as follows:

This investigation into allegations that Andrew HaLevi acted in an aggressive, inappropriate, and unprofessional manner toward a student has not revealed any reason to believe his actions were of criminal intent. The investigation did reveal many concerns, including the following:

- Dr. HaLevi does not appear to have the skills needed to manage student behavior.
- Dr. HaLevi has not taken any responsibility for his failure to manage the incident that led to the investigation; rather, he has deflected all blame to others and has refused to see how he had multiple opportunities to make decisions that may have led to a positive outcome.
- Dr. HaLevi has jeopardized any confidence the stakeholders of Clark Academy may have had in his ability to lead the school.

(Internal Report of Investigation, attached as Exhibit "C").

C. Plaintiff's Paid Administrative Leave and Reassignment.

On May 2, 2016, Coker contacted Plaintiff to tell him that he was going to be replaced at Clark Academy, and on May 3, 2016, CCSD sent Plaintiff a letter informing him about the results of the investigation. *(Coker Deposition, pp. 48-49; Letter dated May 3, 2016, attached as Exhibit "D")*. In her letter of May 3, 2016, Executive Director Michele English-Watson indicated that three issues had "collectively compromised the District's confidence in your ability to lead a school" – failing to issue contracts appropriately, failure to manage the incident of April 22, 2016 appropriately, and systemic issues related to Plaintiff's ineffective decisions.

The letter also advised Plaintiff that "[w]ork assignments for you will be forthcoming," and that she had not yet "determined what role you may have in Charleston County School District for the 2016-2017 school year; that information will be shared with you once a decision is made." *(Exhibit "D")*.

Plaintiff sent a lengthy response to the District Superintendent on May 9, 2016, to which the District Superintendent responded by letter on May 13, 2016. *(Letters attached respectively as Exhibits "E" and "F")*. Superintendent Postlewait stated that she approved the

recommendation to place Plaintiff on administrative leave and to place an interim leader at Clark Academy, and that she would be involved in any decisions regarding Plaintiff's future role in the District. (*Exhibit "F"*).

While on administrative leave, on July 26, 2016, Plaintiff met with Associate Superintendent Terri Nichols and Executive Director English-Watson, and indicated at the meeting that he would be open to a teaching position. (*Letter dated July 28, 2016, attached as Exhibit "G"*). At the meeting, he accepted a position as an English teacher at Stall High School for the 2016-2017 school year without loss of pay. (*HaLevi Deposition, p. 169, lines 7-25; Exhibit "G"*).

D. Plaintiff's Grievances

After accepting his position, Plaintiff filed a grievance with CCSD on August 29, 2016, which *inter alia* alleged that he had been denied "due process rights" and demanded that CCSD's Board of Trustees hear his case in executive session. (*Plaintiff's Grievance, dated August 29, 2016, attached as Exhibit "H"*). The Chair of the Board of Trustees, Cindy Coats, responded by letter on October 18, 2016, and directed Plaintiff to follow the proper grievance process described in Policy GBK. (*Coats Letter, dated October 18, 2016, attached as Exhibit "I"*). After Plaintiff requested and received guidance from CCSD's General Counsel as to the grievance process, Plaintiff's grievance went through the following steps:

- Plaintiff submitted his grievance to Jennifer Coker on or about November 7, 2016. (*Plaintiff's Grievance, attached as Exhibit "J"*). Plaintiff met to discuss his grievance with Coker on November 28, 2016, and received a five-page written response from Coker dated December 12, 2016. (*Coker's Response to Plaintiff's Grievance, attached as Exhibit "K"*). Coker addressed each of Plaintiff's issues except his complaint about the comments of Board of Trustee member Chris Collins.

- Plaintiff appealed Coker's decision to the next-level supervisor, Executive Director Michele English-Watson, which was heard on January 11, 2017. English-Watson issued a written response on January 26, 2017, in which she upheld Coker's decision. (*English-Watson's Response to Plaintiff's Grievance, attached as Exhibit "L"*).
- Plaintiff appealed English-Watson's decision to the next appropriate official, Interim Chief Academic Officer Valerie Evans Harrison, which was heard on February 15, 2017. Following her review, Harrison issued a written response on March 2, 2017 upholding CCSD's decision to transfer Plaintiff from Clark Academy. (*Harrison's Response to Plaintiff's Grievance, attached as Exhibit "M"*).
- Plaintiff appealed Harrison's decision to Superintendent Postlewait, who held the grievance conference on April 20, 2017. Following her review of the case, Superintendent Postlewait found that "the heart of the matter is whether you exercised good judgment in the handling of the April 22, 2016, incident" and that she did not believe Plaintiff exercised such good judgment. She also pointed to perceived inconsistencies in his representations to the District, and noted that Plaintiff had received significant due process. She also noted that she based her decision on Plaintiffs' handling of the incident of April 22, 2016, and not on the other issues referenced in English-Watson's letter of May 3, 2016. (*Postlewait's Response to Plaintiff's Grievance, attached as Exhibit "N"*).
- Plaintiff appealed Superintendent Postlewait's decision to CCSD's Board of Trustees, which was placed on the Board's agenda for the Board's meeting on June 26, 2017. In executive session, the Board voted to uphold Superintendent Postlewait's decision by a vote of 9-0. (*Minutes of CCSD Board of Trustees Meeting, attached as Exhibit "O"*). The Board Chair notified Plaintiff of its decision by letter dated June 29, 2017. (*Letter from CCSD Board Chair, attached as Exhibit "P"*).

Following the 2016-17 academic year, Plaintiff turned down the teacher contract that CCSD offered him for the 2017-18 academic year. (*HaLevi Deposition, p. 32, lines 6-24*). Shortly thereafter, he left for Israel and began teaching in the fall of 2017 at the Jerusalem School for the Arts. (*HaLevi Deposition, p. 17, lines 23-25; p. 18, lines 1-2*).

Plaintiff filed this lawsuit on or about January 11, 2018. CCSD now files this Motion for Summary Judgment as to all claims.

LEGAL STANDARD

A court considering summary judgment does not make factual determinations. However, summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner. *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). Summary judgment under Rule 56, SCRCF, is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Gecy v. S.C. Bank & Tr.*, 422 S.C. 509, 516, 812 S.E.2d 750, 754 (S.C. App. 2018). “[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Hancock v. Mid-S. Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

LEGAL ARGUMENT

I. PLAINTIFF HAS FAILED TO PRESENT EVIDENCE SUFFICIENT TO AVOID SUMMARY JUDGMENT ON HIS DEFAMATION CLAIM.

Plaintiff seeks to support his defamation claim on three bases:

- (1) his being placed on a paid leave following his confrontation with Erica, and being reassigned to a teaching position,
- (2) CCSD's alleged “repeated failure to speak up on his behalf and support his actions falsely inferred and insinuated to students,” and
- (3) comments made by Trustee Chris Collins in response to a media inquiry from *The Chronicle*, a newspaper in the Charleston area.

(*HaLevi Deposition*, p. 76, lines 2-24). For the reasons listed below, none of these bases are sufficient to support a defamation claim against CCSD, and for that reason, Plaintiff's defamation claim must be dismissed.

A. Because Plaintiff was a "Public Official" for purposes of his defamation claim, he is barred from asserting a defamation claim against CCSD under the South Carolina Tort Claims Act.

For purposes of his defamation claim, Plaintiff was a "public official" and therefore required to show that the person making a defamatory claim was acting with "actual malice." *Gause v. Doe*, 317 S.C. 39, 42, 451 S.E.2d 408, 409 (S.C. App. 1994). For this reason, under the South Carolina Tort Claims Act ("SCTCA"), the defamation claim against CCSD is barred and must be dismissed.

While South Carolina appellate courts have not yet ruled that a high school principal is a "public official" for the purposes of defamation claims, the preponderance of courts that have considered the matter have found that principals are public officials for these purposes.⁴ See *Cronin v. Pelletier*, 2018 WL 3965004, at *2 (Conn. Super. Ct. July 26, 2018) (principal of a public high school was a public official under the principles of the law of defamation); *Collins v. Taos Bd. of Educ.*, 893 F. Supp. 2d 1193, 1205 (D.N.M. 2012) ("After considering the case law, the Court predicts that the New Mexico Supreme Court would classify a public school principal as a public official within the meaning of *Rosenblatt*."); *Williams v. Detroit Bd. of Educ.*, 523 F. Supp. 2d 602, 610 (E.D. Mich. 2007), *aff'd*, 306 Fed. App'x 943 (6th Cir. 2009) ("This Court is

⁴ While one South Carolina case found that *assistant* principals are not "public officials" for purposes of defamation law, South Carolina appellate courts have not addressed whether *principals* are such "public officials." *Goodwin v. Kennedy*, 347 S.C. 30, 44, 552 S.E.2d 319, 327 (S.C. App. 2001). *Goodwin* observed a split in authority from other jurisdictions over whether a principal is such a "public official," but since *Goodwin* was decided, the preponderance of cases nationwide classifies principals as "public officials" for purposes of defamation claims.

persuaded by the Supreme Court of Vermont's reasoning in *Palmer* and the opinions of other courts concluding that principals are public officials to the extent their defamation claims involve communications relating to their conduct as principals.”); *Warren v. Birmingham Bd. of Educ.*, 739 So. 2d 1125, 1133 (Ala. Civ. App. 1999) (affirming trial court’s holding that an elementary school principal was a public official); *Jee v. New York Post Co.*, 671 N.Y.S.2d 920, 924 (Sup. Ct. 1998), *aff’d*, 260 A.D.2d 215, 688 N.Y.S.2d 49 (1999) (Principal must be considered a “public official” for the purposes of the defamation law.); *Johnson v. Robbinsdale Indep. Sch. Dist. No. 281*, 827 F.Supp. 1439, 1443 (D. Minn. 1993) (finding that “public school principals criticized for their official conduct are public officials” where principal sued students’ parents after they wrote a letter critical of the principals’ conduct); *Palmer v. Bennington School District*, 159 Vt. 31, 615 A.2d 498 (1992), (summary judgment properly granted to the school district on the principal’s defamation claim, holding that he was a “public official” and that he failed to show that the school board published the statements with “actual malice.”); *Junior-Spence v. Keenan*, 1990 WL 17241, at *4 (Tenn. Ct. App. Feb. 28, 1990) (finding that principal was a public official because she was an authority figure and a government representative to the students and parents with whom she dealt and her actions affected the taxpayers in the State); *Stevens v. Tillman*, 855 F.2d 394, 403 (7th Cir. 1988) (finding that principal was a public official where “her performance as public official was open to public comment” and, while not an elected public official, “she possessed great discretion over the operation of the [school]” and “how she used that discretion was the subject of legitimate public debate”); *State v. Defley*, 395 So.2d 759, 761 (La. 1981) (concluding that a school supervisor would be considered a public official because the position “ ‘is such that the public has an independent interest in the qualification and performance of the person who holds it, beyond the

general public interest in the qualifications and performance of all government employees,""); *Reaves v. Foster*, 200 So.2d 453, 456 (Miss. 1967) (holding that school principal was a public official, reasoning that statements criticizing her acts were "fair comment in a matter concerning a large sector of the county's population, in the handling of a matter connected with government, and in an effort by those involved to better conditions in the school as they deemed it" and that the State Constitution "provides ... a common school system, and the laws provide for the selection of the trustees and county superintendents, and the appointment by the superintendent and board of trustees of the principal to be in charge of a school where the young of the county are given an opportunity to secure an education at the taxpayers' expense."); *Kapiloff v. Dunn*, 27 Md. App. 514, 343 A.2d 251, 258 (1975) (finding that high school principal was a public official under the *New York Times* standard and that the principal's "suitability for the position was a matter of public or general interest or concern").

For this reason alone, CCSD is not a proper party regarding Plaintiff's defamation claim. As a public official, Plaintiff must show that the defendant acted with "actual malice" in order to state a defamation claim. As set forth in *Scott v. McClain*, 272 S.C. 198, 250 S.E.2d 118, 120 (1978)

When a libel action is brought by a public official against critics of his official conduct, the constitutional guarantees of freedom of speech and press prohibit the public official from recovering damages for a defamatory falsehood relating to his official conduct unless the libelous statement was made with actual malice that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

272 S.C. at 201, 250 S.E.2d at 120 (citation omitted); *Botchie v. O'Dowd*, 315 S.C. 126, 432 S.E.2d 458 (1993) (plaintiff was a "public official" for the purposes of his defamation action against his employer, and was therefore required to prove actual malice).

Under the South Carolina Tort Claims Act ("SCTCA"), a governmental entity⁵ is not liable for a loss resulting from "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." S.C. Code Ann. § 15-78-60(17) (emphasis added); As stated in *Gause v. Doe*, 317 S.C. 39, 42, 451 S.E.2d 408, 409 (S.C. App. 1994)

The SCTCA clearly excludes a governmental entity's liability for an individual's loss stemming from a state employee's conduct that constitutes actual malice. We therefore agree with the trial court that the SCTCA bars Gause's slander claim against the MBPD because Gause must prove the MBPD employee's conduct constituted actual malice in order to recover on this claim.

317 S.C. at 42, 451 S.E.2d at 409.

For this reason alone, Plaintiff's claim for defamation against CCSD must be dismissed.

B. Plaintiff's "innuendo" defamation claim – based on being placed on paid leave and reassigned to a teaching position – is not actionable under South Carolina law.

Plaintiff alleges that CCSD defamed him by "innuendo," specifically by placing him on a paid leave after the incident of April 22, 2016, and by "failing to return plaintiff to work promptly after the incident and a subsequent demotion of plaintiff from administrator to teacher were defamatory." (*HaLevi Deposition*, p. 76, lines 10-20).

These allegations do not state a claim for defamation. There are four elements required to state a claim for defamation: (1) a false and defamatory statement; (2) an unprivileged publication of false and defamatory statement to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Fountain v. First Reliance Bank*, 398 S.C. 434, 441, 730 S.E.2d 305, 309 (2012).

⁵ CCSD is, by statute, a "governmental entity" under the SCTCA. S.C. Code Ann. § 15-78-30(d) and (h).

Because the alleged “failure to return plaintiff to work promptly after the incident” and the “subsequent demotion of plaintiff from administrator to teacher” are not “statements,” Plaintiff alleges that these actions constitute “defamation by innuendo,” where an “insinuation is as actionable as a positive assertion if it is false and malicious and the meaning is plain.” 398 S.C. at 441-42, 730 S.E.2d at 309 (emphasis added). Plaintiff’s argument in this case fails for the same reason that the argument failed in *Fountain*, where a plaintiff alleged that First Reliance Bank’s refusal to extend him a loan “insinuated that he was an unfit businessman.” 398 S.C. at 442, 730 S.E.2d at 309. The Supreme Court found that summary judgment was appropriately granted, noting as follows:

Under the proper standard, we believe Fountain failed to adduce facts sufficient to withstand summary judgment that Ewart’s statement was defamatory by innuendo. During his deposition, Fountain claimed the statement was “inappropriate” and “he just wouldn’t say it being a banker,” but this falls far short of establishing an implied defamatory meaning. Moreover, even assuming that Fountain did present sufficient evidence to establish a defamatory meaning through innuendo, the alleged defamation—that Fountain had a checkered business and financial history and was therefore a poor lending risk—was indisputably true. Without contradiction, the record reveals Fountain participated in a failed business venture and has a history of neglecting to repay his obligations. Thus, even assuming Fountain adduced sufficient evidence that the statement implied through innuendo that he was a poor lending risk, it could not be deemed defamatory because it was unquestionably true.

398 S.C. at 443-44, 730 S.E.2d at 310 (emphasis added).

For the same reason, Plaintiff’s “insinuation” argument fails. CCSD placed Plaintiff on a paid leave while CCSD investigated the incident by questioning students, staff members, and Plaintiff himself. This is the normal protocol followed by CCSD in like instances. (*Affidavits of Suggs and Varnado*). The investigation found, as Plaintiff himself admits, that he took Erica’s pants and left her exposed to other students only in her panties. It is unsurprising that CCSD (1) took the time necessary to complete its investigation, (2) took time over the summer to determine

Plaintiff's next assignment, and (3) lost faith in Plaintiff's ability as a leader due to his mishandling of the incident.

Further, it also does not matter that Plaintiff thought that CCSD could have handled the matter differently. CCSD followed normal protocol, and was well within its authority to investigate the matter, interview witnesses, and draw the conclusion that it did, which notably did not result in Plaintiff's termination. (*Affidavits of Suggs and Varnado*).

In this regard, Plaintiff's claim even pales in comparison to other "defamation by innuendo" claims that have been dismissed, and where employees were actually fired. For instance, in *Johnson v. Dillard's Inc.*, 2007 WL 2792232, at *18 (D.S.C. Sept. 24, 2007), there was no defamation by "innuendo" even where the plaintiff could show that she was escorted out of the store by the off-duty police officer, because there was no evidence that the "positive assertion" was false and malicious and that its meaning was plain. In *Hampton v. Conso Prod., Inc.*, 808 F.Supp. 1227, 1237 (D.S.C. 1992), the court found that a reasonable trier of fact could not find that the defendant acted maliciously in requesting the plaintiff to go on medical leave and receive medical treatment at the defendant's expense, where the plaintiff alleged that these acts gave the impression to others that the plaintiff was mentally ill and/or in need of medical confinement. Likewise, the court dismissed an "innuendo" claim where the plaintiff was fired in close proximity to an altercation between the plaintiff and his supervisor, allegedly leaving other employees "with the mindset that [plaintiff] had done something improper," because plaintiff "has not alleged facts to show that the meaning was plain." *Simmons v. Sci. Int'l Applications Corp.*, 2012 WL 761716, at *3-4 (D.S.C. Feb. 13, 2012), *report and recommendation adopted*, 2012 WL 761726 (D.S.C. Mar. 8, 2012). *See also, Fredrich v. Dolgencorp, LLC*, No. 3:13-CV-01072-JFA, 2014 WL 4417407, at *16 (D.S.C. Sept. 8, 2014) ("Aside from bare allegations and

the fact that he was terminated, Plaintiff has failed to provide evidence that the Defendant's actions on the day of his termination amounted to any defamatory conduct insinuating that he stole money, that he was incompetent as a store manager, or that he was prejudice. An employer terminating an employee for misconduct cannot by itself be held to be defamatory, something more is needed."').

Furthermore, and similar to the finding in *Fountain*, it is also absolutely true that Plaintiff's actions – that he admitted and that CCSD's investigation confirmed – compromised CCSD's faith in Plaintiff's ability to serve in an administrative leadership role. As in *Fountain*, this is a complete bar to this basis of Plaintiff's defamation claim.⁶

For this reason alone, Plaintiff's reliance on these actions to support his defamation claim is unavailing.

C. CCSD's Alleged "Failure to Speak Up" on Behalf of Plaintiff.

While difficult to decipher exactly what Plaintiff means by this allegation, he explained it in this manner:

Q. I think you'll agree with me that CCSD does not control what The Post and Courier says and does?

A. Well, I agree –

Q. Although, it certainly would like to but it does not.

A. -- I agree that they're not the ones editing the paper, but I certainly don't agree that the school district doesn't have a responsibility to be fair and consistent when providing information to – to the newspaper.

Q. Okay. How is it unfair or inconsistent in that regard?

A. The district clearly knew early on that I didn't do anything illegal. They also should have known, based upon a proper investigation, that I didn't do anything unprofessional or lack of -- or use poor judgment, which later the state, you know,

⁶CCSD asserted "truth" as a defense in this action. (Defendant's Answer, p. 3).

concluded.⁷ At a minimum, even if they came to the initial conclusion, they should have responded to -- to my pointing out that factually these things are simply wrong in the report. So they had a -- they had a responsibility to provide, at a minimum, accurate information based upon a proper investigation.

(*HaLevi Deposition*, p. 81, lines 11-25; p. 82, lines 1-9) (emphasis added).

Thus, Plaintiff is attempting to conjure an affirmative “duty” of an employer to contact a newspaper to publish the opinions of an employee regarding an investigation into his misconduct. This theory of defamation is unknown in South Carolina, and appears to be unknown throughout the United States. A few moments of reflection are sufficient to determine why such a theory is irrational. If it were so, every public entity and every employer in South Carolina would have the duty to issue a statement – presumably to the satisfaction of the employee – whenever the employee believed that a news report of an investigation into his or her conduct reflected poorly or inaccurately on him or her. *See Neloms v. Charleston Cty. Sch. Dist.*, 2019 WL 6092279, at *14 (D.S.C. June 19, 2019), *report and recommendation adopted*, 2019 WL 4409459 (D.S.C. Sept. 16, 2019) (“An employer’s refusal to issue a public statement at its employee’s behest, however, generally does not give rise to a standard defamation claim.”).

For this reason alone, Plaintiff’s reliance on this theory to support his defamation claim is unavailing.

⁷ Plaintiff may be referencing the decision of the State Board of Education (“State Board”) in which the South Carolina Department of Education (“SCDE”) requested that the Board suspend Plaintiff’s educator certificate. On September 12, 2017, the State Board found that the SCDE presented insufficient evidence to justify suspending Plaintiff’s license. For reasons stated in Defendant’s Motion in *Limine*, this evidence is inadmissible. In any event, it is irrelevant to Plaintiff’s defamation claim, as Plaintiff himself testified under oath that he was not relying on the state’s licensure decision to support his defamation claim. (*HaLevi Deposition*, p. 74, lines 2-5).

D. CCSD is not a proper defendant regarding statements made by Board Member Chris Collins.

Finally, Plaintiff takes exception to certain statements attributed in the media to Chris Collins, a CCSD Board Member. For the reasons detailed below, these statements cannot support a defamation claim against CCSD.

The incident of April 22, 2016 was reported in the news media, but was not reported to Plaintiff's satisfaction. Plaintiff wrote his own letter to the *Post and Courier*, which was published on May 4, 2016, in which he criticized the newspaper for "failing to follow basic principles of journalism when covering complex issues at Charleston area schools." (*HaLevi Letter, "Report Full Context of Clark Story," May 4, 2016, attached as Exhibit "Q"*).

On the same day, another Charleston newspaper, *The Chronicle*, published a story by Barney Blakeney entitled "Local Principal Likely to Be Reassigned after Demanding Student Take Off Her Pants." (*Article from The Chronicle, May 4, 2016, attached as Exhibit "R"*). The article reported that CCSD Board Member Chris Collins had opined that Plaintiff "should have been arrested when the incident occurred and then fired," although Collins also noted that "CCSD administrators have indicated that HaLevi won't be fired, but most likely will be moved to another position." (*Exhibit "R"*). Collins also opined that Plaintiff should not have demanded the pants, that "[y]ou don't embarrass a child or cause her to be exposed in front of other students," and that he thought Plaintiff should be fired, but did not think that there was board support to do it. (*Exhibit "R"*).

At his deposition, Collins confirmed that, in making these comments, he was not speaking for the Board of Trustees or CCSD, and that his comments "absolutely" did "not reflect the opinions of the school district or its board." (*Deposition of Chris Collins, hereinafter the "Collins Deposition," p. 44, lines 17-25; p. 45, lines 1-3*). He also never claimed to be speaking

on behalf of CCSD, and actually admitted that he had not even spoken to other Board Members about firing Plaintiff. (*Collins Deposition*, p. 23, lines 16-18).

In fact, Collins intended his statements to be very critical of CCSD, in that he believed that CCSD's African-American employees were treated more harshly than white CCSD employees, and that he believed Plaintiff would not be fired because he is white. (*Collins Deposition*, p. 20, lines 7-25; p. 21, lines 1-15). Doubling down on his criticism of CCSD, Collins testified that he believed that "certain board members...didn't want African-Americans to be in a high position" and specifically accused Board Members Coats and Ducker of harboring these racist sentiments. (*Collins Deposition*, p. 26, lines 15-18).

As an initial matter, as set forth above, because Plaintiff is a public official, and Collins was opining about Plaintiff's performance and suitability to be a principal, Plaintiff's defamation action against CCSD is barred by the SCTCA, as Plaintiff is required to show that Collins acted with "actual malice." Because Plaintiff cannot bring a suit against CCSD when one of its agents acts with "actual malice" under S.C. Code Ann. § 15-78-60(17), Plaintiff's suit against CCSD for this cause of action is barred.

Furthermore, Collins admitted that he was not acting as an agent of CCSD, or a spokesman for CCSD or its Board, concerning this matter. As set forth above, the SCTCA expressly states that "employee conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude" is an exception to South Carolina's waiver of immunity. S.C. Code Ann. § 15-78-60(17). "Scope of official duty" means (1) acting in and about the official business of a governmental entity and (2) performing official duties. S.C. Code Ann. § 15-78-30(i). *Benekritis v. Johnson*, 882 F. Supp. 521, 528 (D.S.C. 1995) (suit barred under SCTCA where after-school pickup basketball game

conducted in gymnasium one mile from the school was not “official business” of school district and its employee participants were not performing “official duties”); *Farr v. Lott*, 2019 WL 2051300, at *1 (S.C. App. May 8, 2019) (lawsuit barred against governmental entity under SCTCA where public employee was not acting in the scope of his employment).

For this reason alone, CCSD is not a proper defendant concerning Plaintiff’s defamation claim, which must be dismissed.

II. PLAINTIFF CANNOT SUSTAIN HIS CLAIM FOR VIOLATING DUE PROCESS UNDER STATE CONSTITUTION AND STATE LAW.

In his Complaint, Plaintiff references a “property interest” in continued employment, which is not relevant in any manner to this case, as CCSD never deprived Plaintiff of continued employment or other legally-recognized property interest. (Plaintiff’s Complaint, ¶ 89). As set forth in South Carolina law, Plaintiff cannot grieve “position or salary” as an administrator under the Teacher Employment and Dismissal Act. *Henry-Davenport v. School District of Fairfield Co.*, 391 S.C. 85, 89, 705 S.E.2d 26, 28 (2011) (legislature, in enacting S.C. Code Ann. § 59-24-15,⁸ overruled *Johnson v. Spartanburg County School Dist. No. 7*, 314 S.C. 340, 444 S.E.2d 501 (1994)).

The legislature enacted section 59-24-15 after the *Johnson* decision, and the plain language of the statute directly contradicts the holding in *Johnson*. The statute plainly states that an administrator has no rights in her “position or salary,” and

⁸ S.C. Code Ann. § 59-24-15 provides that “Certified education personnel who are employed as administrators on an annual or multi-year contract will retain their rights as a teacher under the provisions of Article 3 of Chapter 19 and Article 5 of Chapter 25 of this title but no such rights are granted to the position or salary of administrator. Any such administrator who presently is under a contract granting such rights shall retain that status until the expiration of that contract.” (emphasis added).

the legislature made no exception or distinction concerning the administrator's status as a certified educator.

391 S.C. at 89, 705 S.E.2d at 28.

For this reason alone, Plaintiff cannot maintain a "due process" claim, as the State has explicitly determined – both through the legislature and the courts – that he has no property right to the position or salary of an administrator.

Undeterred, Plaintiff appears to press his due process claim based on his belief that the persons who reviewed his grievance through the various steps of the process did not adequately consider his presentations at the various stages of his grievance. When asked what facts he believed supported this cause of action, Plaintiff testified as follows:

A. I think it would be more accurate to say that I don't believe that particularly in the first three cases that they did anything at all other than listen for the limited amount of time that I was in the grievance hearings. So not even sure that it has to do with analysis. I don't – I'm not sure they did anything.

Q. Well, you thought that their -- their -- that they did not consider what you had to say?

A. Correct.

Q. Okay. And you draw that conclusion from reading their decisions, their written decisions, based on your -- your allegations?

A. Correct.

Q. Okay.

A. And the way the grievance was set up, which was I was allowed to speak but they -- they were not. They simply did not speak during the -- during the hearing, during the grievance meeting.

Q. Okay. Is there any other thing, any other evidence, that you intend to point to support your claim for due process, your second cause of action?

A. Other than what was discussed today --

Q. Right.

A. -- and what's in the cause of -- you call this a cause of action --

Q. Right.

A. -- what's -- what's in here, I'm not aware of any additional information.

(HaLevi Deposition, p. 162, lines 8-25; p. 163, lines 1-11).

With respect, this evidence merely establishes the unremarkable fact that Plaintiff disagrees with the outcome of each stage of his grievance, and that the officials considering his grievance did not adequately review his grievance. This evidence does not -- and cannot -- support a due process claim under the South Carolina Constitution or state law.

First, as set forth under S.C. Code Ann. § 59-24-15 and its associated case law, Plaintiff cannot point to any evidence showing that CCSD deprived him of a "property interest." Without this, any claim for a "due process" violation must fail.

Second, even if Plaintiff could demonstrate that he was denied a "property interest" -- which he cannot -- he cannot show that he was deprived of "due process." If anything, he received significant due process, including several stages of an internal grievance where he presented the evidence he believed was favorable to him, meetings and reviews by numerous officials including the District Superintendent herself, and review by the Board of Trustees. "(D)ue process is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S. Ct. 893, 902, 47 L. Ed. 2d 18 (1976); *Sundberg v. DiRocco*, 2017 WL 3394314, at *13 (M.D. Pa. Aug. 8, 2017) ("Due process does not require flawless or perfect process. Neither does it require courtesy. Constitutionally adequate process alone suffices.").

For these reasons, Plaintiff's due process claim must be dismissed.

III. PLAINTIFF CANNOT SUSTAIN HIS BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING BECAUSE HE CANNOT DEMONSTRATE ANY BREACH OF CONTRACT ON THE PART OF CCSD.

Plaintiff has described his Third Cause of Action as follows:

Q. Okay. So the contract you believe was breached is Exhibit 10 [*“Contract for Certified Administrator,” dated April 15, 2016, attached as Exhibit S*]?

A. Yes.

Q. Okay. And the way that you believe the contract, Exhibit 10, was breached was detailed in paragraph 98?

A. Yes.

Q. Okay. Is there any other reason you believe that the district breached its contract?

A. Not that I’m aware of.

(*HaLevi Deposition, p. 171, lines 8-17*). Paragraph 98 of his Complaint states as follows:

98. The District’s deliberate failure to publically support Dr. HaLevi in his administrator position; its failure to properly investigate the bus incident; its failure to publicize accurate facts about the bus incident; its refusal to restore Dr. HaLevi to his administrator position; and its failure to correct the public record and restore Dr. HaLevi’s reputation after the Department of Education found there was no basis for any disciplinary action against him, breach the covenant of good faith and fair dealing in Dr. HaLevi’s employment contract.

(Plaintiff’s Complaint, ¶ 98).

Under South Carolina law, an implied covenant of good faith and fair dealing exists in every contract. *Tharpe v. G.E. Moore Co.*, 254 S.C. 196, 174 S.E.2d 397 (1970). However, there is no breach of an implied covenant of good faith where a party to a contract has done what provisions of the contract expressly gave him the right to do. *Adams v. G.J. Creel & Sons, Inc.*, 320 S.C. 274, 277, 465 S.E.2d 84, 85 (1995).

Furthermore, and importantly, South Carolina law does not recognize a separate cause of

action for “breach of an implied covenant of good faith and fair dealing.” *RoTec Servs., Inc. v. Encompass Servs., Inc.*, 359 S.C. 467, 472, 597 S.E.2d 881, 884 (S.C. App. 2004).

In this case, Plaintiff does not – and cannot – claim that CCSD terminated his employment. Rather, in sum, Plaintiff bases his breach of contract claim on his complaints that CCSD did not do what he wanted it to do – (1) agree to conduct an investigation into the Erica Hamilton incident as Plaintiff, not CCSD, saw fit, (2) have CCSD publicly agree that Plaintiff did nothing wrong in demanding that Erica remove her pants on the bus, and publish only those facts and opinions that he – not CCSD or other witnesses – believed were important, and (3) immediately restore him to his administrative position at Clark Academy. CCSD had absolutely no contractual duty to do any of these things.

Plaintiff may be dissatisfied with CCSD’s investigation, or the fact that the investigation unsurprisingly found that he had acted improperly in demanding that Erica Hamilton remove her pants on the bus, or the fact that CCSD placed him on leave until the parties agreed that he could teach at Stall High School without loss of pay for the 2016-2017 academic year. Plaintiff’s contract does not guarantee that CCSD will act in a manner that satisfies him.

As stated above, Plaintiff has absolutely no contractual or statutory right to remain in the principal’s position at Clark Academy. Under South Carolina law, Plaintiff has no right to the position or salary of an administrator. *Henry-Davenport*, 391 S.C. at 89, 705 S.E.2d at 28 (plain language of S.C. Code Ann. § 59-24-15 states that a school administrator has no rights in her “position or salary” and the legislature made no exception or distinction concerning the administrator’s status as a certified educator). Indeed, the contract at issue states clearly as follows:

The District’s administrative assignments are discretionary with the Superintendent. In the event of any change in the District’s organizational chart,

reduction in force, or whenever it is deemed in the best interest of the District, the Superintendent may reassign, upon notice to and consultation with the affected employee, consistent with S.C. Code Ann. § 59-24-15 (Supp. 1999).

(Exhibit S)

Further, Plaintiff has failed abjectly to point to anything in the contract, the record, or in law that gives him the right to direct how CCSD conducts investigations into his own conduct, or requires CCSD to follow his instructions as to how it responds to the findings of the investigation. In short, Plaintiff is attempting to conjure a claim for breach of the implied covenant of good faith and fair dealing without producing evidence of a breach of contract. *Adams*, 320 S.C. at 277, 465 S.E.2d at 85; *RoTec Servs.*, 359 S.C. at 472, 597 S.E.2d at 884; *Horton v. Darby Elec. Co.*, 360 S.C. 58, 599 S.E.2d 456 (2004) (former employee had no right of recovery against employer based on breach of employment contract and implied covenant of good faith and fair dealing, where the employer had good faith belief that it had sufficient good cause to terminate employee).

For these reasons, Plaintiff's claim for breach of the implied covenant of good faith and fair dealing must be dismissed with prejudice.

CONCLUSION

For the reasons stated above, CCSD respectfully requests that this Court GRANT its Motion for Summary Judgment, DISMISS the action with prejudice, and GRANT any other such relief as the Court deems just and proper.

[SIGNATURE ON NEXT PAGE]

Dated this the 11th day of May, 2020.

RICHARDSON PLOWDEN & ROBINSON, P.A.

/s Eugene H. Matthews

Eugene H. Matthews

Post Office Drawer 7788

Columbia, South Carolina 29202

T: (803) 771-4400

F: (803) 779-0016

Email: gmatthews@RichardsonPlowden.com

**COUNSEL FOR DEFENDANT CHARLESTON COUNTY
SCHOOL DISTRICT**

EXHIBIT A
HALEVI STATEMENT
DATED APRIL 22, 2016

April 22, 2016

At 6:55 AM, I was standing at the front entrance of the school when bus 808 arrived. While greeting students entering the building, I noticed that Erica Hamilton was wearing a blue shirt dress that appeared short and out-of-compliance with the dress code. I stopped Erica to say that the dress was short, but that it would probably be OK if she was wearing shorts underneath. She replied that she was wearing shorts and walked away. I asked her to stop, but she ignored me and went to the cafeteria for breakfast and morning meeting.

In the cafeteria, I asked Erica to stay after students were released in order to resolve the dress code concern. She ignored me and went to class, prompting me to have our student concern specialist (SCS), Dion Davis get her. SCS Davis was initially unsuccessful in getting Erica to leave class and called me for assistance, but upon hearing that I was on my way, Erica left class. I met both SCS Davis and Erica in the hallway and escorted her to the Student Support offices. Erica was upset and using profanity. I explained that this could have been resolved earlier if 1) she stayed in the cafeteria after breakfast as directed and 2) she showed me that she was wearing shorts under the shirt dress. Upon hearing the request to see the shorts, she made a lewd and inappropriate comment. I told Erica that she had three choices: put on pants that Clark provides in these situations, call parent to drop off clothes, or have parent pick her up. Erica called parent, who was not available to drop off clothes or pick her up, but she refused to put on the black, surgical scrubs/scrubs that we have available at Clark. She was asked to sit in the cafeteria, with another student who was removed from class for sleeping. I sat in the cafeteria with both students, periodically encouraging her to put on the pants so she could return to class. She refused each request, using profanity.

During the transition between first and second block, while I was in the hallway supervising the change of classes, Erica defied the directive to remain in the cafeteria and went to her second block class. Again, she was removed from class and encouraged to put on pants. She refused, and was moved to Ms. Mueller's room, an English teacher with a planning period. She spent the remainder of 2nd block in Ms. Mueller's classroom. She was required to stay in the cafeteria during lunch and stayed in the cafeteria through the start of 3rd block. She then asked to put on a pair of pants so she could go to class. SCS Davis brought her the pants and she changed in the 100 hallway restroom. Upon leaving the restroom in the pants and blue shirt dress, I reminded her to return the pants at the end of the day. I saw Erica again at the final change of classes and she was wearing the same black pants and blue shirt dress. I reminded her again that the pants needed to be returned at the end of the day.

Before dismissal, I asked the staff over the radio whether Erica had returned the pants as requested. I was told no, so I stationed myself outside the buses to remind her to do so. I never saw her leave the building or board the bus, but I was told over the radio that she was on bus 808. I then boarded bus 808 to ask for the pants. Standing next to the bus driver at the front of the bus, I spotted Erica in the last row of the bus. I told her that I needed the pants before allowing the bus to proceed. Students started yelling at me to let the bus go. Some students were yelling that they would be late to work and other students were just yelling to leave Erica

alone. I repeated that the bus would depart as soon as I got the pants. From the front of the bus I could see that Erica had a blue top on and I assumed it was the same blue shirt dress that she came to school with and that I saw her wearing all day. The bus driver told me that she would get the pants and bring them to school on Monday, but I told the driver that Erica needed to return the pants as she was wearing the same thing that she came to school in. After approximately 5 minutes, Erica took off the pants at the back of the bus and threw them up a few rows. I moved down the center row of the bus and collected the pants. As I was walking off the bus, Erica opened the window, cursed repeatedly, saying that she was now in her panties. I immediately stopped the bus from driving off to ask what she was talking about—that she was wearing the same blue shirt dress that she had when she came to school. The bus driver then told me that in fact, she was wearing a different blue top and that after taking off the pants, she was now wearing only panties. I immediately handed the pants to the driver and asked her to go back to give it to her. Erica said that she would not put them on and that she would just wear her panties. I said absolutely not—that the bus would not leave until she had pants on. She put them on and walked off the bus (pushing me), calling her mother.

I went to the office with my SRO and SCS while Erica attempted to leave school with my data clerk. I told the data clerk not to leave with Erica as I needed to speak with her parent about the incident, but Erica would not communicate with me other than to curse. About 20 minutes later, while waiting with a teacher, Erica was picked up from the school by her mother. The mother refused to enter the building to speak with me. During that time, Erica's father called me to ask what happened. As I began to explain, he cut me off, and began threatening me. Before hanging up, he said he would come to school on Monday.

I asked my SRO to request the bus video. I then contacted Jennifer Coker about the incident and requested written statements from the adults who witnessed the events.

EXHIBIT B
STATEMENTS OF STUDENTS
AND STAFF

INCIDENT REPORT

SC0100000		DISPATCH NUMBER 2016-006354	ORIGINAL CASE NUMBER N/A		PAGE 1 OF 3 PAGES	SHERIFF REC'D ENTRY	REQ	END
INCIDENT TYPE 1. Disturbance		INCIDENT CODE		COMPLETED ☒ YES ☐ NO	FORCED ENTRY ☐ YES ☒ NO	PREMISE TYPE OUS		TYPE VICTIM ☒ INDIVIDUAL ☐ BUSINESS ☐ FRANCHISE ☐ GOVERNMENT ☐ RELIG. ORG. ☐ SOC. PUB. ☐ OTHER ☐ UNKNOWN ☐ POLICE OFF.
INCIDENT LOCATION 1929 Gimbball Road, Charleston SC		ZIP CODE 29412		WEAPON TYPE N/A				
BEGINNING INCIDENT DATE 4/22/16	24 HR. CLOCK 0705	ENDING INCIDENT DATE 4/22/16	24 HR. CLOCK 1450	DISP. DATE 4/22/16	DISP. TIME 1430	TIME ARRIVED 1430	DEPART. TIME 1450	TRACT # 304-F
NAME: (LAST, FIRST, MIDDLE) Same as Victim #1		RELATIONSHIP TO SUBJECT		RESIDENTIAL	SEX M	AGE 18	DOB	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL MARKS, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC #10 & STATE		
ADDRESS #		STREET NAME		CITY	STATE	ZIP CODE	DAY PHONE	
OCCUPATION		EMPLOYER		ALIAS		LIC #		
NAME: (LAST, FIRST, MIDDLE) Hamilton, Erica Muel		RELATIONSHIP TO SUBJECT		RESIDENTIAL	SEX F	AGE 16	DOB	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL MARKS, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC #10 & STATE		
ADDRESS #		STREET NAME		CITY	STATE	ZIP CODE	DAY PHONE	
OCCUPATION Student		EMPLOYER Septima Clark Academy		ALIAS Unknown		LIC # N/A		
☐ VISIBLE INJURY EXPLAIN		☒ NO ☐ YES		COMPLAINANT OF INVESTIGABLE DAMAGE		USING ALCOHOL ☐ NO ☐ YES ☒ UNK		
☐ WANTED		☐ WARRANT		☐ ARREST		☐ RUNAWAY		
☐ MISSING PERSON		☐ EXPLAIN		OCCUPATION Program Director		EMPLOYER CCSD		
☐ COMPLAINT		NAME: (LAST, FIRST, MIDDLE) Hal, Levi, Andrew		RELATIONSHIP TO SUBJECT		RESIDENTIAL	SEX M	AGE 19
☐ VICTIM #	☐ SUSPECT #	☒ SUBJECT #	☐ WITNESS #	HEIGHT		WEIGHT	HAIR	EYES
ADDRESS #		STREET NAME		CITY	STATE	ZIP CODE	DAY PHONE	
OCCUPATION		EMPLOYER		ALIAS		LIC #		
☐ VISIBLE INJURY EXPLAIN		☒ NO ☐ YES		COMPLAINANT OF INVESTIGABLE DAMAGE		USING ALCOHOL ☐ NO ☐ YES ☒ UNK		
☐ WANTED		☐ WARRANT		☐ ARREST		☐ RUNAWAY		
☐ MISSING PERSON		☐ EXPLAIN		OCCUPATION Program Director		EMPLOYER CCSD		
(A) CHARGE		(C) CHARGE		(B) CHARGE		(D) CHARGE		
See Incident Supplement								
TYPE (GROUP)		TOTAL VALUE		2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
STOLEN				2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
DAMAGED				2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
BURNED				2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
RECOVERED				2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
SEIZED				2016-05-01 INFL. LAW ENFORCEMENT AGENCY				
SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☒ ACTIVE ☐ ADJ. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION ORDER 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY		REPORTING OFFICER(S) Deputy McLean		DATE 4/22/16		BADGE NUMBER 9299		APPROVING OFFICER Spl. Brinson
DATE 4/22/16		BADGE NUMBER 9299		DATE 4/22/16		BADGE NUMBER 9801		
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER		CCSO-100 10/1/15				

CHARLESTON COUNTY SHERIFF'S OFFICE
3505 PINEHAVEN DRIVE CHARLESTON HEIGHTS, S.C. 29405-7789 (843) 202-1700

J. Al Cannon, Jr.

PERSON SUPPLEMENT

SC0100000		DISPATCH NUMBER 2016-006354		ORIGINAL CASE NUMBER N/A		PAGE 2 OF 3 PAGES		NIC ENTRY		IND.		ENT.	
☒ ORIGINAL REPORT		☐ SUPPLEMENTAL REPORT		☐ ADDITIONAL VICTIMS		☐ ADDITIONAL WITNESSES		☐ ADDITIONAL STOLEN PROPERTY		☐ ADDITIONAL RECOVERED PROPERTY			
☐ MODIFIED REPORT		☐ CASE STATUS CHANGE		☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL SUBJECTS							
☐ COMPLAINT		NAME (LAST, FIRST, MIDDLE) Davis, Dion		RELATIONSHIP TO SUBJECT		RESIDENTIAL YES		SEX		AGE		DOB	
☐ VICTIM #		HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC / ID & STATE	
☐ SUSPECT #		602		270								SOCIAL SECURITY #	
☐ SUBJECT #												Unknown	
☐ WITNESS #		1											
☐ WANTED		ADDRESS #		STREET NAME		CITY		STATE		ZIP CODE		DAY PHONE	
☐ WARRANT								SC		29412			
☐ ARREST		☐ VISIBLE INJURY		☒ NO		☐ YES		☐ USING ALCOHOL		☐ NO		☒ YES	
☐ RUNAWAY		☐ EXPLAIN						☐ DRUGS		☐ NO		☒ YES	
☐ MISSING PERSON		OCCUPATION		EMPLOYER		ALIAS		NIC #					
		Student Concern Sp.		CCSD		Unknown		N/A					
(A) CHARGE		N/A		(C) CHARGE									
(B) CHARGE				(D) CHARGE									
☐ COMPLAINT		NAME (LAST, FIRST, MIDDLE) Smith, Jessica		RELATIONSHIP TO SUBJECT		RESIDENTIAL YES		SEX		AGE		DOB	
☐ VICTIM #		HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC / ID & STATE	
☐ SUSPECT #		507		148								SOCIAL SECURITY #	
☐ SUBJECT #												Unknown	
☐ WITNESS #		2											
☐ WANTED		ADDRESS #		STREET NAME		CITY		STATE		ZIP CODE		DAY PHONE	
☐ WARRANT								SC					
☐ ARREST		☐ VISIBLE INJURY		☒ NO		☐ YES		☐ USING ALCOHOL		☐ NO		☒ YES	
☐ RUNAWAY		☐ EXPLAIN						☐ DRUGS		☐ NO		☒ YES	
☐ MISSING PERSON		OCCUPATION		EMPLOYER		ALIAS		NIC #					
		Guidance Department		CCSD		Unknown		N/A					
(A) CHARGE		N/A		(C) CHARGE									
(B) CHARGE				(D) CHARGE									
☐ COMPLAINT		NAME (LAST, FIRST, MIDDLE) Hamilton, Linda		RELATIONSHIP TO SUBJECT		RESIDENTIAL YES		SEX		AGE		DOB	
☐ VICTIM #		HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DRIVERS LIC / ID & STATE	
☐ SUSPECT #		408		161								SOCIAL SECURITY #	
☐ SUBJECT #												Unknown	
☐ WITNESS #		2											
☐ WANTED		ADDRESS #		STREET NAME		CITY		STATE		ZIP CODE		DAY PHONE	
☐ WARRANT								SC					
☐ ARREST		☐ VISIBLE INJURY		☒ NO		☐ YES		☐ USING ALCOHOL		☐ NO		☒ YES	
☐ RUNAWAY		☐ EXPLAIN						☐ DRUGS		☐ NO		☒ YES	
☐ MISSING PERSON		OCCUPATION		EMPLOYER		ALIAS		NIC #					
		Driver		Unknown		Unknown		N/A					
(A) CHARGE		N/A		(C) CHARGE									
(B) CHARGE				(D) CHARGE									
SUBJECT IDENTIFIED		☒ YES		SUBJECT LOCATED		☒ YES		☒ ACTIVE		☐ ADM. CLOSED		☐ ARRESTED UNDER 18	
		☐ NO		☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18		☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE NO CUSTODY			
REPORTING OFFICER(S)		DATE		BADGE NUMBER		APPROVING OFFICER		DATE		BADGE NUMBER			
Deputy McLean		4/22/2016		9299		Sgt. Brinson		4/22/16		9001			
FOLLOW-UP INVESTIGATION		☐ YES		☐ NO		OFFICER							

CCSO-103 3/1/93

CHARLESTON COUNTY SHERIFF'S OFFICE
 21 LEEDS AVENUE NORTH CHARLESTON, S.C. 29405-7421 (843) 202-1763

INCIDENT SUPPLEMENT

J. Al Cannon, Jr.
 Sheriff

SC0100000	2016-006354	N/A	PAGE 3 OF 3	DATE	TIME
ORIGINAL ☒ REPORT MODIFIES ☐ ORIGINAL	SUPPLEMENTAL ☐ REPORT CASE STATUS ☐ CHANGE	ADDITIONAL ☐ VICTIMS ADDITIONAL ☐ OFFENDERS	ADDITIONAL ☐ WITNESSES ADDITIONAL ☐ SUBJECTS	ADDITIONAL ☐ STOLEN PROPERTY ADDITIONAL ☐ RECOVERED PROPERTY	

Septima Clark Academy- On todays date Dr. HaLevi addressed juvenile student, Erica Hamilton, regarding her dress which he believed to be an inappropriate length. After several interactions between Dr. HaLevi and the student she agreed to wear the sweatpants. As school was being let out Dr. HaLevi, via the school radio, requested the Student Concern Specialist, Dion Davis, ensure he retrieved the school issued sweat pants from the student. Mr Davis advised he believed the student was in the bathroom at that time. Mrs. Smith from Guidance checked the bathroom and did not locate her. At that time Dr. HaLevi told Mr. Davis to stop all buses from leaving to find Erica. After the buses sat for several minutes I became concerned and drove over to the bus loop. As I exited my vehicle I saw Dr. HaLevi on the bus walking from the rear of the bus to the front with the sweat pants in his hands. As I walked over Dr. HaLevi advised the bus could now leave and the driver started the bus. When I came around to the passenger side I saw Ms. Smith and went to speak with her and Dr. HaLevi who had exited the bus and walked over to us with the sweat pants. At that time Erica stuck her head out of the window crying and began screaming that he was making her ride the bus without any pants on that she was in her underwear. Ms. Smith and I looked at Dr. HaLevi and he said "What!" and Ms. Smith repeated what we heard then Dr. HaLevi told Mr. Davis to stop the bus. Dr. HaLevi then boarded the bus and we could here students speaking to him but not what they were saying. He exited the bus minus the sweat pants and said they (the students) were saying she didn't have her dress on. He didn't understand what they were talking about and where her dress was and asked that I find out who had it. I entered the bus and found Erica in the last seat and asked where her dress was and if I needed to go into the school to get it for her. The students advised that another student had it that had left and that they told Dr. HaLevi she didn't have any clothes to put on. At that time I observed Erica wearing what appeared to be a t-shirt, zip up sweat shirt, and panties. The sweat pants were next to her on the seat. I advised Dr. HaLevi that the dress was not on the bus and that her mother needed to be contacted and notified of this incident. He agreed and requested her number via the radio. He re-entered the bus to speak with the students and advise them he didn't know she wasn't wearing the dress. The bus driver who is from the same area and close with Erica spoke to her and Erica was also speaking to her mother, Linda Hamilton, on the phone. She then exited the bus per her mother's instructions and walked with Ms. Smith, still crying, to the Data Clerk's Office. Mrs. Heyward, teacher, arranged to meet Erica's mother and left the school with Erica while still speaking to her mother. I called Durham Bus Services and left a voicemail for the supervisor of bus# 808 requesting a copy of the video. Mrs. Hayward returned a few minutes later and advised that Linda Hamilton was coming to the school. Dr. HaLevi asked that we continue to wait for her to arrive to have a meeting with her. Mrs. Hamilton arrived at the school but remained by her car. She was very upset and yelling. She stated she wasn't going to talk to anyone until Monday when she would return with her lawyer. I was unable to get a statement from Erica because she was so upset. I notified Sgt. Brinson of the incident. Sgt. Brinson notified Captain Tittle and Michael Raldenbach (Director of CCSD Security) Sgt. Brinson also contacted Mrs. Hamilton and arranged to meet with both her and Erica on Monday morning. The investigation is on-going.

TYPE (GROUP)						TOTAL VALUE	APPROPRIATE TO FILE INVESTIGATIVE AGENCY	
STOLEN								
DAMAGED								
BURIED								
RECOVERED								
SEIZED								
SUBJECT IDENTIFIED ☒ YES ☐ NO	SUBJECT LOCATED ☒ YES ☐ NO	☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 16 ☐ ARRESTED 16 AND OVER	☐ EX-CLEAR UNDER 16 ☐ EX-CLEAR 16 AND OVER				
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE IN CUSTODY								
REPORTING OFFICER(S)	DATE	BADGE NUMBER	APPROVING OFFICER	DATE	BADGE NUMBER			
Deputy McLean	4/22/16	9299	Sgt. Brinson	4/22/16	9801			
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO			OFFICER					

CCSO-101 10/1/15

4/25/2016

Charleston County School District Mail - Friday4-22-16 Incident at Clark

Charleston County
SCHOOL DISTRICT

JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

Friday4-22-16 Incident at Clark

1 message

DION DAVIS <dion_davis@charleston.k12.sc.us>
To: JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

Sun, Apr 24, 2016 at 2:32 PM

Dear Ms. Coker, I am in the process of getting the statement ready to submit to you. Immediately prior to the incident Dr. Halevi directed me and firmly stated that I was "blg" and it was my job as a Student Concern Specialist and if I could not "make the student hand over the sweatpants to me before leaving the building", he DID NOT have any use for me (threatening my employment). I will be very detail in my forthcoming statement. Teacher L. Heyward (told by Dr. Halevi to tell student's mother she was conditionally suspended) and Data Clerk L. Ford (was limited interaction with student concerning transportation and clothing assistance that day) were not included in Dr. Halevi's request for statements when they were present and intervened with the student and her mother in conversation, etc. I have learned that references of the incident and its occurrences has gone viral by the family, etc. of the student on Facebook. Other staff may have seen or heard of the Facebook posts, etc. Additionally, another female student's mother is on the feed stating that she had to contact the school board on the Program Director on Friday the same day of the incident concerning his behavior. Please advise me how to respond to any students concerning any comments, questions, or criticisms, so that I may remain within your expectations and that of CCSD. Thanks in advance for your directives on this matter. Respectfully SCS Davis

Statement of Student Concern Specialist Dion L. Davis, M.A.T

Concerning Erica Hamilton Incident 4-22-16 4:03 p.m.

At the dismissal of Morning Meeting (7:20 a.m.) Program Director Dr. Halevi expressed over the walkie-talkie to have student Erica Hamilton stand by at the Main Office for a conference. Erica refused and rebuffed all directives from SCS Davis to report to the Main Office per Dr. Halevi's request and she continued to class shouting expletives. SCS Davis went to the student's classroom (Hipp) after the halls were cleared not to escalate her opposition. Once at the classroom and after several requests she left class and proceeded on the Main Hall meeting Dr. Halevi. Program Director was briefed over the radio after asking where Erica was and did I have her yet. Dr. Halevi met us in the hallway and went into support in the presence of SRO Mclean and Guidance Counselor Smith. Once in the support office Dr. Halevi expressed to Erica "For the second time I am waiting for you to lift your dress so that I can see if you are wearing shorts". Student replied, "you aint my dam daddy and you aint looking up under my dress leave me alone". Dr. Halevi eventually escorted the student to the Cafeteria for ISS in which he was going and did sit in the cafeteria with her watching her while on his portable laptop (he has never held ISS before). I went into the Cafeteria to check on the student who expressed that she was cold and needed her cover she had brought from the Main Office. I accommodated and brought the cover to the student and Dr. Halevi said "That is a blanket Mr. Davis take it back do not give that to her", Erica got very angry and asked him what she is suppose to do freeze? Dr. Halevi responded to me as I was walking out of the Cafeteria "If she wants a sweatshirt she can have that, that is all she is going to be given". Student still yet refused to put the sweatpants on as she would not agree with the Director's assessment of her dress being in violation of CCSD Dress Code Policy. Eventually after an hour or so, the student made contact with Lakevia Ford, the Attendance Clerk who was going to supply the student with pants of some sort and Dr. Halevi directed both the student and Mrs. Ford NO. Eventually, after more time elapsed, the student finally put on the sweatpants and was allowed to go to class.

At the end of the day (around 2:13 pm), Dr. Halevi expressed over the walkie-talkie for radio holders and SCS Davis to make sure and retrieve the sweatpants from Erica before leaving school. I saw Erica in the hallway as I was going outside for dismissal bus duty. I said Erica Dr. Halevi said for you to turn in the sweatpants before you leave school okay. Erica refused stating "Yall make me wear this shit so fuck em, yall will get em back on fuckin Monday". SCS Davis went outside to brief Dr. Halevi of her statements (CIS Stephen Liverani was present talking with Dr. Halevi). I further advised him that Erica was either with Guidance and/or attendance Clerk L. Ford throughout the day and maybe they could talk with her since they all seem to have a better repoir with Erica.

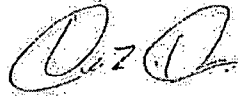
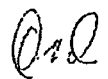
Davis 2

Dr. Halevi's reply "Look Mr. Davis this is not a major issue here, you're making excuses here you are big enough to MAKE her give you the sweatpants (Davis Interrupts), "Dr. Halevi, I cannot physically man handle her or physically make her do anything (Halevi Interrupts) "I did not say to do what you are saying, look Mr. Davis as the Student Concern Specialist that is your job to MAKE her give them to you and if you Can't do that, I have NO use for you". SCS Davis replied upset and said, "I will just have to call Ms. Coker and ask her what my job description is since apparently I don't know what it is". Dr. Halevi response was "Go ahead call Coker or whoever you want you're just making all excuses Mr. Davis". Student's location at this point was unbeknownst to SCS Davis, Dr. Halevi, or other staff members. SCS Davis went on to bus duty since the dismissal bell rang and spotted Erica boarding Bus Number 808, the first bus in the lineup and advised Dr. Halevi (who was nearby on duty as well). Dr. Halevi came to the bus, boarded and remained up front by the bus driver Mrs. Celia Jenkins and called to Erica to turn in the sweatpants. Student continued to shout expletives to Dr. Halevi, etc. that she was not going to turn in the sweatpants. Dr. Halevi directed SCS Davis to ground all four buses from leaving the school; subsequently, allowing the three other buses to leave as. On Bus 808, students all began shouting at Dr. Halevi while Erica was located in the back of the bus. Student eventually threw the sweatpants at Dr. Halevi and he exited the bus. After being off the bus, students were yelling to him about Erica not having any clothes besides her underwear on and he halted the bus from leaving and gave student the sweatpants back to put on. At this point Dr. Halevi additionally got the assistance of the female SRO Mclean to go to the location where Erica was seated and to find out what happen to Erica's clothing. SRO Mclean advised Dr. Halevi in the presence of SCS Davis that Erica did not have the dress on or in her possession since another female student (Synia Ferguson) had it and by this time Synia (a car rider) had left school. Erica eventually put on the sweatpants and exited the Bus. The bus was released to begin its route. Student, Guidance Counselor, Teacher Heyward, SRO Mclean and SCS Davis proceeded back towards the school building. Additional events occurred at this point where Erica's father called the school and I had answered the phone and he was very upset and shouting concerning Erica being harassed and crying during the day. I asked him to hold on and to let me get the Principal. Dr. Halevi came to the phone and made an attempt to describe Erica's dress as being short and tight in an authoritative voice. Next, he kept apologizing to the parent for his tone of voice but then said "you can talk first if you want and I will listen to you, then I am willing to talk to you and explain if you are going to listen to me". Dr. Halevi hung up the phone and I said boy it has been a long day today, his reply, "what else do we have to do, it's not like I can just sit on Amazon all day and just shop and spend money anymore" (sarcastically). Then

D-10

Davis 3

said, "the parent will call me back in a minute and most probably will record me I don't care" I said, "well I am so glad that you all are talking over the phone and not in person" and Dr. Halevi said, "I am not afraid Mr. Davis, if he comes up here and beats that crap out of me I will let him and not even try to defend myself and then I will just have him arrested, it is not like it is the first time someone has beaten me up. Ford enters office and retrieves Erica's blanket and Dr. Halevi opposes and Ford and him have words of disagreements.

A handwritten signature in dark ink, appearing to be 'Q. Z. Q.' or similar, located below the text block.A handwritten signature in dark ink, appearing to be 'Q. Z. Q.' or similar, located in the bottom right corner of the page.

SCHOOL DISTRICT

JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

Statement

1 message

STEPHEN LIVERANI <stephen_liverani@charleston.k12.sc.us>
 To: JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

Mon, Apr 25, 2016 at 7:28 AM

Statement for Jennifer Coker

On Friday, April 22, not too long after the students went to first period I heard over the radio Dr. HaLevi ask to have Erica Hamilton sent to Support. I was in my office (and remained in my office throughout) in the back of the support area and didn't know what the issue was with Erica until Dr. HaLevi arrived.

At that time I heard him ask Erica if she was wearing shorts. She said yes. Dr. HaLevi then asked her to show him the shorts she was wearing. Erica said something to effect of

"I'm not going to lift up my dress."

Dr. HaLevi then said he wasn't asking her to lift up her dress. He wanted to see the shorts that she said she was wearing. And then Erica said something about she wasn't going to show him her underwear.

At that point it sounded like (in my opinion) Dr. HaLevi realized he wasn't getting anywhere with this line of questioning and I think (but am not positive) that he directed that Erica should sit in the cafeteria until she decided to put on sweat pants.

One more point. At no time did I hear Dr. HaLevi tell Erica to lift up her dress and show him her underwear. I am adding this because during lunch I heard Erica telling anyone who would listen (including teachers) exactly that. ★
 That was never said to her.

Steve Liverani

Student Support Specialist
 Communities In Schools of the Charleston Area, Inc. at Clark Academy
 1929 Grimsball Road, Charleston, SC 29412
 O: 843.406.2017 C: 440.476.6928

stephen_liverani@charleston.k12.sc.us

"Like" us on Facebook! Follow us on Twitter!

The mission of Communities In Schools is to surround students with a community of support, empowering them to stay in school and achieve in life

4/25/2016,

Charleston County School District Mail - Re: EH Incident

SCHOOL DISTRICT

JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

Re: EH incident

1 message

Guidance Counselor

Mon, Apr 25, 2016 at 7:28 AM

Jessica K. Smith <jessicak_smith@charleston.k12.sc.us>

To: JENNIFER COKER <jennifer_coker@charleston.k12.sc.us>

My first interaction with Erica on Friday 4/22/16 began at the beginning of first block (maybe around 7:30). Mr. Davis was attempting to get her to leave class because Dr. Halevi wanted her to come to his office. Erica was refusing to come based on what I heard on the radio so myself, along with Deputy McClean went to assist. When I arrived at Mr. Hipp's class Erica was a little resistance but did walk with myself and Deputy McClean. She stated that she would come with us but was not going to Dr. Halevi's office. We then took her into support. Dr. Halevi came there to speak with Erica about a dress code violation. He mentioned attempting to talk to Erica prior to class but that was unsuccessful. Erica was explaining that she has worn the same outfit numerous times and wanted to know why it was a problem today. Dr. Halevi asked Erica to show her the shorts she had on underneath to confirm what she previously stated prior to first block about having shorts on. Erica got upset and said she was not showing him anything. Dr. Halevi told her she could show me that he didn't want to see but only make sure she had shorts on. Erica refused and at that point was told to sit in the cafeteria because she would not be allowed to go to class.

My next interaction with Erica was around the beginning of third block when she walked with me another student, and deputy McClean to the annex building. At that time there was no specific conversation but I did notice that she was wearing a pair of black pants and was no longer in her dress.

My last interaction with Erica on 4/22/16 was dismissal time. Dr. Halevi was trying to get the pants from Erica before the buses left. I tried to help locate Erica right before the bell along with Mr. Davis but during this time the bell rang and students were dismissed. I later heard a communication between Mr. Davis and Dr. Halevi on the radio about getting the pants back and holding the bus. Eventually I made my way to the bus where Dr. Halevi was waiting for Erica to turn in the pants before leaving. A few minutes went by while Dr. Halevi was on the bus, there was communication between he and students on bus 808 but I am not sure of what exactly was said. Finally, Dr. Halevi came off the bus with the pants in hand. Immediately after, I saw Erica crying and very upset. She was yelling and cursing saying "this mother—got me on the bus in my underwear". This is when I noticed Erica in her underwear. I then told Halevi that "she doesn't have any pants on". At that time Halevi went back on the bus. I saw some communication between the bus driver and Erica. She eventually got off the bus and walked inside to Ms. Ford's office. She spoke to Ms. Ford and her mother eventually came to pick her up. Her mother arrived extremely upset, picked Erica up and left campus.

On Fri, Apr 22, 2016 at 3:41 PM, JENNIFER COKER <jennifer_coker@charleston.k12.sc.us> wrote:
Please send your statements directly to me.

Charleston County School District Mail - Re: EH Incident

4/25/2016

Thank you!

On Fri, Apr 22, 2016 at 3:33 PM, Andrew Halevi <andrew_halevi@charleston.k12.sc.us> wrote:

As soon as possible, please take the time to write a statement regarding what you saw/heard related to Erika Hamilton's clothing today (Friday, April 22). You should include all interactions over the course of the day, not just what you saw or heard on the bus at the end of the day.

Please plan to give me the written statements on Monday morning.

Thank you,

Andrew Halevi, Ph.D.
Program Director
Septima P. Clark Academy
1929 Grimsball Road
Charleston, SC 29412
(843) 762-2774
andrew_halevi@charleston.k12.sc.us
www.spclark.org

Excellence is our Standard

Jennifer Coker
Interim Director of Alternative Programs
Charleston County School District

843.745.7150 wk.
www.ccsdschools.com

Jessica Smith
School Counselor
Septima P. Clark Academy
PH: 843-762-2774
FAX: 843-762-6218

PAGE 1 OF 3

CHARLESTON COUNTY SHERIFF'S OFFICE

OCA # 2016-006354

STATEMENT

DATE 4-25-16STATEMENT OF Edna JenkinsADDRESS [REDACTED]PHONE # [REDACTED]EMPLOYER: CCSDPHONE # [REDACTED]RACE: BSEX: FDATE OF BIRTH: [REDACTED]

One Friday in the year I arrived @ school when I arrived @ school about ten (10) minutes later, the student came to the bus, Mr. Davis was talking to me as usually then I was asked was Erica on the bus my reply was "no" when the principal asked Erica where was her dress because he wanted her to return the pants that she had up to him, Erica stated that she did not have her dress and that she would take the pants home and bring it back on Monday after her mother worked. Erica took the pants off and had only her undies on, I told the pants on and her mother picked her up @ the school.

Q: Who asked you to turn the bus off?

A: Mr. Davis

Q: Was anyone else, besides students, on the bus or outside the bus?

A: Mr. Davis was standing on the outside of the bus

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

John CarrollE. M. Jenkins
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

E. M. Jenkins
Signature

CCSO-109

PAGE 2 OF 3CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENTOCA # 2016-006354DATE 4-25-16

STATEMENT OF Edna Jenkins
 ADDRESS [REDACTED] PHONE # [REDACTED]
 EMPLOYER: CCSD PHONE # [REDACTED]
 RACE: B SEX: F DATE OF BIRTH: [REDACTED]

Q: Did the SRD enter the bus?

Yes.

Q: When was the SRD on board?

after / both

Q: Where was Erica sitting on the bus?

The front seat on the right.

Q: Who else was on the bus, in terms of students?

All students

Q: Does the bus have a video camera on board?

No.

Q: Was Erica ordered to comply with the principle and told she would not be allowed to leave until compliance?

Yes

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Jim CrowlE. M. Jenkins
SignatureE. M. Jenkins
Signature

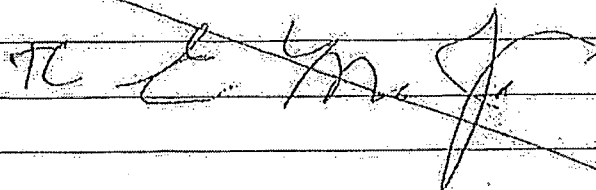
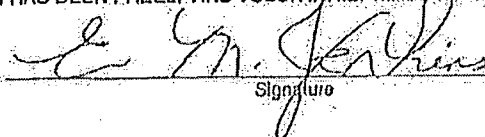
I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

CCSO-108

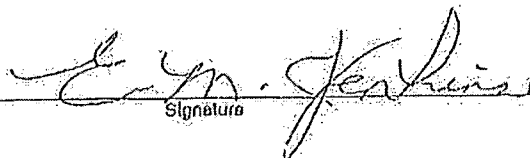
PAGE 3 OF 3CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENTOCA # 2016-006354DATE 4-15-16STATEMENT OF E. M. JenkinsADDRESS [REDACTED]PHONE # 803 854EMPLOYER: CCSDPHONE # [REDACTED]RACE: BSEX: FDATE OF BIRTH: [REDACTED]Q: Did the principle leave ~~the~~ the bus with the
sweat pants?

NO.

Q: Did you see where the pants went?

Epica lefted the bus with the pants on.
Epica did take the pants off by Mr. Barker
after he realize that Epica did not
have anything on. Mr. Barker undress the pants
then given back to Epica.Q: Do you have anything to add?
maybe laterI HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.WITNESSES: Jim Cunniff
Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT


Signature

CCSO-109

STATEMENT

OCA# 2010-1810354

DATE: 11/25/10

STATEMENT OF

ADDRESS

PHONE # _____

EMPLOYER:

PHONE #

RACE:

SEX: MALE

DATE OF BIRTH:

[illegible]

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

WITNESSES:
J. S. Brinson

Signature _____

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature _____

CCSO-109

PAGE 3 OF 5CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENTOCA # 2016 006354DATE 01/17/19STATEMENT OF [REDACTED]ADDRESS [REDACTED]PHONE # [REDACTED]EMPLOYER: [REDACTED]PHONE # [REDACTED]RACE: [REDACTED]SEX: [REDACTED]DATE OF BIRTH: [REDACTED]

that I didn't have anything to put on so the
last time he ask me for the pants I took it off
I throw it at him. he was in the police and
told me of the bus when officer MURPHY came around
the side where the bus was he looked back at the
bus and said "I didn't hear you saying that you
didn't have anything to put on" he take me
the pants back but I was so embarrassed
I didn't want to put them on until my mother told me to
put the pants back on I get off the bus. My
mother was one of my teacher to meet me with me
and he wouldn't let me leave with my mother so
he put me on conditional suspension so that
he could have a meeting with a teacher.

Q- Who is "He"? Who is the person that kept talking
to you about the pants?

A- Dr. MURPHY

Q- Why did he say you had to put the pants on?

A- he said my dress was over length he was worried
to see what I had on under my dress.

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Sgt. S. Brunson

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT [REDACTED]

PAGE 4 OF 5

CHARLESTON COUNTY SHERIFF'S OFFICE

OCA # 2016-006354

STATEMENT

DATE 04/05/11STATEMENT OF [REDACTED]

ADDRESS _____

PHONE # _____

EMPLOYER: _____

PHONE # _____

RACE: _____

SEX: _____

DATE OF BIRTH: _____

Q - Did Dr. Halevi ever say anything about the dress being too short?

A - NO

Q - Where do you sit on the bus?

A - the front seat

Q - Where was Dr. Halevi standing when he asked you for the pants?

A - Mrs. Jenkins was standing in the middle of the bus and he was behind her

Q - Did Dr. Halevi come to your seat?

A - he wasn't able to get to me

Q - How did you give the pants to him?

A - I threw it

Q - What happened after he got the pants?

A - he walked off the bus, Mrs. Jenkins was telling me that she went down the bus and that she brought on pants & then she was telling me to roll mine

Q - Did you ever get the pants back?

A - yeah

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Sgt. J. Brown

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature

CCSD-109

PAGE 5 OF 5

CHARLESTON COUNTY SHERIFF'S OFFICE

OCA #

2016-006354

STATEMENT

DATE

04/25/16

STATEMENT OF

ERICA HUMPHON

ADDRESS

PHONE #

EMPLOYER:

PHONE #

RACE:

SEX:

DATE OF BIRTH:

Q - Who gave you the pants back?

A - He gave the pants to the bus driver and she gave it to me

Q - When he told you to take the pants off, was he able to see what you were wearing?

A - I DON'T KNOW

Q - Did you stay on the bus after that?

A - NO, MY MOMMY CAME TO GET ME

EH

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

SA S. Brown

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

X

CCSO-109

4-27-16

On Friday everybody got on the bus. Davis got on walkie-talkie to Hakvi and told him he couldn't get the pants. So Dr. Hakvi got on the bus and was asking for the pants.

"Here, you want the f---ing pants?" and then she threw them. They landed on me. I threw the pants back at her. He came and got them. When she threw them he was in the front and then walked to the back to get the pants. Officer McLean came on the bus and then

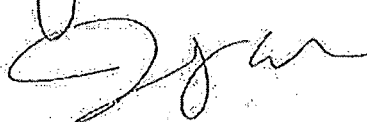
Officer McLean went off and told Dr. Hakvi she did not have the pants on. He came back on and gave her the pants and asked her where was the dress.

Ms Jenkins came to the back and told her to calm down and put the pants back on because she could not transport her like that.

I personally ^{did not see on ROP} ~~don't think anyone saw~~ her in her in her pants because she was on the back of the bus.

People were telling him that she didn't have the dress. Telling him she did not have the dress.

^{Same} He was asking her where is the dress! After she had already taken off the pants.

Jessica Smith


4-27-16

"Mom doesn't want me to write a statement."

4-27-16

Rides bus 808

Don't know how it started.

Dr. Halevi

He came on bus. "Erica can I get the pants."

She took them off.

Then 5 mins later she put them back on.

We had to wait b/c she didn't have any clothes under the pants.

Where was Ori Halevi? front of bus

Erica? toward the back

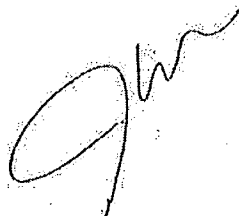
Was it loud? Yes. Everybody was saying something different

Where was you a bus? front

Did you see anyone take pictures? No

Was Erica upset? yes

Could you hear people say that she didn't have anything else to put on? yes-a couple



4-25-16

[REDACTED] 2:01 pm spoke to parent go
[REDACTED]
It all started, Erica was behind me, we were walking. Davis saw us and had walkie-talkie, he was on the walkie-talkie. Then Dr. Haleri came and it started.

I'm going to take it home, wash it, and bring it back Monday. Everybody on the bus was agreeing that she did not have her dress. Then he kept asking for her pants. So she threw out them to him. Dr. Haleri got off the bus, talked to Officer McClean. He came back on the bus and gave them back to her.

He kept saying, give me the pants.

Students are given Clark shirts and sweatshirts and they take them home.

She and a friend exchanged clothes. She put on the other girl's jacket. The girl took the dress home.

Students were yelling. Didn't see him talk to any student. He was in the front by the bus driver. He came to the middle of the bus and gave me the pants. I gave the pants to her. I talked to her mother.

I started to record it, but changed my mind.

[REDACTED]

[Signature]

On April 22 I got on the bus before
~~Erica~~ Erica I heard her tell Mr Davis before
 she got on the bus that she had to
 bring them the pants back to school
 on Monday. Mr. Davis called Dr. Halevi on
 the bus. Dr. Halevi told our bus driver
 that she couldn't ~~move~~ pull off unless
 Erica returned the pants. Erica was
 getting upset because she, and everyone
 else on the bus was telling him that
 she didn't have anything else to put
 on. He told her that she made that
 decision to come to school & like that.
 Other students were getting upset because
 they had to go to work. He said we couldn't
 leave until ~~we~~ he got the pants back. Erica
 took the pants off and threw it at him.
 then she started crying. He walked off
 the bus and told ~~the~~ everyone to have
 a great weekend. Then Erica screamed out
 the window saying "you're going to jail, you got
 me on the bus with my underwear on." When
 she said that officer McCain was right
 there and she heard what Erica said.
 So Dr. Halevi ~~he~~ came back on the bus and
 returned the pants to her. Erica got off
 the bus and we left.

She wore that dress multiple times before.

~~He~~ talked to him. He stopped
 and talked to her. Sat down and talked
 to her.

- Where were you? 2 seats in front of Erica. She was in the back.

- Where was Dr. Halevi? At first in the front of the bus. When she took them off
 he went back to get them. He went past me.

- It was loud, because he was making her take off her pants.

ME and ERIC

Friday morning we were in school. We went to the restroom for a couple mins then came out into the hallway, Dr. Halevi ask if ERIC had on shorts under her dress. She told him no. So until then he kept bothering her about her dress. Later that day school was out she had on a pants they gave her to put on when we got on the bus he came after a call on the radio. He harassed her telling her to take the pants off or we wasn't going anywhere. She kept saying no because I don't have my dress. He say I don't care that's not my problem. Then she took off her pants in the back of the bus crying talking on the phone with her mama. Then when everyone was saying so your gonna let her off in her dress he give the pants back and she didn't get it back until her mama came to school and picked her up.

Bus - sitting in the back

Dr. Halevi - in the middle of the bus

(men)

Statement taken by *SJW*

Witness:

Jessica Smith

[REDACTED]

We was on the bus. They was harassing her about putting on the pants.

Dr. Halevi came on the bus and said this bus is not leaving until you give back the pants. We were all telling him that she didn't have on the dress. He kept asking for them. He acted like he didn't hear us. She was crying, but took them off and gave them to him. She called her mother.

Erica was in the last seat. I was in the 3rd seat.

Dr. Halevi and Officer McLean had a conversation outside the bus. He came back on the bus and said. "Erica, you don't have on the dress?" She refused to put the pants back on. She finally did and walked off the bus.

Where was Dr. Halevi? At first he was on the steps, then he went back to get the pants. She had thrown them on the seat in front of her.

[REDACTED]

J. J. W. (took statement)

Jessica Smith
4-25-16

When everyone was walking to get on the bus Mr. Davis reminded Dr. Halevi that Erica had the pants on. Once we all was on the bus we were about to leave. Dr. Halevi stopped the bus got on and told Erica that he needed the pants. Erica said she will take the pants home over the weekend and wash it and bring it back. She told him that she didn't have the dress every one was telling him. Dr. Halevi even bent over and talked to me I told him she ~~doesn't~~ does not have the dress. But he made her take the pants off any way.

Where were you sitting? In the middle where was Dr. Halevi? In the middle. He went to the back to give her back the pants, but he didn't go all the way to the back.

I told him she does not have the dress. She just has underwear on and he said that's what she came to school in.

What did she (Erica) have on?

A blue jeans dress and then she changed into a purple colored polo jacket.

She's worn the dress before.


 Isaac Smith (witness)
 4/25/20

EXHIBIT C

INTERNAL REPORT OF INVESTIGATION

INTERNAL REPORT OF INVESTIGATION

SUBJECT: Andrew HaLevi, Associate Principal, Clark Academy

MANAGEMENT CONSULTED PRIOR TO INVESTIGATION:

Jennifer Coker, Interim Director, Alternative Programs
William Briggman, Executive Director, Human Resources

EXECUTIVE SUMMARY:

This investigation into allegations that Andrew HaLevi acted in an aggressive, inappropriate, and unprofessional manner toward a student has not revealed any reason to believe his actions were of criminal intent. The investigation did reveal many concerns, including the following:

- Dr. HaLevi does not appear to have the skills needed to manage student behavior.
- Dr. HaLevi has not taken any responsibility for his failure to manage the incident that led to the investigation; rather, he has deflected all blame to others and has refused to see how he had multiple opportunities to make decisions that may have led to a positive outcome.
- Dr. HaLevi has jeopardized any confidence the stakeholders of Clark Academy may have had in his ability to lead the school.

INCIDENT BACKGROUND:

On Friday, April 22, 2016, a student, Erica Hamilton, arrived at school wearing a dress HaLevi decided was too short and, thus, not in keeping with the dress code. He brought it to her attention as soon as she got off the bus, but he allowed her to go to the cafeteria for breakfast and Morning Meeting. At that time, HaLevi asked her if she had shorts on under her dress; Erica said she did but refused to show him. After MM, HaLevi said he asked Erica to remain in the cafeteria so they could resolve the dress code violation, but she went to class instead. He directed her back to the cafeteria and gave her options for resolving the issue, including wearing a pair of school-owned black pants. HaLevi had multiple conversations/interactions with Erica throughout the day, each time in an attempt to resolve the issue. Statements collected reveal several incidents in which Erica did not obey HaLevi and was disrespectful to him. After lunch, she agreed to put the pants on and went to class.

At the end of the day, HaLevi directed the student concerns specialist to go to the bus to make sure Erica had returned the pants. The SCS communicated that she had not, and HaLevi went to the bus loop, boarded Erica's bus, and ordered her to take off the pants. She refused, and he held the bus. Eventually, she took the pants off and threw them toward the front of the bus where HaLevi was standing; he took them and got off the bus. At that point, Erica began screaming out the bus window that she was only wearing underwear; multiple adults report that she was crying and visibly upset. HaLevi gave the pants to her and directed her to leave the bus so they could call her parents to discuss the incident. Her mother eventually arrived to get Erica, but she refused to go into the building to speak with HaLevi.

Over the course of the weekend, allegations that HaLevi ordered Erica to remove her pants, knowing that she would only be in her underwear, came forward; additionally, he was reported to have tried to look under her skirt several times during the day and that she had been exposed to boys on the bus.

HaLevi was placed on administrative leave Sunday, April 24.

SUMMARY OF INVESTIGATION:

With regard to Erica's clothing, the dress she arrived at school wearing was a shirt-dress that was a shade of blue; it appears to have buttoned up the front and had an open neck. At some point during the day after she agreed to wear the black pants, she exchanged her dress for a friend's blue hoodie, which appears to have been a similar blue and with a zipper in the front; the friend was going to use the dress as a jacket if she got cold. The friend appears to have left school early with the dress, preventing Erica from changing back into it before the end of school.

Jennifer Coker and Jessica Smith, a guidance counselor, collected information from seven students who were on the bus. While there were some discrepancies, the students' reports corroborated one another with the following points:

- HaLevi stood at the front of the bus and demanded that Erica return the pants; he refused to allow the bus to leave until she was compliant.
- The bus was loud; students were yelling the entire time.
- Erica told him she was not wearing her original dress.
- Multiple students told HaLevi she could not return the pants because she was not wearing the dress in which she had arrived at school.
 - One student said HaLevi leaned down to speak with her and told her the bus was not leaving until Erica returned the pants; when the student told him Erica was not wearing the same dress, HaLevi allegedly told her that was not his problem.
 - Another student reported that he believed HaLevi was registering that they were telling him she was not wearing the dress.
- HaLevi appeared either to dismiss or ignore what Erica and others were telling him.
- HaLevi remained at the front of the bus; the only time he went toward the back was when Erica threw the pants toward the center of the bus.

Coker and ER staff collected information from five staff members, either in writing or through interviews. Their accounts provided the following information:

- Some staff reported having seen Erica wearing the dress on multiple occasions in the past and had not gotten in trouble for it until that date.
- One staff member who was with Erica later that day asked her to stand with her hands to the side; she reported that the dress's hemline was about two inches below her fingertips, suggesting the dress was an appropriate length.
- When HaLevi asked Erica if she had shorts on under her dress, she said she had; he told her to show him the shorts, and she refused.
 - He did not ask her to show a female staff member, and he did not ask a female staff member to intervene.
 - A staff member overheard Erica telling other students at lunch that HaLevi was trying to look up her skirt.
- HaLevi seemed particularly fixated on getting the pants back; in past instances when students did not immediately return borrowed clothing, he did not go after them with such energy.
- Erica approached a staff member and asked her if she had any clothing she could borrow, and the staff member offered to get a pair of gym pants from her car. HaLevi entered the office and forbade the staff member to get the pants for Erica, stating that Erica could wear the school-owned pants.
- Erica repeatedly used profanity toward HaLevi and was openly disrespectful.
- Students on the bus used profanity toward HaLevi when he boarded the bus to get the pants back.

- There is no meaningful system in place for managing behavior issues when they arise. Students who are directed to sit in the cafeteria as a consequence are not monitored and roam the building. HaLevi's directives are ignored.

ASSOCIATED ISSUES:

HaLevi received his packet of contracts for his staff and was directed to review them for errors; he reportedly gave the packet a cursory glance and said he had all of his staff's contracts. On Friday, April 15, the deadline for issuing contracts, HaLevi learned he did not have one for his guidance director, who was scheduled to receive a contract of 190 days rather than her previous contract for 210 days. He contacted HR for a contract; HR reports that it was emailed to him before 2:30 that afternoon. HaLevi neglected to give the contract to the employee until the following Monday, and the employee is now contesting the reduction in days because she did not receive her contract by deadline.

Additionally, the other guidance counselor, who was on a letter of agreement, did not receive communication that she was not receiving a contract at all; the District may be required to create a position for her.

These contract issues do not reflect the years of administrative experience HaLevi has. Additionally, his dismissive review of the contract package, despite his supervisor's direction to review them, shows a pattern of arrogance similar to his belief that he held no accountability for the incident with the student.

POLICY VIOLATIONS:

HaLevi's actions can be considered to have violated the following CCSD policies:

GBE Employee Conduct

- Employees shall be mindful of their responsibility to ensure the safety and well-being of students and to ensure their actions do not put the District in a position of liability.
- Employees shall ensure that students are properly supervised at all times.
- Employees shall carry out their duties with conscientious concern.

GBEB Employee Rights and Responsibilities

- Employees will serve as role models for the students who constantly observe them.
- Employees shall not behave "in any inappropriate manner to the extent of adversely affecting the employee's ability to perform his/her work."

RECOMMENDATIONS:

The Superintendent may want to consider the following:

- HaLevi does not appear to have the respect of his students or the desire to earn it.
- His misjudgment has put the District in a negative light.
- If he returns to Clark, he may not have the support he needs to complete the year in a meaningful way.
- His resistance to accepting any responsibility for the situation suggests that he may not be willing to reflect on the situation and learn from it.

Appropriate actions include:

- Issuing HaLevi a disciplinary consequence (suspension or dismissal) for the liability in which he placed the District in both the student issue and the contract issue.
- Removing HaLevi from Clark altogether if he is not dismissed and assigning him to a different school as an assistant principal for the 2016-2017 school year.

REFERRED TO:

Gerrita Postlewait
Jennifer Coker
Bill Briggman

PREPARED BY:

Will Suggs

DATE:

April 29, 2016

CONFIDENTIAL

May 9, 2016

Gerrita Postlewait
Superintendent of Schools
Charleston County School District
75 Calhoun Street
Charleston, SC 29401

Dear Dr. Postlewait,

In a letter dated May 2nd, Michele English-Watson notified me that the District no longer had confidence in my "ability to lead a school" and that I would be replaced immediately as the Program Director of Septima P. Clark Academy, a position I had held for eight years. I was told that this decision was based on an investigation conducted by Jennifer Coker, Will Suggs and Ms. English-Watson. Because the letter detailing the investigation and conclusions based on the investigation is so full of misinformation, inaccuracies, omissions, and contradictions, I ask that you personally review the case in order to render a decision that reflects best professional practices and the highest ethical standards.

The letter from Ms. English-Watson identifies three issues of concern: 1) failure to manage contract issuance appropriately; 2) failure to manage a dress code situation appropriately; and 3) failure to demonstrate sound leadership skills. Concerning contract issuance, the letter states that I "failed to ensure that the contract packet you were given on April 13, 2016, for Clark Academy, was complete and included all documents needed for notifying certified employees of their status for the 2016-2017 school year." In fact, I issued all of the contracts that were given to me by the District. I was not able to give a contract to our guidance director because the District did not provide the contract in the packet provided to me. When I discovered HR's oversight, I immediately notified Ms. Coker and HR. Instead of e-mailing the contract to the guidance director (to ensure that it got to her by the required April 15th deadline), HR sent the contract to me and Ms. Coker. As I had already left Clark to pick up testing information at Burke High School, the contract was not issued until Monday, April 18th. In an e-mail message to me on April 18th, Jennifer Coker wrote "We should have emailed it to her, I did not realize you were already out of school when it came."

The second contract issuance problem involved a guidance counselor who is working on a Letter of Agreement, not a contract. I was not able to give the counselor the letter indicating that she was not being offered employment because she was not on campus on April 15th. Instead, the letter was issued on April 19th. When contacted by Jennifer Coker by e-mail reminding me that I should have issued her a letter on April 15th (even though the guidance counselor was not on campus), I replied by e-mail that "You are absolutely right...I needed to take care of this last week and did not." My reply directly contradicts the investigative committee's position that I do not "acknowledge any responsibility" for the concerns identified in the letter. As I have issued

contracts seven times previously without incident, there was no reason for the investigative committee to conclude that this incident is indicative of anything other than a singular incident of miscommunication. It certainly does not reflect a pattern of behavior that would justify my removal from a school-based leadership position.

Concerning the failure to manage a dress code issue appropriately, the letter from the investigative committee includes numerous factual errors and omissions of facts. The committee reports that I "held her bus and insisted she return the pants on the spot." This is more than misleading; it is false. Instead, I boarded the bus and asked the student to return the pants. I held the bus a) to clarify the student's position and b) because of the chaotic situation on the bus that began before I boarded. Demanding that the student "return the pants on the spot" was never said, implied, or expected. The investigative committee's letter seems to suggest that I should not have boarded the bus to request the return of school property--property which the student agreed to return at the end of the day when she borrowed the pants. According to the committee, simply asking for the pants was unreasonable.

The investigative committee also determined that I "had multiple opportunities throughout the day to resolve the issue" but that I "remained inflexible to solutions other than that she wear the pants and, then return them." In fact, I gave the student, and all students in similar situations three possibilities for resolving dress code concerns. The first was to have her parent(s) bring appropriate clothing to Clark. The second was to have a parent pick up the student, and the third involved borrowing the scrubs (pants) we would provide (and returning them at the end of the day). The committee's position that I "assumed I knew all relevant details needed to conclude the situation" is incorrect. I sat with the student for more than an hour in the morning in order to listen to her concerns and to encourage good decision-making. It is not all clear what "relevant details" the investigative committee thinks a building administrator needs to resolve a dress code violation, but I asked the student repeatedly how I could help her make a decision that would allow her to go to class.

Concerning a "failure to demonstrate sound leadership skills", the investigative committee reports "systemic issues at Clark that appear to have their foundations in ineffective decisions you have made as a leader." The investigative committee's letter suggests that Clark students are "non compliant and disobedient", there is an atmosphere that permits disrespect, profanity, and aggressive behavior; that "student misconduct is addressed inconsistently, and that referrals submitted by teachers are not followed up with disciplinary consequences." The investigative committee does not provide any evidence for these accusations whatsoever. If the investigative committee had taken the time to review Educators Handbook or Powerschool, it would be immediately clear that all disciplinary referrals receive a range of consequences that might include counseling, two different types of lunch detention, in school suspension (ISS), parent conferences, and out-of-school suspension (OSS) among others. The investigative committee's determination about "systemic issues" regarding discipline is not only factually incorrect, it does not seem to be based on an investigation at all. During the one and only time I was interviewed by committee members, there were no questions related to disciplinary

procedures beyond the the dress code incident. If I had been asked about discipline at Clark, I would have reviewed the procedures we have in place to deal with disciplinary issues, and I would have provided years worth of evidence that discipline is managed promptly, systematically, and within the framework of the CCSD's *Code of Conduct*.

The most shocking statement by the committee regarding my leadership is the statement that "these issues have been exacerbated by your resistance to acknowledge any responsibility on your part for their existence." To be clear: I was never asked about discipline at Clark and never asked to respond to any concerns regarding disciplinary procedures. No conversation like that took place, ever. The investigative committee seems to have fabricated this entirely. If the question had been asked, I would have been open and honest about the challenges inherent in determining effective disciplinary consequences to high school students in an alternative setting. In fact, I spoke about this very issue when I met with you in January. I have also spoken about the challenges to Lynda Davis and to Jennifer Coker. I do not know how much more responsibility I can take, or how much more transparent I can be about the challenges of serving as the only administrator in a high school alternative program.

What makes the investigative committee's decision that I should no longer be in a school-based leadership position so inconsistent is that I had just been given a full time, 240 day administrative contract on April 13th. When given the contract, Jennifer Coker spoke enthusiastically about my helping transition Clark to a new location. She did not express any reservations about my leadership whatsoever. Ms. Coker would have had ample opportunity to meet with me as she had spent time at Clark on several occasions since becoming the Interim Director of Alternative Programs a few months ago. As I have received consistently positive feedback from all of my previous supervisors, the investigative committee's determination that I am suddenly unfit for a school-based leadership position, weeks after receiving a contract for the ninth consecutive year, is extraordinary.

In addition to the misinformation and outright fabrication of information contained in the investigative committee's report, there are serious breaches of protocol that you should be aware of. The most troubling to me personally is the way I found out that I was being replaced at Clark. Instead of being notified by Jennifer Coker or another person in the district, I was told by a neighbor on April 29th that an administrator from Burke notified her colleagues that she would serve as the Interim Associate Principal of Clark through the end of the year. After twenty one years in the CCSD, the last eight working with some of the most challenging students in the CCSD, I found out from a neighbor that I would no longer be working at Clark. In fact, Ms. Coker met with and informed the entire faculty of staff of Clark before she told me (in a call that I initiated). I believe that as superintendent, you should be aware that your employees are behaving with such disregard for basic professional protocol.

As superintendent, I am asking that you review my concerns regarding both the manner in which the investigation was conducted, and the investigative committee's conclusions, which are based on misinformation, omission of facts and outright fabrication. I would hope that you

would do so for any employee who calls your attention to such serious allegations, but the urgency in which I ask for your attention is based on the serious harm that the investigation has done to my professional reputation. I have now served more than two weeks of administrative leave based on an investigation that in large part, seems to be fabricated. Most of all, I am appealing to you to correct a wrong committed against me by an investigative committee whose lack of honesty and integrity has damaged my reputation, and in so doing, has damaged the district's as well.

Sincerely,

Andrew HaLevi, Ph.D
7 Wesson Avenue
Charleston, SC 29403

EXHIBIT D
CCSD LETTER
DATED MAY 3, 2016

May 3, 2016

Andrew HaLevi, Ph. D.
7 Wesson Avenue
Charleston, SC 29403

Dear Dr. HaLevi:

Department of Federal Programs

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Michele English-Watson
Executive Director

The purpose of this letter is to bring to a close an investigation into multiple issues that converged in a short period of time and that have collectively compromised the District's confidence in your ability to lead a school. These issues are as follows:

Issue 1: Failure to manage contract issuance appropriately

You failed to ensure that the contract packet you were given on April 13, 2016, for Clark Academy was complete and included all documents needed for notifying certified employees of their status for the 2016-2017 school year. When a contract and a letter were found to be missing on April 15, you did not do your due diligence to ensure that the documents got in the employees' hands according to the deadline mandated by state code. It is the responsibility of school leaders to examine the contents of these packets and to make sure there is a document for each certified employee.

Issue 2: Failure to manage a dress code situation appropriately

On Friday, April 22, 2016, you failed to manage a situation surrounding a student's dress code violation appropriately. When the student, whose dress you perceived to be too short, did not return the pants you had loaned her to wear at school, you held her bus and insisted she return the pants on the spot. Although students reported to you that she did not have the dress she had worn to school in her possession at the time (she had traded it for another student's sweatshirt), you continued to hold the bus until she complied.

Your unwillingness to release the bus and the peer pressure resulting from being the reason her friends were being held forced the student to give you the pants. Once you were off the bus, she announced through an open window that she was sitting in her underwear and that you had forced her to be indecently exposed.

An investigation into this situation determined that you had multiple opportunities throughout the day to resolve the issue, but you remained inflexible to solutions other than that she wear the pants and, then, that she return them. Rather than doing your due diligence in gathering information about the situation, you appear to have assumed you knew all relevant details needed to conclude the situation. In addition, you have been resistant to accepting any responsibility for the outcome of the situation, refusing to see how your inflexibility and her distrust of you contributed to the unfortunate ending of the problem.

Issue 3: Failure to demonstrate sound leadership skills

The investigation into the dress code situation revealed systemic issues at Clark that appear to have their foundations in ineffective decisions you have made as a leader:

- Students are non-compliant and disobedient on a regular and even widespread basis.
- The lack of meaningful disciplinary consequences has produced an atmosphere that permits disrespect, profanity, and aggressive behavior.
- Student misconduct is addressed inconsistently, and referrals submitted by teachers are not followed up with disciplinary consequences.

These issues are exacerbated by your resistance to acknowledge any responsibility on your part for their existence. Furthermore, your seeming inability to reflect on these problems from a different perspective than your own erodes the District's trust in your willingness to learn any lessons from this situation, and there are many lessons to be learned here.

Therefore, I have decided not to return you to a school site for the remainder of this year. Be advised you are to have no other administrative activity connected with Clark Academy. Work assignments for you will be forthcoming. Additionally, I have not determined what role you may have in Charleston County School District for the 2016-2017 school year; that information will be shared with you once a decision is made.

You will remain on administrative leave until your work assignments are determined; they will be communicated to you as soon as possible. You are to continue to be available for recall to work at any time during the normal work day.

Sincerely,



Michele English-Watson
Executive Director

C: Jennifer S. Coker, Interim Director, Alternative Programs
William Briggman, Executive Director, Human Resources
Department of Employee Relations
Personnel File (c/o Krishinda Jenkins)

Received: _____

Signature

5-4-16

Date

EXHIBIT E
HALEVI RESPONSE LETTER
DATED MAY 9, 2016

May 9, 2016

Gerrita Postlewait
 Superintendent of Schools
 Charleston County School District
 75 Calhoun Street
 Charleston, SC 29401

Dear Dr. Postlewait,

In a letter dated May 2nd, Michele English-Watson notified me that the District no longer had confidence in my "ability to lead a school" and that I would be replaced immediately as the Program Director of Septima P. Clark Academy, a position I had held for eight years. I was told that this decision was based on an investigation conducted by Jennifer Coker, Will Suggs and Ms. English-Watson. Because the letter detailing the investigation and conclusions based on the investigation is so full of misinformation, inaccuracies, omissions, and contradictions, I ask that you personally review the case in order to render a decision that reflects best professional practices and the highest ethical standards.

The letter from Ms. English-Watson identifies three issues of concern: 1) failure to manage contract issuance appropriately; 2) failure to manage a dress code situation appropriately; and 3) failure to demonstrate sound leadership skills. Concerning contract issuance, the letter states that I "failed to ensure that the contract packet you were given on April 13, 2016, for Clark Academy, was complete and included all documents needed for notifying certified employees of their status for the 2016-2017 school year." In fact, I issued all of the contracts that were given to me by the District. I was not able to give a contract to our guidance director because the District did not provide the contract in the packet provided to me. When I discovered HR's oversight, I immediately notified Ms. Coker and HR. Instead of e-mailing the contract to the guidance director (to ensure that it got to her by the required April 15th deadline), HR sent the contract to me and Ms. Coker. As I had already left Clark to pick up testing information at Burke High School, the contract was not issued until Monday, April 18th. In an e-mail message to me on April 18th, Jennifer Coker wrote "We should have emailed it to her, I did not realize you were already out of school when it came."

The second contract issuance problem involved a guidance counselor who is working on a Letter of Agreement, not a contract. I was not able to give the counselor the letter indicating that she was not being offered employment because she was not on campus on April 15th. Instead, the letter was issued on April 19th. When contacted by Jennifer Coker by e-mail reminding me that I should have issued her a letter on April 15th (even though the guidance counselor was not on campus), I replied by e-mail that "You are absolutely right...I needed to take care of this last week and did not." My reply directly contradicts the investigative committee's position that I do not "acknowledge any responsibility" for the concerns identified in the letter. As I have issued

contracts seven times previously without incident, there was no reason for the investigative committee to conclude that this incident is indicative of anything other than a singular incident of miscommunication. It certainly does not reflect a pattern of behavior that would justify my removal from a school-based leadership position.

Concerning the failure to manage a dress code issue appropriately, the letter from the investigative committee includes numerous factual errors and omissions of facts. The committee reports that I "held her bus and insisted she return the pants on the spot." This is more than misleading; it is false. Instead, I boarded the bus and asked the student to return the pants. I held the bus a) to clarify the student's position and b) because of the chaotic situation on the bus that began before I boarded. Demanding that the student "return the pants on the spot" was never said, implied, or expected. The investigative committee's letter seems to suggest that I should not have boarded the bus to request the return of school property--property which the student agreed to return at the end of the day when she borrowed the pants. According to the committee, simply asking for the pants was unreasonable.

The investigative committee also determined that I "had multiple opportunities throughout the day to resolve the issue" but that I "remained inflexible to solutions other than that she wear the pants and, then return them." In fact, I gave the student, and all students in similar situations three possibilities for resolving dress code concerns. The first was to have her parent(s) bring appropriate clothing to Clark. The second was to have a parent pick up the student, and the third involved borrowing the scrubs (pants) we would provide (and returning them at the end of the day). The committee's position that I "assumed I knew all relevant details needed to conclude the situation" is incorrect. I sat with the student for more than an hour in the morning in order to listen to her concerns and to encourage good decision-making. It is not all clear what "relevant details" the investigative committee thinks a building administrator needs to resolve a dress code violation, but I asked the student repeatedly how I could help her make a decision that would allow her to go to class.

Concerning a "failure to demonstrate sound leadership skills", the investigative committee reports "systemic issues at Clark that appear to have their foundations in ineffective decisions you have made as a leader." The investigative committee's letter suggests that Clark students are "non compliant and disobedient", there is an atmosphere that permits disrespect, profanity, and aggressive behavior; that "student misconduct is addressed inconsistently, and that referrals submitted by teachers are not followed up with disciplinary consequences." The investigative committee does not provide any evidence for these accusations whatsoever. If the investigative committee had taken the time to review Educators Handbook or Powerschool, it would be immediately clear that all disciplinary referrals receive a range of consequences that might include counseling, two different types of lunch detention, in school suspension (ISS), parent conferences, and out-of-school suspension (OSS) among others. The investigative committee's determination about "systemic issues" regarding discipline is not only factually incorrect, it does not seem to be based on an investigation at all. During the one and only time I was interviewed by committee members, there were no questions related to disciplinary

procedures beyond the the dress code incident. If I had been asked about discipline at Clark, I would have reviewed the procedures we have in place to deal with disciplinary issues, and I would have provided years worth of evidence that discipline is managed promptly, systematically, and within the framework of the CCSD's *Code of Conduct*.

The most shocking statement by the committee regarding my leadership is the statement that "these issues have been exacerbated by your resistance to acknowledge any responsibility on your part for their existence." To be clear: I was never asked about discipline at Clark and never asked to respond to any concerns regarding disciplinary procedures. No conversation like that took place, ever. The investigative committee seems to have fabricated this entirely. If the question had been asked, I would have been open and honest about the challenges inherent in determining effective disciplinary consequences to high school students in an alternative setting. In fact, I spoke about this very issue when I met with you in January. I have also spoken about the challenges to Lynda Davis and to Jennifer Coker. I do not know how much more responsibility I can take, or how much more transparent I can be about the challenges of serving as the only administrator in a high school alternative program.

What makes the investigative committee's decision that I should no longer be in a school-based leadership position so inconsistent is that I had just been given a full time, 240 day administrative contract on April 13th. When given the contract, Jennifer Coker spoke enthusiastically about my helping transition Clark to a new location. She did not express any reservations about my leadership whatsoever. Ms. Coker would have had ample opportunity to meet with me as she had spent time at Clark on several occasions since becoming the Interim Director of Alternative Programs a few months ago. As I have received consistently positive feedback from all of my previous supervisors, the investigative committee's determination that I am suddenly unfit for a school-based leadership position, weeks after receiving a contract for the ninth consecutive year, is extraordinary.

In addition to the misinformation and outright fabrication of information contained in the investigative committee's report, there are serious breaches of protocol that you should be aware of. The most troubling to me personally is the way I found out that I was being replaced at Clark. Instead of being notified by Jennifer Coker or another person in the district, I was told by a neighbor on April 29th that an administrator from Burke notified her colleagues that she would serve as the Interim Associate Principal of Clark through the end of the year. After twenty one years in the CCSD, the last eight working with some of the most challenging students in the CCSD, I found out from a neighbor that I would no longer be working at Clark. In fact, Ms. Coker met with and informed the entire faculty of staff of Clark before she told me (in a call that I initiated). I believe that as superintendent, you should be aware that your employees are behaving with such disregard for basic professional protocol.

As superintendent, I am asking that you review my concerns regarding both the manner in which the investigation was conducted, and the investigative committee's conclusions, which are based on misinformation, omission of facts and outright fabrication. I would hope that you

would do so for any employee who calls your attention to such serious allegations, but the urgency in which I ask for your attention is based on the serious harm that the investigation has done to my professional reputation. I have now served more than two weeks of administrative leave based on an investigation that in large part, seems to be fabricated. Most of all, I am appealing to you to correct a wrong committed against me by an investigative committee whose lack of honesty and integrity has damaged my reputation, and in so doing, has damaged the district's as well.

Sincerely,

Andrew HaLevi, Ph.D
7 Wesson Avenue
Charleston, SC 29403

EXHIBIT F
POSTLEWAIT LETTER
DATED MAY 13, 2016

Charleston County School District

VISION 2016
CHARLESTON COUNTY SCHOOL DISTRICT

May 13, 2016

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Dear Dr. HaLevi:

I am writing in response to your May 9th letter you sent via District email. In the email message, to which the letter was attached, you indicated that you would like me to reconsider the recent decision regarding your role with Charleston County School District for the remainder of the 2015-2016 school year.

Cindy Bohn Coats, Chair
4458 South Rhett Avenue
North Charleston, SC 29405

Chris Straubas, Vice Chair
126 Seven Farms Drive, Suite 200
Charleston, SC 29492

Rev. Chris Collins
75 Calhoun Street
Charleston, SC 29401

Kate Darby
245 Indigo Bay Circle
Mt. Pleasant, SC 29464

Tom Ducker
111 Dunbury Drive
Summerville, SC 29485

Todd P. Garrett
338 President Street
Charleston, SC 29403

Rev. Dr. Eric Mack
P.O. Box 33
Wadmalaw Island, SC 29487

Michael Miller
75 Calhoun Street
Charleston, SC 29401

Tripp Wiles
184 East Bay Street, Suite 103
Charleston, SC 29401

As you know, there is no formal avenue for appeal, however please know the decision to place you on administrative leave was not made lightly. The matter was thoroughly investigated and I was fully informed of both the process and the information gleaned from that process. Having evaluated the complex issues presented, I did approve the recommendation from your supervisors, Michele English-Watson and Jennifer Coker, and agreed that placing an interim leader at Clark Academy would be in the best interest of the students and faculty.

You have my assurance that I will carefully review any new information regarding these recent events that may come to light. Likewise, you have my assurance that I will be involved in any decisions regarding your role in the District and that those decisions will be made with careful consideration.

Sincerely,

Gerrita Postlewait

Gerrita Postlewait
Superintendent of Schools

c: Michele English-Watson, Executive Director-Federal Programs
William Briggman, Executive Director-Human Resources
Personnel File

EXHIBIT G
TERRI NICHOLS LETTER
DATED JULY 28, 2016

Charleston > excellence is our standard
County SCHOOL DISTRICT

VISION 2016
CHARLESTON ACHIEVING EXCELLENCE

July 28, 2016

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Dear Dr. HaLevi:

The purpose of this letter is to summarize our conversations regarding your employment role with Charleston County School District for the 2016-2017 school year and to communicate officially your assignment.

Elementary Learning
Community

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Mrs. Terri H. Nichols
Associate Superintendent

John Cobb
Executive Director

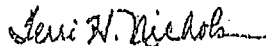
When you met with Executive Director Michele English-Watson and me on July 26, 2016, you shared that you were open to a teaching position. You also shared concerns that your skills set may not match every open position the District currently has and asked that you be allowed to have some level of input in your assignment. In a telephone conversation that afternoon, I offered you a position at Stall High School as an English Language Arts teacher; you contacted me later to accept that position.

As we also discussed, you will receive your salary at the assistant principal level for the 2016-2017 school year; that will end with the expiration of your 2016-2017 contract on June 30, 2017. Because your 2016-2017 contract is for 240 days and your assignment is for 190 days, you may be assigned additional duties on non-instructional days when 240-day administrators are expected to work. You may request to use accrued vacation leave on those non-instructional days if you so choose; however, you may not use accrued vacation leave for instructional days. Any remaining vacation leave will be paid out to you following the expiration of your contract on June 30, 2017.

Because teachers return to work on August 8, 2016, I am not assigning you any additional duties at this time so that you may prepare for the start of school. Please contact Kim Wilson, principal of Stall High School, at your earliest convenience to discuss your assignment; the telephone number for Stall is 843-764-2200.

If you have any questions, please contact my office at 843-849-2878.

Sincerely,



Terri Nichols
Associate Superintendent

C: Gerrita Postlewait, Ed.D., Superintendent
Kim Wilson, Principal, Stall High School
William Briggman, Executive Director, Human Resources
Employee Relations
Personnel File (c/o Krishinda Jenkins)

665 Coleman Blvd • Mount Pleasant, SC 29461 • tel. (843) 849-2878 • fax. (843) 849-2860 • www.ccsd.schools.com

Plaintiff 39

EXHIBIT H
HALEVI GRIEVANCE
DATED AUGUST 29, 2016

POLICY GBK: EMPLOYEE GRIEVANCES

A grievance is a claim by an employee of a violation, misrepresentation or misapplication of a policy of the Board of Trustees and accompanying regulations as they affect the employee and his/her work. A grievance may be based upon a claim of discriminatory action. If an attempt at an informal resolution is unsatisfactory, submit completed form to your immediate supervisor for resolution. You may continue to pursue the grievance process through the supervisory line to the Division Chief, whose decision is final.

Print Name: Andrew HaLevi **Position:** Program Director (at time covering grievance). Currently serving as a teacher at R. B. Stall High School

Employee's Signature: Andrew HaLevi **Date:** 8-29-16

Supervisor's Name: Kim Wilson/Terri Nichols (currently). Jennifer Coker at time of incident related to grievance

Position: Interim head of K-12 (Nichols). Interim Director of Alternative Programs (Coker)

School/Department/Division: High School Learning Community (currently)/Alternative Learning Community (at time of incident)

Reference Policy, Rule, Regulation claimed to have been violated: The misapplication of policy GBEB (Coker) on Employee Conduct which led to my removal as Program Director of Clark Academy. Failure to adhere to policy GBEBAA(Coker and Postlewait), which requires the superintendent or his/her designee to "establish and communicate appropriate measures for progressive disciplinary actions when employees do not meet supervisory expectations." The violation of policy GBE (Coker and Postlewait) ensuring due process rights for CCSD employees. The violation of policy GBEA (Chris Collins), which stipulates public employees shall "not use or disclose confidential information gained in the course of employment."

Reason for grievance (to be completed by employee):

The investigative documents recently released by the CCSD admit that my explanation of events on April 22nd at Clark Academy is "plausible." Jennifer Coker, the administrator conducting the investigation, did not follow district policy by providing due process. The Superintendent's acknowledgement that there is no appeal process is further recognition of the denial of due process in this case. Chris Collins, a school board trustee and therefore an agent of the District, violated disclosed confidential information, further contributing to the denial of due process and prejudicing my position in this case.

Requested resolution:

- 1) Because my due process rights have been denied by individuals including the Superintendent, I ask that the CCSD Board of Trustees hear this case in executive session.
- 2) I request a public statement acknowledging that I acted professionally, properly, and in concert with all CCSD policies and procedures.
- 3) I request that the employees responsible for the denial of my due process rights be disciplined up to and including termination.
- 4) I request that Chris Collins be censured by the Board of Trustees for his actions in prejudicing my professional reputation.

Witnesses who can confirm my statements are: There is extensive paperwork detailing the denial of due process and the misapplication of school district policy.

Response of Immediate Supervisor (subsequent supervisors should attach additional pages to document conferences/resolution):

Complainant Must Forward to Director of Employee Relations
Received By: _____

Date: _____

Revised 8/30/10

EXHIBIT I
COATS LETTER
DATED OCTOBER 18, 2016

Charleston > excellence is our standard
County SCHOOL DISTRICT

October 18, 2016

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Dear Dr. HaLevi:

Board of Trustees

Cindy Bohn Coats, Chair
4458 South Rhett Avenue
North Charleston, SC 29405

Chris Staubes, Vice Chair
126 Seven Farms Drive, Suite 200
Charleston, SC 29492

Rev. Chris Collins
75 Calhoun Street
Charleston, SC 29401

Kate Darby
245 Indigo Bay Circle
Mt. Pleasant, SC 29464

Tom Ducker
111 Dunbury Drive
Summerville, SC 29485

Todd P. Garrett
338 President Street
Charleston, SC 29403

Rev. Dr. Eric Mack
P.O. Box 33
Wadmalaw Island, SC 29487

Michael Miller
75 Calhoun Street
Charleston, SC 29401

Tripp Wiles
184 East Bay Street, Suite 103
Charleston, SC 29401

The Board received by email your grievance, dated August 29, about the investigation and handling of an incident that occurred on a Septima P. Clark Corporate Academy (Clark Academy) bus on April 22, 2016, when you required a female Clark Academy student to return pants she had borrowed from the school to remedy a dress code violation.

It does not seem that you have followed the grievance process under Policy GBK (Employee Grievances). Both the policy and the form you used for the grievance, require that you start with your immediate supervisor and work your way up the chain of command. Further, Policy GBE (Employee Rights and Responsibilities) states "employees are expected to act professionally and to use the chain of command to resolve personnel and operational issues." As I understand it, you have not submitted a grievance to anyone in the administration.

We understand you sent to Dr. Postlewait a letter of complaint and a request for a review of the investigation. She responded to your letter. Your letter was not characterized as a grievance, nor did you follow the process outlined for a grievance.

It is improper for you to appeal directly to the board. In addition, the grievance form itself says the decision of the Division Chief is final. It would be inappropriate for the board to review your appeal. If you wish to pursue this further, I urge you to follow the grievance protocol.

Sincerely,

Cindy Bohn Coats

Cindy Bohn Coats
Chair
Charleston County School District Board of Trustees

c: Charleston County School District Board of Trustees
Dr. Gerrita Postlewait, Superintendent of Schools
John F. Emerson, General Counsel
Michele English-Watson, Executive Director-Student Support Services

EXHIBIT J
PLAINTIFF'S GRIEVANCE
DATED NOVEMBER 6, 2016

The investigation conducted by the CCSD regarding the April 22nd dress code incident at Clark Academy was incomplete and conducted unprofessionally. Even so, the investigation found my account "plausible." I did not act unprofessionally and never acted "in an aggressive, inappropriate, and unprofessional manner" as described in the CCSD Internal report of investigation. Furthermore, the internal report misrepresents key facts about the incident. Jennifer Coker, the administrator conducting the investigation, did not follow district policy by providing the due process that would have found that I followed all District policies and procedures. Instead, she acted unprofessionally by excluding me from the investigation, failing to provide due process, and failing to communicate promptly and honestly about my job status. The Superintendent's acknowledgement that there is no appeal process is further recognition of the denial of due process in this case. Chris Collins, a school board trustee and therefore an agent of the District, violated policy GBEA by disclosing confidential information, further contributing to the denial of due process and prejudicing my position in this case.

Requested resolution:

- 1) Because my due process rights have been denied by individuals, including the Superintendent, I ask that the CCSD Board of Trustees hear this case in executive session.
- 2) I request a public statement acknowledging that I acted professionally, properly, and in concert with all CCSD policies and procedures.
- 3) I request that the employees responsible for failure to conduct a professional investigation including the denial of my due process rights be disciplined up to and including termination.
- 4) I request that Chris Collins be censured publicly by the Board of Trustees for his actions and for prejudicing my professional reputation.

Witnesses who can confirm my statements are: Given the opportunity, I will call witnesses in this case who will dispute the false allegations in the internal investigation.

Response of Immediate Supervisor (subsequent supervisors should attach additional pages to document conferences/resolution):

Complainant Must Forward to Director of Employee Relations
Received By:

Date:

Revised 8/31/10

EXHIBIT K
COKER'S RESPONSE TO
PLAINTIFF'S GRIEVANCE

Charleston > excellence is our standard
County SCHOOL DISTRICT

December 12, 2016

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Dear Dr. HaLevi:

This letter serves as my formal response to the grievance that you submitted in writing via e-mail on November 7, 2016, and that you also presented verbally during our meeting on November 28, 2016.

In your grievance, you assert violations of the following CCSD Board policies: GBE Employee Rights and Responsibilities, GBEA Employee Ethics/Conflict of Interest, GBEB Employee Conduct, and GBEBA Progressive Discipline. Your specific assertions are set forth below:

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Mrs. Terri M. Nichols
Associate Superintendent of Schools

Mrs. Jennifer S. Coker
Interim Director of Alt. Programs

- That I, as your supervisor, acted in an unprofessional behavior during the incident that occurred on April 22, 2016, at Clark Academy involving your interactions with a female student;
- That the investigation I conducted, with the assistance of Employee Relations, was flawed due to factual errors;
- That the Superintendent and I denied you due process; and
- That Board member Chris Collins acted in an unethical manner regarding the investigation and the incident that gave rise to it.

In addition to what you presented during our November 28 meeting, I reviewed the following documentation to assist me in preparing a comprehensive response to your grievance:

- The submitted grievance form
- The letter dated May 3, 2016
- Investigation report
- Personnel file

In responding to each of your assertions, I will begin with the issues quoted verbatim from your grievance.

I. Employee Conduct: Policy GBEB:

The misapplication of policy GBEB (Coker) on Employee Conduct which led to my removal as Program Director of Clark Academy. Specifically, the failure of Coker to identify any "aggressive, inappropriate, or unprofessional behavior" (quote from CCSD Internal Report of Investigation) related to the incident. The failure to conduct a proper investigation, including using an untrained, disgruntled staff member to conduct student interviews, excluding information from staff members with direct involvement in the incident while including information from staff members without direct involvement in the incident. Coker is also accused of using the investigation of the dress code incident to look at other issues of leadership, thereby compromising the integrity of the dress code investigation. Coker is also accused of unprofessional behavior by failing to communicate promptly and honestly to Dr. HaLevi regarding his status as Program Director of Clark Academy. Coker communicated HaLevi's removal to the faculty and staff of Clark days before speaking to HaLevi, leaving HaLevi to learn of his removal from a neighbor unconnected to the CCSD.

Response:

The investigation report states, "This investigation into allegations that Andrew HaLevi acted in an aggressive, inappropriate, and unprofessional manner toward a student has not revealed any reason to believe his actions were of criminal intent." The report does not set forth any findings that you engaged in aggressive behaviors; however, the investigation did note concerns with the appropriateness of how you managed this incident. The report further states that your handling of the matter violated Policy GBE as well as Policy GBEB.

Based on my review, the investigation was conducted properly by an appropriate team. The investigation plan was created through a collaborative conversation with senior leadership on April 24, 2016. Employee Relations staff assisted with the investigation, interviewing you and collecting your written statement. I led the investigation at the school site, which included interviewing students and faculty and meeting with the family of the student in question. I interviewed eight (8) students over a three-day period. Jessica Smith, a guidance counselor at Clark, sat in on all interviews since I did not have a relationship with the students; having a guidance counselor present when interviewing students is standard practice in investigations. Ms. Smith did not question students; rather, she served as a witness during the interview process and assisted in making students more comfortable.

As part of the investigation, I also collected and considered accounts provided by five (5) staff members either in writing or through in-person interviews: Wilbert Suggs, Director of Employee Relations, assisted in taking notes during those interviews. The Sheriff's Office provided the statements from the victim and the bus driver. I shared all statements and interview notes with Employee Relations. During the investigation, members of your staff expressed consistent concerns with your management of student behavior, particularly with your enforcement of the dress code and the system you put in place for ISS.

Also, as part of my investigation, I reviewed security surveillance video recordings of the student at various times during the day of the incident; Michael Roldenbach, Interim Director of Security, and Mr. Suggs watched these video segments with me. Scenes of concern include the following:

- While monitoring the student in the cafeteria, you stepped into the hallway and the student left the cafeteria through another door.
- The dress the student was wearing, which was the catalyst for the incident, appeared to meet dress code standard, as more than one staff member interviewed had indicated.
- At least one female student was seen in short pants that were obviously in violation of the dress code and within your view, yet you did not address her or direct her to change her clothes.

Regarding your assertion that I erred in "failing to communicate promptly or honestly," you were informed of your being placed on administrative leave with pay via phone on April 24, 2016. On May 2, 2016, at 8:02 a.m., I called to discuss the appointment of an interim administrator at Clark Academy while the investigation continued. You mentioned that you heard already in the community. While it is unfortunate that you learned of this in that manner, I never intended to be dishonest with you.

Prior to talking with you on May 2, 2016, I did meet with the faculty at Clark on April 29, 2016, and then spent that same day with the interim administrator at Clark. Based on our previous conversation, I understood you to be unavailable from sundown on that Friday until sundown on that Sunday. Therefore, I called you first thing on the

morning of Monday, May 2, 2016. A meeting to review the findings of the investigation was held on May 4, 2016. At that time, you were informed that you would remain on administrative leave with pay and that you would not return to Clark Academy during the 2015-2016 school year.

II. Progressive Discipline: Policy GBEBAA

The Failure to adhere to policy GBEBAA (Coker and Postlewait), which requires the superintendent or his/her designee to "establish and communicate appropriate measures for progressive disciplinary actions when employees do not meet supervisory expectations."

Response:

Policy GBEBAA contemplates that, before the disciplinary sanction of termination is imposed, the Superintendent or designee should consider progressive disciplinary actions. In your case, you have not been terminated nor suspended without pay. You were placed on leave for the remainder of the 2015-2016 school year and then reassigned to a teaching position for the 2016-2017 school year. Those measures certainly are less harsh than the alternatives of unpaid suspension or termination. I do not find any failure to adhere to Policy GBEBAA as you assert.

I would also note that documents in your personnel file indicate that you have been previously notified of concerns about your leadership. Specifically, former Associate Superintendent Louis Martin notified you of concerns regarding your handling of a disciplinary issue in a letter dated June 30, 2014. Furthermore, your 2015 Leader Evaluation, which both you and Interim Associate Superintendent Lynda Davis signed on January 25, 2016, reported an overall score of 2.65, which is in the "lower than goal/lower than expected" category.

III. Employee Rights and Responsibility: Policy GBE

The violation of policy GBE (Coker and Postlewait) ensuring due process rights for CCSD employees. Specifically, Coker and Postlewait did not ensure that Halevi was a meaningful participant in the investigation, had the opportunity to respond to the investigation, or had the opportunity appeal the findings of the investigations or the manner in which the investigation was conducted.

Furthermore, the internal report misrepresents key facts about the incident. Jennifer Coker, the administrator conducting the investigation, did not follow district policy by providing the due process that would have found that I followed all District policies and procedures. Instead, she acted unprofessionally by excluding me from the investigation, failing to provide due process, and failing to communicate promptly and honestly about my job status. The Superintendent's acknowledgement that there is no appeal process is further recognition of the denial of due process in this case.

Response:

Because you were not recommended for termination nor assigned to unpaid suspension, the process to which you were entitled under Board Policy GBE was for you to receive notice of the reason that the District was removing you from your position at Clark and for you to have the opportunity to present your side of the story. Both of those requirements were satisfied in your case. I called you on April 22, 2016, during which conversation we discussed the incident involving the student and I asked you for your version of events. You also were given the opportunity to provide a written statement about the April 22, 2016 incident. On April 25, 2016, you were interviewed by Employee Relations, at which time you had a second opportunity to tell your side of the story.

The information provided to you regarding whether you had the right to appeal the results of the investigation or your placement on administrative leave is correct. Board policy does not provide any opportunity for an employee to appeal the findings of a District investigation or to appeal being placed on paid administrative leave.

IV. Employee Ethics/Conflict of Interest: Policy GBEA

The violation of policy GBEA (Chris Collins), which stipulates public employees shall not use or disclose confidential information gained in the course of employment.

Chris Collins, a school board trustee and therefore an agent of the District, violated policy GBEA by disclosing confidential information, further contributing to the denial of due process and prejudicing my position in this case.

Response:

I am unable to respond to this portion of your grievance as it alleges policy violations by a current member of the Charleston County School Board.

V. Additional Allegations:

Finally, during our meeting you asked for clarification on two comments that you were told by other employees as being made by me:

- "The outcome would be worse because of writing an editorial to the *Post and Courier*."
 - "This whole thing is ridiculous."
- While at Clark Academy, I was informed that there were going to be picketers in front of the school because of this incident, and I did say, "This situation is getting ridiculous."

You also asked if the District had written procedures for conducting an investigation and if those procedures were followed. You also referenced concerns about my experience level with investigations. There is no Board policy governing how investigations should be conducted. However, as noted previously, a meeting of senior staff determined how the investigation regarding this matter would be handled. During my ten years as a Principal, I have conducted numerous investigations.

VI. The following are your requested resolutions:

1. CCSD Board of Trustees hear this case in executive session.
2. Public statement acknowledging you acted professionally, properly, and in concert with all CCSD policies and procedures.
3. Employees responsible for failure to conduct a professional investigation including the denial of my due process rights be disciplined up to and including termination.
4. Chris Collins be censured publicly by the Board of Trustees for his actions and for prejudicing my professional reputation.

Response:

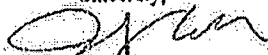
1. Should you decide to move your appeal forward, Michele English-Watson is the next level in the grievance process.
2. Based on the findings of the investigation and my conclusion regarding your grievance assertions, a statement of this nature would not be accurate.
3. The investigation was done appropriately, and there is no evidence that your due process rights were violated. Also, you do not have the authority to request that another employee be disciplined under these circumstances.

Plaintiff 77

4. I am not able to direct this request as it involves the Board of Trustees.

As stated in GBK-R, a copy of which you have been provided, you may appeal my decision to Michele English-Watson, Executive Director of Federal Programs, provided that your appeal is in writing and submitted to Ms. English-Watson within five (5) school days from the date of this letter. If you fail to appeal within the prescribed time period, my decision will be final and you waive all rights to pursue this matter further.

Sincerely,



Jennifer Coker
Director of Alternative Programs

C: Michele English-Watson, Executive Director of Federal Programs
Department of Employee Relations
Personnel File (c/o Krishinda Jenkins)

EXHIBIT L
ENGLISH-WATSON'S RESPONSE TO
PLAINTIFF'S GRIEVANCE

Charleston > excellence is our standard
County SCHOOL DISTRICT

January 26, 2017

Michelle English-Watson
Student Support Services
Executive Director

Gerrita Postlewait, Ed. D.
Superintendent of Schools

Valerie E. Harrison, Ed.D.
Chief Accountability Officer

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Dear Dr. HaLevi:

This letter serves as my response to your grievance appeal, which I heard on January 11, 2017. Also present for our meeting was Yvonne Marshall from the District's Department of Employee Relations. In considering your appeal, I listened carefully as you read your prepared statement and commented on the written decision regarding your grievance that you received from Jennifer Coker. I have also studied Ms. Coker's written response compared to your statements in our meeting.

With regard to the four main areas on which you base your grievance, I find the following:

- I. **Employee Conduct: Policy GBEB.** During our meeting you stated several times that you did not behave inappropriately toward the student on the bus. You said that you did not approach the student on the bus to ask her to return the loaned pants, but that you merely told her that you wanted to talk with her in your office about a possible suspension. However, after reviewing Ms. Coker's response and taking into consideration the fact that you did not previously defend your actions by asserting that you did not ask the student for the pants, I support the result of the District's investigation that your management of the dress code situation was inappropriate.
- II. **Employee Rights and Responsibilities: Policy GBE.** During our meeting, you contended that the investigation conducted was flawed and unprofessional. Among several things, you asserted that due process was not followed and that you were never provided an opportunity to respond. I disagree with that assertion. You provided a written statement of the incident, and you also spoke in person with Employee Relations to share your version of the incident. You were also given the opportunity to discuss the incident during a conversation with me on May 4, 2016.

In our meeting, you also addressed being removed from your position as Program Director without notice and without being provided a right to appeal. The decision to place you on administrative

75 Calhoun Street, Charleston, SC 29401 • Telephone: (843) 937-6519 • Fax: (843) 402-7883 • www.ccsd.k12.sc.us

leave with pay is a standard practice when an investigation is being conducted; however, the District's responsibility to our students is to ensure that the program continues to operate seamlessly during an investigation. To that end, it was my decision, with consultation from my supervisor and Employee Relations, to transfer another certified administrator to oversee the Clark Program.

You were neither terminated from the District nor suspended without pay. Once the investigation was completed and the decision was made to transfer you to another position within the District, you were notified of this decision. There is no appeal of a transfer.

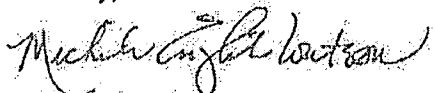
You did mention that Ms. Coker was overheard saying that the outcome would be worse because of your editorial. Mrs. Coker addressed this allegation in her response, and with no further evidence, I am unable to respond to your contention that the statement was made.

- III. You stated that you were removed from your position because of matters unrelated to the incident, ie, student management issues. However, the District's investigation into the bus incident further revealed that there were systemic discipline issues under your leadership. In reaching a resolution and making decisions about employee assignments, the District may consider all available information.
- IV. Employee Ethics/Conflict of Interest: Policy GBEA. During the meeting, you stated that a statement made by a District Trustee violated this policy and that the Trustee needs to be reprimanded or removed. Please be advised that it is not within my authority to take any action regarding an elected official.

Based on the reasons set forth above, I agree with Ms. Coker's decision regarding your grievance.

If you wish to appeal your grievance to the next level, at the time of this incident, my supervisor was Dr. Valerie Harrison. In accordance with Policy GBK-R, a copy of which you have previously received, you must make your appeal in writing within five (5) school days from the date of this letter. If you fail to appeal within the prescribed time period, I will assume you have accepted my response as final, and you will have waived all rights to pursue this matter further.

Sincerely,



Michele English-Watson
Executive Director of Student Support Services

C: Jennifer Coker
Valerie Harrison, Ed.D.
Department of Employee Relations
Personnel File (c/o Krishinda Jenkins)

25 Calhoun Street • Charleston, SC 29401 • Telephone: (843) 937-6519 • Fax: (843) 707-7893 • www.ccsd.schools.com

EXHIBIT M
HARRISON'S RESPONSE TO
PLAINTIFF'S GRIEVANCE

Charleston > excellence is our standard
County SCHOOL DISTRICT

March 2, 2017

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Dear Dr. HaLevi:

This letter serves as my response to your grievance appeal, which I heard on February 15, 2017.

Chief Accountability Office

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Valerie E. Harrison, Ed.D.
Interim Chief Accountability Officer

In considering your appeal, I listened carefully as you read your prepared statement, examined the written documents you provided and reviewed the written decisions from Jennifer Coker and Michele English-Watson.

With regard to the basis of your grievance, I find the following:

- Although your conduct with the student was not unprofessional, I support the results of the district's investigation that your management of the incident was inappropriate. Additionally, I would like to note that after reviewing pictures of the student as she was dressed on April 22, 2016, I question if there was actually a dress code violation at all in this case.
- You asserted that the Investigative Report contained information that was demonstratively false. Although you pointed out several textual examples that you may have interpreted differently, I do not see clear evidence of false information.
- You contended that the investigation conducted was flawed and unprofessional. You further stated that you were denied due process; however, you were given the opportunity to discuss the incident in detail with both Employee Relations and Michele English-Watson.
- You stated that you were without a District assignment for 3 months. After the incident at Clark Academy, you were placed on administrative leave with pay, a standard practice when an investigation is being conducted. During the month of June 2016, Ms. English-Watson assigned you the responsibility of working on the PACE budget. On July 26, 2016, you met with Ms. Nichols and Ms. English-Watson to discuss your employment role with the District. You were offered a teaching position at Stall High School, which you later accepted.
- During our meeting, you introduced new information that you did not include in your appeals to Ms. Coker or Ms. English-Watson. You questioned Ms. Nichols' asking you about the computer and separate bank account at Clark. Please be advised that it is common practice for administrators to inquire about the location

Andrew HaLevi, Ph.D.

Page 2

March 2, 2017

of equipment and operational practices any time that an administrative transition is in process.

- You stated that you were advised that there was no formal avenue for appeal regarding your work assignment. Please be advised that the District has the right to reassign staff at any time and, further, that you are not legally entitled to an administrative position from year to year, but only to a 190 day teaching contract.
- During our meeting you provided me a copy of an article from "The Chronicle" newspaper of a statement made from one of the board members regarding the Incident. You assert that this information violated Board Policy and that the Trustee needs to be reprimanded or removed. Please be advised that it is not within my authority to address this matter.

After hearing your statements and reviewing all documentation, I affirm the decision of the District to transfer you from Clark Academy.

As stated in Policy GBK-R, you may appeal my decision to the Superintendent of Schools, Dr. Gerrita Postlewait, provided your appeal is in writing and submitted to Dr. Postlewait within five (5) school days from the date of this letter. If you fail to appeal within the prescribed time, my decision will be final and you waive all rights to pursue this matter further.

Sincerely,

Valerie Evans Harrison
Valerie Evans Harrison, Ed.D
Interim Chief Academic Officer

C: Michele English- Watson
Jennifer Coker
Department of Employee Relations
Personnel File (c/o Krishinda Jenkins)

EXHIBIT N
POSTLEWAIT'S RESPONSE TO
PLAINTIFF'S GRIEVANCE

Charleston excellence is our standard County SCHOOL DISTRICT

May 11, 2017

Andrew HaLevi, Ph.D.
7 Wesson Avenue
Charleston, SC 29403

Gerrita Postlewait, Ed.D.
Superintendent of Schools

Dear Dr. HaLevi:

I am writing to follow up your grievance conference with me on April 20, 2017.

Board of Trustees

Kate Darby, Chair
245 Indigo Bay Circle
Mt. Pleasant, SC 29464

Rev. Dr. Eric Mack, Vice Chair
P.O. Box 33
Wadmalaw Island, SC 29407

Cindy Bohn Coats
4458 South Rhett Avenue
North Charleston, SC 29405

Rev. Chris Collins
75 Calhoun Street
Charleston, SC 29401

Todd P. Garrett
338 President Street
Charleston, SC 29403

Kevin Hollinshead
3783 Meeting Street
North Charleston, SC 29405

Priscilla Jeffery
75 Calhoun Street
Charleston, SC 29401

Michael Miller
75 Calhoun Street
Charleston, SC 29401

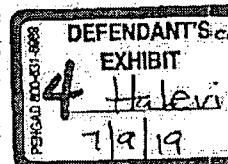
Chris Staubes
126 Seven Farms Drive, Suite 200
Charleston, SC 29492

You originally filed your grievance on August 29, 2016, and it has been reviewed and responded to by other District administrators at levels before that of the Superintendent. In your meeting with me, you stated that you believe District employees violated District policies in their investigation of your conduct in connection with the April 22, 2016, incident with a student at the Clark Academy, and you stated that the investigative report dated April 29, 2016, was inaccurate. The investigative report was based on a number of statements that members of the administration took in connection with the incident and included references to a written statement from you and a meeting with you.

I have now had an opportunity to review all documentation regarding the matter, including the summary of concerns you stated during our conference and the documents you provided. Based on all information I reviewed, I believe the heart of the matter is whether you exercised good judgment in your handling of the April 22, 2016, incident involving a female student in connection with a dress code matter. For the reasons stated below, I do not believe you exercised good judgment in your management of the matter. I have included below excerpts from two of your statements regarding the incident.

In a statement you provided on or about April 22, 2016, regarding the incident, you stated, in part, as follows:

Before dismissal, I asked the staff over the radio whether [student] had returned the pants as requested. I was told no, so I stationed myself outside the buses to remind her to do so. I never saw her leave the building or board the bus, but I was told over the radio that she was on bus 808. I then boarded bus 808 to ask for the pants. Standing next to the bus driver at the front of the bus, I spotted [student] in the last row of the bus. I told her that I needed the pants before allowing the bus to proceed. Students started yelling at me to let the bus go. Some students were yelling that they would be late to work and other students were just yelling to leave [student] alone. I repeated that the bus would depart as soon as I got the pants. From the front of the bus I could see that [student] had a blue top on and I assumed it was the same blue shirt dress that she came to school with and that I saw her wearing all day. The bus driver told me that she would get the pants and bring them to school on Monday, but I told the driver that [student] needed to return the pants as she was wearing the same thing that she came to school in. After approximately 5 minutes, [student] took off the pants at the back of the bus and threw them up a few rows. I moved down the center row of the bus and collected the pants. As I was walking off the bus, [student] opened the window,



Charleston > excellence is our standard
County SCHOOL DISTRICT

cursed repeatedly, saying that she was now in her panties. I immediately stopped the bus from driving off to ask what she was talking about – that she was wearing the same blue shirt dress that she had when she came to school. The bus driver then told me that in fact, she was wearing a different blue top and that after taking off the pants, she was now wearing only panties. I immediately handed the pants to the driver and asked her to go back to give it to her. [Student] said that she would not put them on and that she would just wear her panties. I said absolutely not – that the bus would not leave until she had pants on. She put them on and walked off the bus (pushing me), calling her mother.

In your letter to me dated May 9, 2016, you stated the following with respect to the dress code incident and took issue with information from the investigative report that appears to have been included in the May 3, 2016, letter presented to you by Michele English-Watson, then Executive Director of Federal Programs:

Concerning the failure to manage a dress code issue appropriately, the letter from the investigative committee includes numerous factual errors and omissions of facts. The committee reports that I “held her bus and insisted she return the pants on the spot.” This is more than misleading; it is false. Instead, I boarded the bus and asked the student to return the pants. I held the bus a) to clarify the student’s position and b) because of the chaotic situation on the bus that began before I boarded. Demanding that the student “return the pants on the spot” was never said, implied, or expected. The investigative committee’s letter seems to suggest that I should not have boarded the bus to request the return of school property – property which the student agreed to return at the end of the day when she borrowed the pants. According to the committee, simply asking for the pants was unreasonable.

Your May 9 letter characterizes the following statement as false: that you “held her bus and insisted she return the pants on the spot.” However, in both of your statements that were provided shortly after the incident, you stated in your own words that you boarded to bus to ask for the pants and told the student that you needed the pants before allowing the bus to proceed. You further stated that when students were yelling they would be late to work, you stated that the bus would depart as soon as you got the pants. Therefore, the statement from the investigative committee is true by your own words.

Based on my review of your statements, I believe you exercised poor judgment in your handling of the matter; at a minimum, in your decision to board the bus and engage in your course of conduct. The statements obtained by the administration from others during the investigation suggest additional concerns with your addressing the student’s conduct on that date. I believe that your poor judgment in handling the matter involving the student has impaired your ability to be effective in your former position as Associate Principal of Clark Academy. I agree with the administration’s findings in response to your grievance that the investigative report does not set forth findings that you engaged in aggressive behavior and that there is no reason to believe your actions were of criminal intent. However, that does not change the fact that you used poor judgment in your handling of the matter on April 22.

You stated that you were not provided with due process in connection with the administration’s investigation of the April 22, 2016, incident. You provided a written statement around the time of the incident. You met with Employee Relations staff members Wilbert Suggs and Beverly Varnado on April 25 regarding the matter. In your letter to me

Charleston > excellence is our standard
 County SCHOOL DISTRICT

dated May 9, 2016, you provided your full response to what you referred to as errors in the investigative report. For these reasons, I believe you have been made fully aware of the administration's concerns with your April 22 conduct and have been provided with a full opportunity to respond to the concerns with your handling of the April 22, 2016, incident. I will ask the administration to ensure that your May 9 letter that outlines your disputes with certain facts in the investigative report is included in your personnel file to reflect your response to the report.

You later wrote in a July 22, 2016, e-mail to me the following with respect to the April 22 incident:

On Friday, April 22, I boarded a school bus at dismissal to ask a student to return pants she borrowed from the school earlier that day and had agreed to return before leaving school. I asked the student to step off the bus in order to remind her of her commitment to return the pants and avoid an unnecessary out of school suspension. With the student sitting in the back of the bus, I did not physically approach the student, become confrontational, or issue ultimatums. I only stepped to the top of the bus stairs and never moved from my position next to the bus driver. I was never closer to the student than the length of the bus. That the student chose to ignore my request to step off the bus or to communicate why she could not return the pants she borrowed is unfortunate and difficult to understand. But in my 20+ years of experience working with challenging students, I have learned that sometimes students make bad decisions, and they do so without considering the consequences.

However, your statement above appears to conflict with the two earlier statements you provided.

You have taken issue with the fact that the letter you received from Ms. English-Watson dated May 3, 2016, referenced additional concerns with your performance regarding your handling of a contract issuance matter and your failure to demonstrate sound leadership skills. I do not believe these additional matters needed to be referenced in the May 3, 2016 letter to you, since your conduct in connection with the April 22, 2016 incident was of sufficient concern to warrant your reassignment. Although I believe you have since responded to the additional performance concerns raised in the May 3, 2016, letter, in your May 9, 2016, letter to me, please allow my response to you now to confirm that the decision to reassign you from your position as Associate Principal of Clark Academy to a teaching position was based on concerns with your overall judgment in handling the April 22, 2016 matter with a student. I do not consider the additional concerns referenced in the May 3, 2016, letter as forming the basis for your reassignment.

You have raised concerns with the timing of when you were notified of your new assignment and that you would not be returning as Associate Principal of Clark Academy. I understand you were advised by telephone on April 24, 2016, by Jennifer Coker that you were being placed on administrative leave, with full pay, effective immediately. I understand you were contacted on May 2, 2016, by Ms. Coker to discuss the appointment of an interim administrator at Clark. You were further advised by letter dated May 3, 2016, from Ms. English-Watson that you would remain on administrative leave, with pay, and that you would have no other administrative activity in connection with Clark Academy. Additionally, your assignment to an English teaching position at Stall High School for the 2016-17 school year was confirmed with you in a meeting with Terri Nichols and in writing by letter dated July 28, 2016. I regret that you believe you were miscommunicated with or

Charleston > excellence is our standard
County SCHOOL DISTRICT

not informed of these matters in a timely manner, but I do not believe any delay, to the extent it occurred, was intentional as these matters are often complicated.

You have stated that the administration did not handle its response to your conduct in connection with the April 22, 2016, dress code incident with the student in the same manner as how student dress code incidents have been handled at other schools. The administration's response to each such matter is based on the specific facts. The administration recognizes that you were dealing with a difficult student on April 22, 2016, who exhibited behavior issues in connection with your addressing a dress code issue. Although the administration had concerns with the student's conduct, the administration also had concerns with your conduct in how you handled the matter. For these reasons, I view your incident differently than those you referenced.

In summary, I support the administration's decision to place you on administrative leave, with pay, as a result of the poor judgment you exhibited in handling the April 22, 2016, incident regarding a student dress code issue. I further support the decision to reassign you to a teaching position for the 2016-17 school year. However, I base my reassignment decision on my concerns with your judgment in handling the April 22, 2016, incident with the student and my determination that your conduct has impaired your ability to be effective in your former position as the administrator of Clark Academy. My decision is not based on additional issues referenced in Ms. English-Watson's letter to you dated May 3, 2016. I further find that you received due process and that the administration has not violated Board policies in connection with their investigation and handling of the matter.

I trust I have resolved your concerns with the matter. If you have questions or need clarification, please let me know. If you wish to appeal my decision to the Board, consistent with Board Policies GBK and CFC, you may submit an appeal in writing to my attention within five calendar days of receipt of this letter.

Sincerely,



Gerrita Postlewait
Superintendent of Schools

C: Personnel File

EXHIBIT O
MINUTES OF CCSD BOARD OF
TRUSTEES MEETING

Charleston Excellence Without Standards
County SCHOOL DISTRICT

CCSD BOARD OF TRUSTEES

Board Meeting

June 26, 2017

75 Calhoun St., Charleston, SC 29401

Minutes

A meeting of the Charleston County School District Board of Trustees was held on Monday, June 26, 2017, in the board room at 75 Calhoun Street.

The following CCSD board members were present: Mrs. Kate Darby – Chair, Mrs. Cindy Bohn Coats, Rev. Chris Collins, Mr. Todd Garrett, Mr. Kevin Hollinshead, Mrs. Priscilla Jeffery, Mr. Michael Miller, Mr. Chris Staubes, and Dr. Gerrita Postlewait, Superintendent of Schools and Executive Secretary. Rev. Eric Mack – Vice Chair, participated by phone.

The following staff members were present: Mr. Jeff Borowy, Mr. Bill Briggman, Mr. John Cobb, Dr. Kevin Eakes, Mr. John Emerson, Mrs. Michele English-Watson, Dr. Valerie Harrison, Mrs. Terri Nichols, Mr. Glenn Stiegman, Mrs. Erica Taylor, Dr. Joseph Williams, and Mr. Kim Wilson.

The news media was duly notified of the meeting and representatives were present.

Mrs. Darby called the meeting to order at 3:39 p.m. Then, Mr. Hollinshead moved, seconded by Mr. Staubes to convene in Executive Session to discuss the agenda items listed below.

EXECUTIVE SESSION

3:30 p.m.

- I. 1.1 Personnel Matters
 - Employee Grievance
 - Budget-Related Matters
- 1.2 Legal Updates
 - Property Disposition
- 1.3 Contractual Matters
 - Vendor Contract

OPEN SESSION

Immediately following Executive Session
Approximately 5:15 p.m.

- II. Call to Order
Mrs. Darby called the June 26, 2017 meeting to order at 5:39 p.m., followed by the Pledge of Allegiance.
- III. Adoption of Agenda/Approval of Consent Agenda Items
Mr. Garrett moved, seconded by Mr. Staubes, to adopt the June 26, 2017 agenda and approve the Consent Agenda Items. The vote was 9-0.

Mr. Miller moved, seconded by Rev. Collins to pull agenda item 9.2D – Revised HR Policy and send it back to the Policy & Personnel Committee Meeting. The motion failed. 6-3 (Coats, Darby, Garrett, Jeffery, Mack and Staubes opposed).
- IV. Approval of the Minutes

4.1 A. Open Session Minutes – May 22, 2017

Mrs. Coats moved, seconded by Mr. Garrett, to approve the May 22, 2017 minutes and financial impact statement. The vote was 9-0.

B. Open Session Minutes – Special Called Meeting: June 1, 2017

Mrs. Coats moved, seconded by Mr. Garrett, to approve the June 1, 2017 minutes and financial impact statement. The vote was 9-0.

V. APPROVAL OF EXECUTIVE SESSION ITEMS**5.1 A. June 12, 2017 - Executive Session**

- **Hearing Officers**

Mrs. Coats moved, seconded by Mr. Garrett, to approve the list of hearing officers presented by staff. The vote was 5-4 (Collins, Hollinshead, Jeffery, and Miller opposed).

After concerns were heard from board members that supported or opposed the use of hearing officers, it was determined that the legislative decision by legislators to only use mediators limited the number of applicants. Mrs. Darby suggested sending a letter to the Delegation to express concerns about additional requirement of mediators.

- **Student Transfer Appeals**

Mrs. Darby moved, seconded by Mrs. Coats, to uphold the constituent board's decision on all four student transfer appeals. The vote was 8-1 (Rev. Collins opposed).

B. June 26, 2017 – Executive Session

- **Vendor Contract**

No action was taken.

- **Employee Grievance**

Mrs. Coats moved, seconded by Mr. Miller, to uphold the superintendent's decision. The vote was 9-0.

VI. Special Recognitions**6.1 A. 2017 SC Exemplary School Resource Officers Award****B. State Resolution – CCSD Principal – Mrs. Jane Davis****VII. Superintendent's Report – Dr. Gerrita Postlewait – Superintendent of Schools****7.1 A. Superintendent's Report**

- **2017-18 Highlights and Accomplishments**

- CCSD staff members were recognized for the hard work
- Grant for Burke, Simons Plinckney and Sanders Clyde
- Early College High School
- Focus on Work Keys
- Expanded CTE Offerings
- Expansion of G/T programs
- High Achievers
- District, School and Student Dashboards
- Top Talent Schools
- Use of Data
- Realignment of Programs
- Training and certification of literacy coaches
- Acceptable progress rubric
- National Networks focus
- Strategic Plan
- Increased Communications
- Safe, Supporting Learning
- PBIS/MTSS, Capturing Kids' Hearts

IX. COMMITTEE REPORT(S)**Strategic Education Committee**

- 9.1 **A. School Enhancement Program & Professional Development Update – Kevin Eakes & Emille Woody**
Information

Policy & Personnel Committee

- 9.2 **A. Policy XXXX – Board Member Procurement Cards (P-Cards)**
NO MOTION was offered.

B. Policy JE – Compulsory Attendance

Mrs. Coats moved, seconded by Mr. Garrett, to approve the first reading of revised Policy JE with amendment shown below. The vote was 9-0.

- Rev. Collins asked why the word "expected" was used in relation to truancy. Ms. Coker said the word could be changed. Mrs. Coats suggested the words "required to develop a truancy team" and "must follow" be used.

C. Policy JH – Student Absences and Excuses

Mr. Garrett moved, seconded by Ms. Coats to approve the first reading of revised Policy JH. The vote was 9-0.

D. Revised Human Resources (G) Policies (Second Reading) – GBE, GBEBB, GC, and GCG

Mr. Garrett moved, seconded by Mr. Hollinshead, to approve the second reading of the proposed revisions to the attached Human Resources (G) policies listed above. The vote was 9-0.

Rev. Collins suggested the policy be sent back to the Policy & Personnel Committee to allow staff additional time to provide information about recruitment. He spoke about African Americans that are not able to get an interview. He requested more information in the policy about recruitment. Mr. Hollinshead agreed and said although they both support the policy they want information about recruitment. He spoke about two state recognized teachers that could not get interviews.

E. Policy IKE – Promotion, Retention and Acceleration of Students

Mr. Miller moved, seconded by Mr. Garrett, to approve the second reading of Policy IKE. The vote was 9-0.

Mr. Emerson read the regulations. Rev. Collins said he wanted the appeal to follow the chain of command process. Dr. Harrison said it was a model policy from SCSBA. Also she said the regulations would outline the appeals process.

Operations Committee

- 9.3 **A. District 3 Bus Lot**

Mrs. Coats moved, seconded by Mr. Garrett, to approve the District 3 bus lot at the Gresham Meggett location, with plans to solicit bids immediately and start the project within a month. The vote was 7-2 (Collins and Miller opposed).

In response to the motion approved to utilize the Gresham Meggett site, staff said that option could possibly take up to one year to complete they would have to get permits, and do other things beforehand before the lot is constructed.

Audit & Finance Committee

- 9.4 **A. Head Start/Early Head Start 2017-18 Funding Application**

Mr. Garrett moved, seconded by Mr. Miller, to approve the Head Start/Early Head Start 2017-2018 Amended Funding Application; assuming a 1% COLA. The vote was 9-0.

CONSENT AGENDA ITEMS

Note: The items listed below were approved during the Adoption of the Agenda/Approval of Consent Agenda Items. The vote was 9-0.

- X. 10.1 A. Policy FF – Naming of Facilities – St. James-Santee School Name**
The board approved a recommendation to rename St. James Santee Elementary School.
- B. Health Advisory Committee Vacancies**
The board approved advertising of vacant HAC positions.
- C. Policy IKA – Grading/Assessment Systems**
The board approved the first reading of the revised Policy IKA.
- D. Policy GBEED – Acceptable Use of Technology**
The board approved the proposed amendment first reading of Policy GBEED. To address the requirements of the Children's Online Privacy Protection Act.
- E. Fixed Cost Ownership (FCO) - FY18 Software Reallocation**
The board approved the FCO FY18 Software Reallocation as shown on the attached resolution.
- F. Capital Maintenance Reallocation (2017-2022 Capital Program Phase IV-Sales Tax)**
The board approved the reallocation of funds in the amount of \$496,560 as shown on attached.

NEW BUSINESS ITEMS

- XI. 11.1 A. Policy BID – Board Member Compensation – Hollinshead, Collins, Mack and Staubes**
Mr. Hollinshead moved, seconded by Rev. Collins, to approve a recommendation to amend Policy BID, effective June 1, 2017. The vote was 5-4 (Darby and Garrett opposed, Coats and Jeffery abstained).
- Mr. Hollinshead suggested all board members make public if they wish to receive the compensation of per diem funds up front. Rev. Collins said some individuals that voted against it may ask to receive the funds after it is approved. Mrs. Coats said it was unfair to ask this question before second reading. However, Mrs. Coats said there is a board policy that the board stipend be published annually in August.
- Mr. Staubes said this is not about the 9 County Board members but also about the Constituent Board members. It is not for him personally and he doesn't mind if it starts with the new board.
- Mrs. Darby spoke about the 1/9th amount per board member for even distribution.
- Mrs. Coats said the cost was approximately \$400,000. Then she asked where the funds would come from. Rev. Collins said funds given to non-profit organizations could be used.
- Mrs. Darby suggested the recommendation go through the Committee, funds be identified, and that it be effective with the next board; not the current one.

Other Agenda Items

- XII. 12.1 Upcoming Meetings**
7/17/17 – Committee of the Whole Meeting
7/17/17 – July Board Meeting
- XIII. Adjournment**
Mr. Garrett moved, seconded by Mr. Staubes, to adjourn the meeting at 7:49 p.m. The motion was approved by consensus.

CHARLESTON COUNTY SCHOOL DISTRICT
Financial Attachments to Board Meeting Minutes for June 26, 2017

Item	Description	Impact on FY17	Impact on Future FY	Funding Source	Notes				
IX.9.3.A.	Board approved the Gresham Meggett location as the site for a District 3 bus lot.		\$ 3,300,000.00	Capital	Construction packages will go out for bid. Planned to start within a month.				
IX.9.4.A.	Board approved the Head Start/Early Head Start 2017-2018 Amended Funding Application; assuming a 1% COLA			Head Start/Early Head Start					
X.10.1.E.	Board approved Fixed Cost Ownership (FCO) - FY18 Software Reallocation.			FCO	Project #	Project	Approved Budget	Proposed Changes	Revised Budget
					5715	IT Software - IREADY	\$798,933	(\$408,000)	\$388,933
					5715	IT Software - Lexia Learning Core 6	0	408,000	408,000
							\$798,933	\$0	\$798,933
X.10.1.F.	Board approved the reallocation of Capital Maintenance Funds - 2017-2022 Capital Program (Phase IV)			Capital	Project #	Project	Approved Budget	Proposed Changes	Revised Budget
					5270	St. James-Santee (HVAC)	\$3,329,800	(\$496,560)	\$2,833,240
					5282	Deer Park (Fire Protection)	360,000	35,000	395,000
					5282	St. Andrews MS (Fire Protection)	369,200	140,000	509,200
					5282	Military Magnet (Fire Protection)	0	50,000	50,000
					5282	Corcoran (Fire Protection)	0	40,000	40,000
					5278	Hunley Park (Painting)	115,110	110,000	225,110
					5275	Mt. Zion (Electrical)	3,647	19,560	23,207
					5279	Lambs (Doors & Hardware)	0	42,000	42,000
					5279	James B. Edwards (Doors & Hardware)	0	60,000	60,000
							\$4,177,757	\$0	4,177,757

EXHIBIT P
LETTER FROM CCSD BOARD CHAIR

Charleston > excellence is our standard
County SCHOOL DISTRICT

Gerrita Postlewait, Ed.D.
Superintendent of Schools

June 29, 2017

Board of Trustees

Kate Darby, Chair
245 Indigo Bay Circle
Mt. Pleasant, SC 29464

Dr. Andrew HaLevi
7 Wesson Avenue
Charleston, SC 29403

RE: Grievance Appeal

Rev. Dr. Eric Mack, Vice Chair
P.O. Box 33
Wadmalaw Island, SC 29487

Dear Dr. HaLevi:

Cindy Bohn Coats
4458 South Rhett Avenue
North Charleston, SC 29405

I am writing to advise you that at its meeting on June 26, 2017, the Board reviewed and considered your appeal from the decision of Dr. Postlewait to deny your grievance.

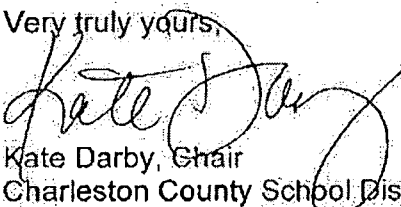
Rev. Chris Collins
75 Calhoun Street
Charleston, SC 29401

After careful consideration of your request and of the materials presented, the board voted to decline your request for a hearing and to uphold the decision of the superintendent.

Todd P. Garrett
338 President Street
Charleston, SC 29403

Very truly yours,

Kevin Hollinshead
3783 Meeting Street
North Charleston, SC 29405

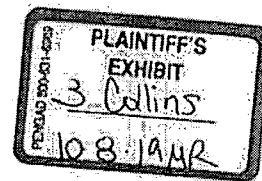

Kate Darby, Chair
Charleston County School District Board of Trustees

Priscilla Jeffery
75 Calhoun Street
Charleston, SC 29401

Michael Miller
75 Calhoun Street
Charleston, SC 29401

Chris Staubes
126 Seven Farms Drive, Suite 200
Charleston, SC 29492

EXHIBIT Q
HALEVI LETTER "REPORT FULL
CONTEXT OF CLARK STORY,"
MAY 4, 2016



Report full context of Clark story

For the past eight years, I have served as program director of Septima P. Clark Academy, the Charleston County School District's alternative program for students who are overage and at risk of dropping out of high school. Although not designed specifically for students with disciplinary issues, many students at Clark exhibit a range of behaviors that inhibit their academic success. On any given day, students come to Clark tired, hungry, angry and frightened — sometimes alarmingly so. Yet all of our students are welcomed and none are turned away.

The fact that some students come to Clark unprepared to be successful is a challenge that our faculty and staff embraces. We talk with them, communicate with family members, provide food if they are hungry, clothes when needed and quiet spaces when appropriate.

We support, we encourage and we hold our students and ourselves accountable for those things that are in our control. We are not always successful. Some students confound our best efforts to help them — they come to school irregularly, refuse to participate meaningfully, ignore basic rules or disappear altogether. We are keenly aware that each student we fail to reach is a tragedy for the entire Charleston community.

Sadly, The Post and Courier contributes to the challenges educators face by failing to follow basic principles of journalism when covering complex issues at Charleston area schools.

As the target of two recent articles covering a disciplinary incident at Clark, I implore the paper's reporters and editors to apply the following standards when reporting on these matters:

1) State clearly, early in the article, that edu-

cators are prohibited by law from commenting on ongoing disciplinary issues. Doing so will help the readers understand that they are reading only one side of a story.

2) State clearly where the information for a story comes from, and where it does not come from. In the recent articles involving Clark, the information in the articles came directly or indirectly from statements made by the family of the student involved. There were no statements from witnesses or anyone outside of the family to corroborate or contradict the student's complaint. The paper is obligated to make clear that the article conveys only one side of events without input from the administrator involved.

3) Provide context. Journalism involves more than the regurgitation of a press release. It should involve background that helps the reader make an independent judgment.

4) Use judgment about where the article appears. Placing an article about a singular, uncorroborated disciplinary incident on the front page is sensationalism, not journalism.

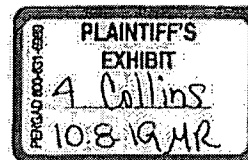
As a school administrator, I am not sure why I have to point out these basic principles to a newspaper that recently won a Pulitzer Prize. But as the victim of recent incomplete and misleading articles, I want to make sure that other educators do not suffer the same fate as I.

Adopting the principles above when reporting on disciplinary cases in school settings might save others' reputations from being irresponsibly tarnished, and will go a long way to better serving the public.

ANDREW HALEVI, Ph.D.
Wesson Avenue
Charleston

May 4, 2016

EXHIBIT R
ARTICLE FROM THE CHRONICLE,
MAY 4, 2016



[The Chronicle, 5/4/16: "Local Principal Likely to be Reassigned after Demanding Student Take off her Pants"]

By Barney Blakeney

A Charleston County school administrator should be fired, but most likely won't be, said county school board member Rev. Chris Collins.

Septima P. Clark Academy Principal Andrew HaLevi has been on paid leave since the April 22 incident during which he demanded a female student return school issued sweat pants leaving the girl to wear only her panties and a shirt on the bus ride home from school.

The incident began earlier in the day when HaLevi gave the girl the pants to wear because he said her skirt was too short. At the end of the school day, HaLevi halted all bus departures until the pants were retrieved.

According to an incident report filed by the police resource officer at the alternative school for at-risk students, HaLevi went on the bus the girl was riding and came back with the pants. The girl leaned out a window crying and screaming that another student had her dress and that HaLevi was forcing her to ride home wearing only a shirt and panties.

HaLevi was placed on administrative leave the following Monday, but he should have been arrested when the incident occurred and then fired, Collins said this week.

Police and the local solicitor's office agreed no criminal charges would be filed against HaLevi, but some in the community called for his termination. The 16-year-old student's mother said she also wants to see HaLevi suffer more grave consequences.

Collins said CCSD administrators have indicated HaLevi won't be fired, but most likely will be moved to another position in the district.

"HaLevi should have known whether the child was wearing a dress though he said he never went to the back of the bus where she was sitting. But that's irrelevant. He should not have demanded she take off the pants while on the bus. You don't embarrass a child or cause her to be exposed in front of the other students. That's unacceptable. I think he just got mad and demanded the pants back," Collins said.

In the absence of surveillance video, district administrators are contending HaLevi used poor judgement, but did nothing to warrant termination, Collins said. Speculating about the administrative recommendation that should come to the board later this week, Collins said HaLevi most likely will be reassigned. "I think he should be fired, but I don't think there is board support to do that," Collins said.

EXHIBIT S
CONTRACT FOR CERTIFIED
ADMINISTRATOR

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Charleston Excellence is our standard
County SCHOOL DISTRICT

SOUTH CAROLINA PUBLIC SCHOOLS

CONTRACT FOR CERTIFIED ADMINISTRATOR

This agreement is entered into by and between the Board of Trustees of the Charleston County School District, hereafter referred to as the Employer, and the Employee, as indicated below:

EMPLOYEE: Andrew Halevi

WITNESSETH:

The Employee possesses credentials and qualifications as set forth in the appropriate district job description for the named position or otherwise made part of this contract. Failure to maintain such prerequisite qualifications during the contractual period shall constitute grounds to terminate this contract. Subject to any conditions set forth in the Special Conditions section below, the Employee agrees to discharge faithfully all the duties required of said position for the 2016-2017 fiscal year by the Charleston County School District job description and/or additional, reasonable and related duties assigned by his/her immediate supervisor. It is further agreed that such employment is subject to S. C. State Laws; to the administrative rules and regulations, which have the effect of law; and to the conditions contained in the policies and procedures of the Charleston County School District.

The District's administrative assignments are discretionary with the Superintendent. In the event of any change in the District's organizational chart, reduction in force, or whenever it is deemed in the best interest of the District, the Superintendent may reassign, upon notice to and consultation with the affected employee, consistent with S.C. Code Ann. 59-24-15 (Supp. 1999).

In consideration of this agreement, salary shall be paid in accordance with the approved administrative salary schedule of the Charleston County School District.

This contract is void unless the Employee signs and returns this contract, which must be received by the Superintendent, Associate Superintendent or Division Head issuing the contract on or before April 25, 2016.

POSITION: Assistant Principal

FTE: 1.0

GROUP/DAYS: Certified Admin 240 Days

LOCATION: 0359/Septima P. Clark Academy

SPECIAL CONDITIONS:

In the event the District has a loss or reduction in any amount of anticipated or appropriated state, federal or local funding, the District retains the right to adjust the number of days in the contract. Since this position depends on the availability of funding, in the event the District has a loss or reduction in any amount of anticipated or appropriated state, federal or local funding the Employee agrees to abide by the provisions of Board Policy GCQB, Reduction-in-Force. In the event District has a loss or reduction in any amount of anticipated or appropriated state, federal or local funding the District may, at its discretion, reduce hours, or working days, by furlough or other means, or otherwise adjust the terms of employment as necessary, and as permitted by law.

Signature of Employee

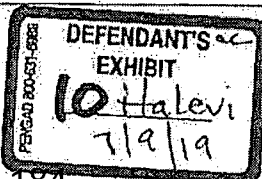
Date

The foregoing contract is approved and the terms therein contained, including any conditions or contingencies as hereafter set forth, are accepted.

County Superintendent (for the)
Board of Trustees of Charleston County School District

4/15/16

Date



FOR HR USE ONLY 157150

EXCERPTS OF
ANDREW HALEVI DEPOSITION

7/9/2019

ANDREW HALEVI

1 observe, but --

2 Q. Right.

3 A. -- they would consider me as well Orthodox and I
4 certainly consider them Orthodox, but we have
5 different traditional observances.

6 Q. Okay. Okay. Now, forgive the nature of these
7 questions.

8 A. Uh-huh.

9 Q. They're standard for -- for most litigants. I
10 presume I know the answers. Have you ever been
11 arrested?

12 A. No.

13 Q. Okay. Have -- because you haven't been arrested, I
14 presume you've never been convicted of a crime?

15 A. Never convicted or arrested.

16 Q. Okay. Is this the first lawsuit you've ever been
17 involved in?

18 A. Yes.

19 Q. Okay. I know that you're being sued individually in
20 another -- in a -- in a -- in a related lawsuit. Is
21 that the first time you've ever been sued?

22 A. Yes.

23 Q. Okay. Now, in your work I the Jerusalem School for
24 the Arts, is there a -- is that the first time.
25 Strike that. Is the first time you ever worked at

7/9/2019

ANDREW HALEVI

1 Jerusalem School for the Arts was in 2017?

2 A. Yes.

3 Q. Okay. Are you paid in U.S. dollars or?

4 A. No.

5 Q. Okay.

6 A. Israeli shekels.

7 Q. Okay. Is that suitable to you?

8 A. Getting paid in Israeli shekels?

9 Q. Yes.

10 A. It certainly makes life more complicated with having
11 two currencies, but it is --

12 Q. Right.

13 A. -- that's -- that's -- everybody in Israel gets paid
14 in shekels.

15 Q. Do you pay taxes both to the State of Israel and to
16 the United States?

17 A. Yes, if I had income in the United States, I would
18 be paying -- I would be paying taxes in the United
19 States, but I don't have any current income in the
20 United States.

21 Q. Do you file your taxes separately from your wife?

22 A. No, we file together.

23 Q. So you would each file a return both in the United
24 States and in Israel?

25 A. We would, although you don't really file returns.

7/9/2019

ANDREW HALEVI

1 - when I took a teaching position, although I'm not
2 entirely sure what that amount was.

3 Q. All right. Would that be reflected on your tax
4 returns?

5 A. It might be.

6 Q. Okay. Do you know -- do you recall what amount of
7 money was offered to you to be a teacher for the
8 2017-2018 school year?

9 A. Okay. So 2017-2018?

10 Q. Right.

11 A. I was offered a teacher contract so that would be a
12 formula that the district would look at based upon
13 my degrees and years of experience. I -- I, off the
14 top of my head, it's somewhere around \$60,000 to
15 \$62,000.

16 Q. Okay.

17 A. But I -- I'm not entirely sure what that number is.

18 Q. Okay. The reason I ask is we asked, in response to
19 interrogatories -- we posed some interrogatories to
20 you and one of your answers were, "Had plaintiff
21 remained a teacher in the district, his salary would
22 have been reduced to \$62,000." Does that sound
23 about right to you?

24 A. That sounds correct, yes.

25 Q. Okay. It also says that you had been making

7/9/2019

ANDREW HALEVI

1 didn't use bad judgment.

2 Q. Okay. So you're relying -- you're -- you're relying
3 on the state's licensure decision to support your
4 claim for defamation; is that correct?

5 A. No. I'm basing it upon my experience in terms of
6 the defamation, in terms of what I experienced and
7 what people have said to me, my colleagues, my -- my
8 -- the community members, parents, students, what
9 they've said to me. Certainly, a part of the due
10 process part of it claim, which is one of the three
11 claims --

12 Q. Right.

13 A. -- certainly is reflected in the -- the flawed
14 grievance process. But I would suggest that it's
15 not only part of the due process, it's also
16 certainly -- the mismanagement of the grievance
17 process certainly led to defamation.

18 Q. Well, let's -- then let's revisit that. Ordinarily,
19 in a defamation claim, somebody says something that
20 is false and defamatory to third persons. Is there
21 any statement at issue here that you believe that
22 any person made at the district to third persons
23 that you believe is defamatory? And you know what?
24 I'm not going to hide the ball from you. We asked
25 that question or a question like that in one of our

7/9/2019

ANDREW HALEVI

1 see in your response to interrogatory number 11, we
2 asked you to list any and all communications made by
3 any CCSD official employee that you claimed are
4 defamatory as alleged in your complaint, including
5 the date of communication, the person making it, the
6 content of the communication and the persons who
7 received it. And your response is this: "The
8 district's intentional silence and failure to convey
9 truthful information about its actions toward
10 plaintiff, its quick suspension of him, and repeated
11 refusal to provide accurate information to the press
12 and public about his actions, as well as its
13 different treatment of other principals involving --
14 involving," I guess that should have been, "involved
15 in dress code issues inferred plaintiff was unfit
16 for his position, which is defamation, per se.
17 Defendant's failure to return plaintiff to work
18 promptly after the incident and a subsequent
19 demotion of plaintiff from administrator to teacher
20 were defamatory. Additionally, Trustee Chris
21 Collins made false statements to The Chronicle about
22 Dr. HaLevi and CCSD reported to The Post and Courier
23 that Dr. HaLevi had been reassigned to a special
24 project, which was false and defamatory." Let's
25 take those one at a time. The only statement, kind

7/9/2019

ANDREW HALEVI

1 reported on the subject?

2 A. I was surprised that they reported so poorly.

3 Q. But not that they found that this was newsworthy?

4 A. There were two other occasions that I'm aware of
5 within a short period of time in the school district
6 in which they also covered the incident, although
7 quite differently, based upon -- based upon the
8 district's -- the information that the district gave
9 to the -- to the newspaper that they didn't give in
10 my situation.

11 Q. I think you'll agree with me that CCSD does not
12 control what The Post and Courier says and does?

13 A. Well, I agree --

14 Q. Although, it certainly would like to but it does
15 not.

16 A. -- I agree that they're not the ones editing the
17 paper, but I certainly don't agree that the school
18 district doesn't have a responsibility to be fair
19 and consistent when providing information to -- to
20 the newspaper.

21 Q. Okay. How is it unfair or inconsistent in that
22 regard?

23 A. The district clearly knew early on that I didn't do
24 anything illegal. They also should have known,
25 based upon a proper investigation, that I didn't do

7/9/2019

ANDREW HALEVI

1 anything unprofessional or lack of -- or use poor
2 judgment, which later the state, you know,
3 concluded. At a minimum, even if they came to the
4 initial conclusion, they should have responded to --
5 to my pointing out that factually these things are
6 simply wrong in the report. So they had a -- they
7 had a responsibility to provide, at a minimum,
8 accurate information based upon a proper
9 investigation.

10 Q. Responsibility to provide information to whom?

11 A. Well, to the newspaper, in the same way that they
12 did on dress code issues that happened in the School
13 of the Arts and at Moultrie Middle School.

14 Q. Okay. Did they draw different conclusions in those
15 other cases?

16 A. I know -- I don't know about the conclusions that
17 they drew in those cases. I only know that the
18 process that they engaged in was fundamentally
19 different than -- than the process that was involved
20 in -- in my situation.

21 Q. How are you aware of that?

22 A. I'm aware of that because -- because the
23 administrators involved have spoken to me and that
24 those issues were covered actually in -- in the
25 newspaper articles; that the -- that the school

7/9/2019

ANDREW HALEVI

1 A. At the time, I believed that she was.

2 Q. Okay. Was that, in fact, true?

3 A. It was, in fact, not true.

4 Q. Okay. Tell me -- tell me -- kind of unpack that for
5 me. And I -- and I want you to have kind of free
6 reign without me --

7 A. Okay.

8 Q. Just whatever your -- whatever your recollections of
9 that difference was, I'd like to know it.

10 A. Sure. After Erica got the pants, the medical
11 scrubs, at somewhere around quarter of twelve,
12 during the day, I saw her several times over the
13 course of the day wearing the shirtdress with the
14 medical scrubs underneath. And about 20 minutes
15 before the end of the day, I saw her again wearing
16 that. So when I got on the bus at --

17 Q. The same shirtdress?

18 A. Correct.

19 Q. Okay.

20 A. When I got on the bus at the end of -- at the end of
21 the day to retrieve the medical scrubs and to speak
22 with her about disciplinary action --

23 Q. Right.

24 A. -- I -- I only -- I did not move to the back of the
25 bus. She was sitting in the very last seat. I --

7/9/2019

ANDREW HALEVI

1 the seats were quite high and I could see that she
2 was wearing a blue top the same color as her
3 shirtdress, and because I had seen her 20 minutes
4 before, I assumed that she was wearing the exact
5 same dress that she came to school in. I would have
6 no reason whatsoever to have thought that she would
7 not have been wearing those clothes.

8 Q. What was she wearing?

9 A. I believe it was some sort of t-shirt that was the
10 same color as her dress.

11 Q. As you mentioned earlier, I'm wearing a blue oxford
12 cloth shirt that was the same color?

13 A. Same color, yes.

14 Q. Okay. So at that point, when she -- when she said
15 that you were making her ride the bus without any
16 pants and she was in her underwear, according to
17 Deputy McLean, "Ms. Smith and I looked at Dr. HaLevi
18 and he said 'What?' And Ms. Smith repeated what we
19 heard and then Dr. HaLevi told Mr. Davis to stop the
20 bus."

21 A. Yes.

22 Q. Is that accurate?

23 A. Correct.

24 Q. Okay. Next, she reports, "Dr. HaLevi then boarded
25 the bus and we could hear the student speak to him

7/9/2019

ANDREW HALEVI

1 but not what they were saying." At that point, kind
2 of you take the story from that point and then we'll
3 move to the next part.

4 A. Sure. That's actually also incorrect. I did not
5 reboard the bus after that, after the incident.
6 When the student -- when the student rolled down the
7 window and said she was sitting in her panties and
8 yelling and screaming at me, I walked to the front
9 of the bus and asked the bus driver, I said, "What
10 is going on?" And she said -- she said, "I don't
11 know." And because it's now a female student
12 without -- saying that she's not wearing any
13 clothing, I asked my SRO, my police officer, female
14 police officer, to go with the pants and to figure
15 out what's going on.

16 Q. Okay.

17 A. So I gave the pants to the police officer, Officer
18 McLean, who then went to the back of the bus and
19 determined that, in fact, she was sitting in her
20 panties and a blue t-shirt and then gave her the
21 pants to put back on. And asked Officer McLean to
22 bring her off the bus because at that point we
23 needed to contact mom and figure out next steps
24 about how we were going to deal with this.

25 Q. Okay. Here's -- here's what -- let's kind of match

7/9/2019

ANDREW HALEVI

1 that recollection with what's on this report.

2 A. Sure.

3 Q. "Dr. HaLevi then boarded the bus and we could here,"
4 I believe she means H-E-A-R, "students speaking to
5 him but not what they were saying." And you're
6 saying, no, you did not board the bus?

7 A. Correct.

8 Q. Okay. But you stopped the bus and spoke with the
9 driver kind of from outside the bus?

10 A. Correct.

11 Q. Okay. Then she states, Deputy McLean states, you
12 exited the bus minus the sweat pants and said they,
13 the students, were saying she didn't have her dress
14 on. And your testimony is, no, I gave the pants to
15 Deputy McLean, she went back on the bus and gave the
16 pants back to Erica?

17 A. Correct.

18 Q. Okay.

19 A. And I believe that that is what Officer McLean
20 testified to in the state case.

21 Q. Okay. Then she stated, "I entered the bus and found
22 Erica in the last seat and asked her where her dress
23 was and if I needed to go into the school to get it
24 for her. The students advised that another student
25 had it that had left and they took -- that they told

7/9/2019

ANDREW HALEVI

1 Dr. HaLevi she didn't have any clothes to put on."
2 Okay. Well, let's unpack that a minute. Did the
3 students ever tell you that Erica didn't have any
4 other clothes to put on?

5 A. No.

6 Q. Okay. Did Deputy McLean ever tell you that the
7 students advised you that Erica didn't have any
8 other clothes to put on?

9 A. Only when she came back down from the bus after she
10 had given Erica the pants to put back on did she say
11 that Erica did not have any other clothes to put on.

12 Q. Okay. Well, I think what -- what struck -- what
13 strikes me about this statement is other students
14 claimed they had told you that Erica didn't have any
15 other clothes to put on. Is that -- let's kind of
16 begin, first of all, did Deputy McLean ever tell you
17 that?

18 A. I don't recall Officer McLean saying that. I
19 believe, my understanding of this based upon this
20 statement and what happened in the state case, is
21 that when I was on the bus initially trying to get
22 Erica to come off --

23 Q. Right.

24 A. -- and the students are watching the other buses
25 leave, the students started yelling things out, some

7/9/2019

ANDREW HALEVI

1 of which could have been, I don't know, could have
2 been, you know, she doesn't have any other clothes
3 to put on. But I was -- I was not listening to
4 that.

5 Q. Right.

6 A. I was trying to focus on Erica to ask her to come
7 off of the bus. So I'm not -- I'm not saying that a
8 student didn't say that -- that she didn't have any
9 other clothes on. What I'm saying is that Erica
10 didn't say that and I didn't hear it.

11 Q. Okay. "At the time," he continues -- or she
12 continues, "At the time, I observed Erica wearing
13 what appeared to be a t-shirt, zip-up sweatshirt and
14 panties." When you observed her, was she wearing a
15 zip-up sweatshirt and a t-shirt --

16 A. When I observed --

17 Q. -- on the bus?

18 A. -- when I observed her, I was so far away that all I
19 could see was a top that was the same color as her
20 shirtdress.

21 Q. Okay. Did Officer McLean advise you that the dress
22 was not on the bus and that her mother needed to be
23 contacted and notified of the incident?

24 A. The first part, yes, she -- she notified me that --
25 because I said -- I said, "What? I don't

7/9/2019

ANDREW HALEVI

1 understand. I can see that she's wearing the same
2 stuff." She said, "No, it's the same color but it's
3 a different shirt and it's much shorter." And --
4 and so that was the first time that I had any
5 awareness whatsoever that she had changed her
6 clothes and -- and was no longer wearing the
7 shirtdress that she had. She -- the second part of
8 the question, I'm sorry, I -- I just lost what I
9 needed to respond to that. What was the second part
10 of your question? It was --

11 Q. Well, I'm looking at this, what Deputy McLean writes
12 --

13 A. Uh-huh.

14 Q. -- and just I'll quote it, "I advised Dr. HaLevi
15 that the dress was not on the bus and that her
16 mother needed to be contacted and notified of this
17 incident."

18 A. Right.

19 Q. "He agreed and requested her number via the radio."

20 A. Right.

21 Q. Is that accurate?

22 A. My recollection is that I notified -- I said I
23 needed to notify the parent and I asked Officer
24 McLean to immediately request the bus video and
25 audio from Durham.

7/9/2019

ANDREW HALEVI

1 Q. Okay. Officer McLean then reports, "He reentered
2 the bus to speak with the students and advise them
3 he didn't know she was -- she wasn't wearing the
4 dress." Did that occur?

5 A. No, I did not reenter the bus once she -- once
6 Officer McLean got on the bus to return the pants, I
7 did not get back on the bus.

8 Q. Okay. "The bus driver" -- she again writes, "The
9 bus driver, who is on the same -- who is from the
10 same area and close with Erica spoke to her and
11 Erica was also speaking with her mother, Linda
12 Hamilton, on the phone." Do you have any knowledge
13 about whether or not that's accurate?

14 A. I believe that to be true but I don't know because I
15 don't know who she was -- I assumed that she was
16 speaking to her mother on the phone, but I don't
17 know that.

18 Q. "She then," and I presume to mean Erica, "Erica then
19 exited the bus per her mother's instructions and
20 walked with Ms. Smith, still crying, to the data
21 clerk's office."

22 A. Per -- I don't know if it was per her mother's
23 instructions. I was not going to let the bus go
24 with Erica on that bus. In my mind, I was the one
25 that was requiring Erica to leave the bus, so I

7/9/2019

ANDREW HALEVI

1 A. Uh-huh.

2 Q. Did you tell her that?

3 A. No.

4 Q. Okay. Why did you write it?

5 A. I was trying to give a broad summary of -- of what
6 happened. So if I had had more time and had the
7 ability to explain, I would have said -- I would
8 have written that I told her that I needed to speak
9 with her about the pants and other issues before I
10 can let the bus proceed.

11 Q. Okay. So that part of your statement was -- was not
12 accurate?

13 A. That part of the statement was not complete.

14 Q. Okay. Well, tell me this. Did you say you needed -
15 - did you ever tell her that you needed the pants
16 before allowing the bus to proceed?

17 A. I did not.

18 Q. So that -- that's just wrong?

19 A. That's a broad -- a broad statement that simply
20 lacked more detail.

21 Q. Well, I know we're kind of talking -- I don't want
22 to spar with someone who's a professional English
23 person, but --

24 A. I don't feel like I'm sparring. That's okay. I'm
25 trying to answer the best I can.

7/9/2019

ANDREW HALEVI

1 Q. But -- let me ask the question like this; yes, no.
2 Did you ever tell the student that you needed the
3 pants before allowing the bus to proceed; yes, no?

4 A. If it's only a yes, no question, I'm going to say
5 no.

6 Q. Okay.

7 A. But the larger answer here is --

8 Q. Which you're allowed to give.

9 A. Okay. The larger answer is that that was one of the
10 things that I -- that I said.

11 Q. So you did say that?

12 A. It was part of a larger context in which I asked
13 Erica to come off of the bus. And I don't know that
14 I mentioned this earlier, but I told you the
15 profanity, you know, she said, "I'm not giving you
16 the f'ing pants. I'm not --

17 Q. Right.

18 A. -- I'm not giving you all this." I said, "Erica,
19 it's not only about the pants, I need to come off
20 and speak to you. I'm not speaking to you about
21 this in front of everybody on the bus."

22 Q. Okay.

23 A. My -- and so -- so I don't think it's unreasonable
24 for Erica to have -- I don't think it's -- not Erica
25 -- I don't think it's unreasonable for someone to

7/9/2019

ANDREW HALEVI

1 say that he seemed to be focused on the pants, but
2 that was -- but that's not an accurate estimation of
3 what I was doing on that bus.

4 Q. Okay. Then you -- you actually, later in this same
5 excerpt, say, "I repeated that the bus would depart
6 as soon as I got the pants."

7 A. Right. And what I should have -- the more -- again,
8 this -- this was -- when I wrote this, this was
9 meant as a summary to Jennifer Coker in preparation
10 for a meeting on Monday. This was a summary. It
11 was not meant to be a comprehensive report about
12 what happened. And so I -- so that was my summary,
13 but that's simply not a fully -- if you -- if you
14 say that's the only thing I did, that is not at all
15 accurate.

16 Q. Later, it says, "The school bus -- the bus driver
17 told me she would get the pants and bring them to
18 school on Monday."

19 A. Yes.

20 Q. "But I told the driver that the student needed to
21 return the pants, as she was wearing the same thing
22 that she came to school in." Did you tell the bus
23 driver this?

24 A. I told the bus driver that she was not -- that her
25 role as a bus driver was not to retrieve pants and

7/9/2019

ANDREW HALEVI

1 to say is that the district had pieces of
2 information over the course of that event but were
3 missing the crucial details because they did not
4 speak with me.

5 Q. They relied on your reports?

6 A. They relied on a general statement from April 22nd
7 and then whatever notes -- which I was never -- I've
8 never seen -- from a meeting with employee relations
9 on the 25th, Bev Varando and Will Suggs, and that
10 was it. That was the only conversation I had. My
11 understanding later is that they -- they interviewed
12 some students, although not all, and -- and they're
13 -- I've seen student statements from that -- from
14 that situation. I'm not aware that there is other
15 information that the -- that the district gathered.

16 Q. Did you -- you did meet with Mr. Suggs and Ms.
17 Varando?

18 A. Correct.

19 Q. On April 25th?

20 A. Yes.

21 Q. Okay. How long did you meet with them?

22 A. Less than an hour.

23 Q. Okay. Did you speak with them?

24 A. I spoke with them, yes.

25 Q. Okay. Did you hand them any documents or anything

7/9/2019

ANDREW HALEVI

1 length about -- well, we've been through the -- the
2 four steps of the grievance process that you've been
3 through and that you found that their analysis of
4 your -- of your claim is lacking, that you thought
5 they had done a poor job of -- of reviewing what you
6 -- your concerns that you brought forth in your
7 grievance at each level; is that fair?

8 A. I think it would be more accurate to say that I
9 don't believe that particularly in the first three
10 cases that they did anything at all other than
11 listen for the limited amount of time that I was in
12 the grievance hearings. So not even sure that it
13 has to do with analysis. I don't -- I'm not sure
14 they did anything.

15 Q. Well, you thought that their -- their -- that they
16 did not consider what you had to say?

17 A. Correct.

18 Q. Okay. And you draw that conclusion from reading
19 their decisions, their written decisions, based on
20 your -- your allegations?

21 A. Correct.

22 Q. Okay.

23 A. And the way the grievance was set up, which was I
24 was allowed to speak but they -- they were not.
25 They simply did not speak during the -- during the

7/9/2019

ANDREW HALEVI

- 1 hearing, during the grievance meeting.
- 2 Q. Okay. Is there any other thing, any other evidence,
3 that you intend to point to to support your claim
4 for due process, your second cause of action?
- 5 A. Other than what was discussed today --
- 6 Q. Right.
- 7 A. -- and what's in the cause of -- you call this a
8 cause of action --
- 9 Q. Right.
- 10 A. -- what's -- what's in here, I'm not aware of any
11 additional information.
- 12 Q. Okay. Were the damages that you're claiming here
13 any different from the damages in your other claims?
- 14 A. Meaning I should get different levels of damages --
- 15 Q. No.
- 16 A. -- based on --
- 17 Q. No, I'm asking. You know, when you -- ordinarily,
18 you are awarded damages on any claim that survives
19 that a jury so finds. Is there any -- are you --
20 are you seeking anything different than the damages
21 for your second cause of action that you are for
22 your first or your third causes of action, to the
23 extent of your knowledge?
- 24 A. To my knowledge, no.
- 25 Q. Okay. Okay. Exhibit 4, dated May 11, 2017, in the

7/9/2019

ANDREW HALEVI

1 which you were going to continue to work at the
2 district as a teacher?

3 A. That was not the purpose of the meeting, but at the
4 end of the meeting I asked for clarification about
5 my employment. The purpose of the meeting on -- on
6 July 26th was quite different.

7 Q. Well, here's what the letter says. "When you met
8 with Executive Director Michele English-Watson and
9 me," this is Terri Nichols --

10 A. Uh-huh.

11 Q. -- writing this letter, "on July 26, 2016, you
12 shared you were open to a teaching position." Is
13 that true?

14 A. That was the end of the meeting, yes.

15 Q. Okay. "You also shared concerns that your skillset
16 might not match every open position the district
17 currently has and you asked you be allowed to have
18 some level of input in your assignment." Did you
19 make that request?

20 A. Yes.

21 Q. "In a telephone conversation that afternoon, I
22 offered you a position at Stall High School as an
23 English language arts teacher. You contacted me
24 later to accept that position." Is that true?

25 A. That is true.

7/9/2019

ANDREW HALEVI

1 contract of employment are you referencing?

2 A. As an administrator. It's an administrative
3 contract and my understanding was that I would be
4 working, as the contract stipulates, at Clark as the
5 program director.

6 Q. Okay. That's Exhibit 10?

7 A. That is Exhibit 10.

8 Q. Okay. So the contract you believe was breached is
9 Exhibit 10?

10 A. Yes.

11 Q. Okay. And the way that you believe the contract,
12 Exhibit 10, was breached was detailed in paragraph
13 98?

14 A. Yes.

15 Q. Okay. Is there any other reason you believe that
16 the district breached its contract?

17 A. Not that I'm aware of.

18 Q. Okay. You mentioned that you're seeking actual and
19 consequential damages for the district's breach of
20 the covenant of good faith and fair dealing.
21 Anything other than what you're seeking with regard
22 to your other causes of action?

23 A. Not that I'm aware of.

24 Q. Okay.

25 A. I'm sorry, I just want to go back to one thing about

EXCERPTS OF JENNIFER COKER DEPOSITION

1 me break this down. Why don't you tell me what he told
2 you happened on April 22nd?

3 And, by the way, when did that conversation
4 occur?

5 A. So he called me that afternoon. And that's
6 when he told me what happened.

7 Q. Okay. How long was the telephone call?

8 A. A few minutes. I'm not sure, exactly.

9 Q. Okay. What did he tell you in those few
10 minutes?

11 A. I -- obviously, I don't remember exactly. I
12 do have notes, somewhere, that I typed in an email, I
13 believe. But he told me that she had come to school
14 out of uniform and had been asked to change. There
15 were some issues around her complying with that
16 request. There was another adult who got involved,
17 trying to get her to change, I think a classified
18 employee or something. And, eventually, she changed,
19 between that employee and, I think, the guidance
20 counselor that convinced her to change her clothes.

21 Toward the end of the day, when it was bus
22 time, she was -- before it was bus time, I believe, she
23 was reminded to return the clothes, by someone. And
24 then, at bus time, I think it was the student concern
25 specialist was asked to make sure to get the clothes.

Jennifer Coker - 10/31/2018

Page 26

1 Q. Okay. To whom did you send the email?

2 A. I think my supervisor at the time was Michele
3 English-Watson. I'm not sure who else was on that
4 email.

5 Q. And I'll -- I don't know if I've seen that
6 email. I will look. But in the email that you sent
7 Michele English-Watson on 4/22, and that would have
8 been late afternoon, what did you say? What did you
9 tell her? Generally, what did the email say?

10 A. That -- what he told me happened. And I
11 asked if we should place him on leave while we
12 investigate the situation.

13 Q. I know I have not seen that email. You asked
14 Michele English-Watson, based on a phone call from the
15 principal, if you should place him on leave the same --
16 on 4/22, you asked that question?

17 A. I'm not sure if it was 4/22 or not. I'd have
18 to go back and look. But it was soon after.

19 Q. Okay. Why did you want to place the
20 principal on leave so soon after the incident?

21 MR. MATTHEWS: Object to the form.

22 BY MS. BLOODGOOD:

23 A. So, right after I got off the phone with him,
24 or soon after, the director of security called me, as
25 well, because the police were also investigating the

Jennifer Coker - 10/31/2018

Page 29

1 he just wanted you to know about the incident?

2 A. He wanted to make sure I was aware of the
3 incident.

4 Q. Okay. Did you call Dr. HaLevi back and get
5 some more facts or tell him police were
6 investigating?

7 A. No. He told me he was going to be
8 unavailable, due to a religious holiday, until Sunday.

9 Q. Okay. Did you call him on Sunday?

10 A. I called him multiple times that weekend.

11 Q. From where, your office or your cell phone?

12 A. My cell phone.

13 Q. Okay. Did you talk to him on the weekend?

14 A. Not until Sunday evening, I believe it was.

15 Q. Okay. And when you -- what time did you
16 reach him on Sunday evening?

17 A. I don't know the exact time, but it was
18 later.

19 Q. Okay. Tell me what you recall about that
20 conversation.

21 A. I told him that based on additional
22 information and the investigation that was going to be
23 going on, I needed to place him on admin leave with pay
24 during the investigation.

25 Q. Okay. So let's take this one at a time.

Jennifer Coker - 10/31/2018

Page 34

1 Sunday night, when you put him on leave, right?

2 MR. MATTHEWS: Object to the form. Please
3 answer.

4 BY MS. BLOODGOOD:

5 A. I had his -- I had his account and I had the
6 phone call from Mike Reidenbach. And that is standard
7 procedure, when a person does something that we think
8 is egregious, that we have the option to put them on
9 leave.

10 Q. You thought it was egregious, based on the
11 several-minute phone call you had Friday afternoon?

12 MR. MATTHEWS: Object to the form. Please
13 answer.

14 BY MS. BLOODGOOD:

15 Q. What other information did you have?

16 A. I thought it was egregious that a student was
17 on the bus with no pants on, yes.

18 Q. But you didn't have any personal, firsthand
19 knowledge about that, did you?

20 A. I had --

21 MR. MATTHEWS: Object to the form. Please
22 answer.

23 BY MS. BLOODGOOD:

24 A. I had information from --

25 MR. MATTHEWS: Ms. Coker, I know -- I know

Jennifer Coker - 10/31/2018

Page 36

1 my understanding is, would not have started until after
2 Dr. HaLevi had been placed on leave by you Sunday
3 evening, correct?

4 A. An investigation by the District?

5 Q. Right.

6 A. Began when he was placed on leave.

7 Q. Okay. So who did that investigation?

8 A. There were multiple people who worked on the
9 investigation.

10 Q. Okay. Who were they?

11 A. Myself, Will Suggs and Beverly Varnado.

12 Q. Anyone else?

13 A. Not to my recollection.

14 Q. Okay. How long did the investigation last?

15 A. I'm not sure of the exact length.

16 Q. Well, it started -- okay. The incident's on
17 a Friday, the 22nd. Saturday is the 23rd. Sunday is
18 the 24th. So it started Monday, the 25th. When did
19 it -- let me ask it this way: When did it end?

20 MR. MATTHEWS: Object to the form. Please
21 answer.

22 BY MS. BLOODGOOD:

23 A. I concluded my interviews at the school,
24 which was my portion, during that week.

25 Q. So it was -- you did it by -- okay. So the

1 25th is Monday. The 30th, you completed your part of
2 the investigation?

3 A. Yes, ma'am.

4 Q. Okay. And who did you interview at the
5 school?

6 A. I interviewed multiple students. I do not
7 remember their names, individually.

8 Q. Do you have written statements from them?

9 A. Yes, ma'am.

10 Q. Okay. I think some of those have been
11 provided to me.

12 Did you interview Dr. HaLevi?

13 A. That was not one of my responsibilities. I
14 did not.

15 Q. Okay. Whose responsibility was that?

16 A. Mr. Suggs'.

17 Q. Do you know whether or not Will Suggs ever
18 talked to Dr. HaLevi?

19 A. Yes.

20 Q. Okay. And how do you know that?

21 A. He informed me. Mr. Suggs informed me.

22 Q. Okay. Did you see any written report from
23 Mr. Suggs regarding his conversation with Dr. HaLevi?

24 A. I did see the final investigative report.

25 Q. Did the final investigation report include a

Jennifer Coker - 10/31/2018

Page 38

1 synopsis of Will Suggs' conversation with Dr. HaLevi?

2 A. I don't remember it in full detail.

3 Q. Okay. And where is that final investigative
4 report?

5 A. It would be in the employee relations file.

6 Q. And Beverly Varnado is in charge of those?

7 A. Will Suggs and Beverly Varnado both work in
8 that department.

9 Q. Who reports to whom?

10 A. I think -- I'm not sure.

11 Q. Okay. But you saw the final investigation
12 report that's in the ER file?

13 A. Yes, ma'am.

14 Q. Okay. And then, what was -- your job was to
15 conduct interviews at the school. Will Suggs
16 interviewed Dr. HaLevi. Did he have any other jobs
17 during this investigation, in the investigation?

18 A. Did Mr. Suggs?

19 Q. Yes.

20 A. That was who I sent all of my information to.

21 Q. Okay. To your knowledge, did Mr. Suggs do
22 anything other than talk to Dr. HaLevi?

23 MR. MATTHEWS: Object to the form. Please
24 answer.

25 BY MS. BLOODGOOD:

Jennifer Coker - 10/31/2018

Page 39

1 Q. As part of the investigation?

2 MR. MATTHEWS: Same objection. Please
3 answer.

4 BY MS. BLOODGOOD:

5 A. I don't know.

6 Q. And -- okay. What was Beverly Varnado's role
7 in the investigation?

8 A. I believe she was present for the
9 conversation with Dr. HaLevi, as well.

10 Q. Okay. Anything else that you know she did in
11 the investigation?

12 A. No, ma'am.

13 Q. Okay. And do you know approximately when
14 Will Suggs spoke to Dr. HaLevi?

15 A. I do not.

16 Q. Okay. Do you recall approximately how long
17 it took for the final investigative report to be done?
18 Your part was done that week. Do you recall how many
19 weeks later or days later it final was?

20 A. I do not.

21 Q. Would it have been months later?

22 A. I don't -- I don't know.

23 Q. Okay. So I previously asked you what you
24 knew from receiving information from Dr. HaLevi. And
25 then you've testified that next week you received

Jennifer Coker - 10/31/2018

Page 40

1 information from students that you interviewed. What
2 other information was available to you about this
3 incident, other than that information?

4 A. We got a statement from the bus driver.

5 Q. And who is "we"?

6 A. I say "we"; I meant "I."

7 I asked for Jeff Scott to get the bus
8 driver's statement.

9 Q. All right.

10 A. And then we had the student statements. We
11 had to use the police statement for the student, I
12 believe, because she did not come to the school to meet
13 with me.

14 Q. She wouldn't talk to you?

15 A. Correct. And --

16 Q. Does that mean you hadn't developed a good
17 relationship with her at Daniel Jenkins?

18 MR. MATTHEWS: Object to the form.

19 BY MS. BLOODGOOD:

20 A. You want me to answer?

21 Q. Yeah, you can answer.

22 A. Okay. I'm trying to follow directions.

23 MR. MATHEWS: When I object to the form and
24 say, "Please answer" --

25 THE WITNESS: Okay.

Jennifer Coker - 10/31/2018

Page 41

1 MR. MATTHEWS: -- by all means, please do
2 so.

3 BY MS. BLOODGOOD:

4 A. I don't think she knew I was the one that was
5 going to interview her.

6 Q. Why didn't you tell her that?

7 A. I didn't get to talk to her. I talked to the
8 parent.

9 Q. The parent wouldn't let her talk to you?

10 A. She said she wouldn't let her talk to anyone.

11 Q. Okay. So all you have is the student
12 statement to the police, the bus driver's statement.
13 What else -- what other things did you have?

14 A. There were, I think, two other staff members
15 who wrote statements. I believe Jessica Smith wrote a
16 statement and I think the student concern specialist
17 wrote a statement.

18 Q. Who was that?

19 A. What is his name? His first name is Dion. I
20 believe Davis, Dion Davis.

21 Q. Okay. Who was responsible for determining
22 that the District was going to do an investigation?
23 Was that your call or was it Cindy Ambrose or Terri --
24 I guess it would have been Terri Nichols' call? Or how
25 did that work? Who decides when there's going to be an

Jennifer Coker - 10/31/2018

Page 42

1 investigation?

2 A. Well, my supervisor at the time was Michele
3 English-Watson, direct supervisor. So she and I
4 discussed it. And I told her that, you know, we would
5 have to look into this. So we decided that we needed
6 to talk to employee relations about an investigation.

7 Q. And that was Friday afternoon, on the 22nd?

8 A. Yes.

9 Q. Okay. So you discussed it. And you
10 recommended an investigation to her, and she agreed?

11 A. Well, I recommended that we get ER involved,
12 which typically means an investigation, yes.

13 Q. Okay.

14 A. Employee relations, sorry.

15 Q. And are principals who are being investigated
16 by ER always put on leave?

17 A. I cannot tell you that's always what happens.

18 Q. Okay. Why did you put Dr. HaLevi on leave?

19 A. I felt this incident was very serious.

20 Q. Did anyone tell you to put Dr. HaLevi on
21 leave?

22 A. No, ma'am.

23 Q. So that was your decision, entirely?

24 A. I asked if we should. And we discussed
25 putting him on leave.

Jennifer Coker - 10/31/2018

Page 48

1 level leader if they had someone who could help out.

2 That was the end of April, beginning of May.

3 Q. And who is Merriweather?

4 A. That's the person that the other level
5 director was able to provide to me, to cover.

6 Q. She was an assistant principal at Burke?

7 A. Correct.

8 Q. She was already over as program director the
9 end of the week, that first week, wasn't she?

10 A. Which week?

11 Q. The 29th. Didn't she start at over at Clark
12 on the 29th or the 30th?

13 A. I don't know exactly what day she started. I
14 don't remember the exact day.

15 Q. Did you call Dr. HaLevi and say that you had
16 a replacement for him?

17 A. I did call him on, looks like, May 2nd.

18 Q. But he had already heard on the street that
19 Merriweather had emailed all her colleagues and said
20 that she was the interim program director the week
21 before, correct?

22 A. I don't know what day --

23 MR. MATTHEWS: Object to the form. Please
24 answer.

25 BY MS. BLOODGOOD:

Jennifer Coker - 10/31/2018

Page 49

1 A. I don't know what day of the week that is,
2 the 2nd. But I know that we met with -- Mr. Briggman
3 and I met with Ms. Merriweather, to ask her if she
4 would be interested in coverage.

5 Q. Is it possible you met or you had already
6 decided and communicated to other staff members that
7 she was going to be the new program director before you
8 even finished your investigation on the 30th?

9 A. We decided to place her there until Dr.
10 HaLevi returned, when I called him.

11 Q. Before you finished your investigation,
12 correct?

13 MR. MATTHEWS: Object to the form.

14 BY MS. BLOODGOOD:

15 A. We needed someone there. Yes.

16 Q. Okay. Would it have been your responsibility
17 to contact Dr. HaLevi and tell him that you were
18 replacing him the week after this incident?

19 A. I contacted him out of courtesy, to tell him
20 that we were placing someone there, rather than doing a
21 rotation.

22 Q. When did you do that?

23 A. May 2nd.

24 Q. After the person had already been placed,
25 right?

EXCERPTS OF
CHRIS COLLINS DEPOSITION

Chris Collins - 10/8/2019

Page 20

1 Blakeney put in The Chronicle after you had talked to
2 him. Do you recall talking to Barney Blakeney?

3 A. He is -- he used to call me sometimes.

4 Q. Okay. Does he work -- is he a reporter for
5 The Chronicle?

6 A. He was then; I don't know about now. He was.

7 Q. Okay. And according to this article, it
8 says, A Charleston County School administrator should
9 be fired, but most likely won't be, said county school
10 board member, Reverend Chris Collins.

11 Do you recall telling Barney Blakeney that?

12 A. I probably did.

13 Q. Okay. Why -- why do you -- did you say that
14 he probably won't be fired?

15 MR. MATTHEWS: Object to the form. Please
16 answer.

17 BY MS. BLOODGOOD:

18 A. If I made that -- if that's what I -- if
19 that's what I said, I was thinking in the context that
20 sometimes when people have infractions or make mistakes
21 at work, sometimes African-Americans are fired harshly
22 and Caucasians aren't.

23 Q. So you thought --

24 A. Might have been thinking in that regard.

25 Q. So you knew he was -- that Dr. HaLevi was

Chris Collins - 10/8/2019

Page 21

1 Caucasian?

2 A. I assumed he was.

3 Q. Okay. And you thought he probably wouldn't
4 be fired because he was Caucasian?

5 A. Yes.

6 Q. Then, down at the very end, sort of on the
7 second-to-the-last paragraph, you're quoted. And it
8 says, quote, HaLevi should have known whether the child
9 was wearing a dress though he said he never went to the
10 back of the bus where she was sitting. But that's
11 irrelevant. He should not have demanded she take off
12 the pants while on the bus. You don't embarrass a
13 child or cause her to be exposed in front of the other
14 students. That's unacceptable. I think he just got
15 mad and demanded the pants back. That's end quote.

16 Do you recall saying that to Barney
17 Blakeney?

18 A. I don't recall exactly. I had -- I had
19 issues with Barney and I stopped talking to Barney
20 because what he had -- I learned he had a habit of
21 taking stories from one side what people said, but then
22 the other side he didn't -- he wouldn't record. So I
23 stopped talking to Barney about three years ago. I
24 told him no more interviews. I mean, I could have said
25 it, but I found him not to be truthful always, so I

Chris Collins - 10/8/2019

Page 23

1 BY MS. BLOODGOOD:

2 A. It's a little out of context, the statement,
3 because it never came before the board.

4 Q. I thought you said Dr. Postlewait addressed
5 the board?

6 A. Yeah, but he didn't -- the appeal never -- no
7 appeal never came to the board, as far as I know.

8 Q. Okay. I'm going to ask you questions about
9 his grievance in a minute.

10 A. All right.

11 Q. At this point, this is only two weeks --
12 about two weeks after the incident on May 4, 2016. At
13 that point, you told Barney Blakeney -- he quoted you
14 as saying, I think he should be fired, but I don't
15 think there's board support to do that.

16 So I'm just curious, had you talked to any
17 board members about firing Dr. HaLevi?

18 A. No.

19 Q. Okay. So why would you not think that there
20 was board support to fire him?

21 A. I think -- give me a moment to think back.

22 Q. Sure.

23 A. Thinking who was on the board three years
24 ago. I'm really not -- I'm really not thinking --
25 registering anything that there's not much board

Chris Collins - 10/8/2019

Page 26

1 Q. -- employees who are getting terminated?

2 A. Yes. Well, you also -- yeah. I think --
3 I think some wanted maybe Lou Martin, maybe.

4 Q. He's white?

5 A. He's not African-American.

6 Q. Right.

7 A. Dr. -- can't think of her name, but she
8 was -- Van -- Van Brennan, I think.

9 Q. Was -- was there a certain group of board
10 members who wanted to terminate the African-American
11 principals and administrators?

12 MR. MATTHEWS: Object to the form. Please
13 answer.

14 BY MS. BLOODGOOD:

15 A. There were certain board members who didn't
16 want African-Americans to be in a high position.

17 Q. Okay. Who were they?

18 A. Ms. Coats, Tom Ducker. Those are the main
19 two. We had one board member say, when Dr. Herring was
20 applying for superintendent, we needed one, that she
21 was a great superintendent, but she could never be one
22 here. So that made me think.

23 Q. Was that a board member who said that?

24 A. Yes.

25 Q. Who said that?

Chris Collins - 10/8/2019

Page 44

1 it be common for Dr. HaLevi, if he had a different
2 opinion about it, to give voice to it?

3 A. I don't understand what you're asking me.

4 Q. Presume for a moment that Dr. HaLevi actually
5 did object to the outcome of the investigation. The
6 fact that he would grieve, does that concern you or
7 surprise you?

8 A. That he agrees with the outcome?

9 Q. No, that he grieved, that he disagreed with
10 the outcome?

11 A. The district -- the school district's
12 investigation?

13 Q. Yes.

14 A. Does that --

15 Q. Does that surprise you at all?

16 A. No.

17 Q. Okay. Now, in terms of the -- of your
18 testimony today, is it fair to say that you do not
19 speak for the board?

20 A. Absolutely.

21 Q. Okay. Is it fair to say that your opinions
22 are personal to yourself?

23 A. Speaking as -- speaking as an individual
24 board member only.

25 Q. Speaking as an individual board member only.

Chris Collins - 10/8/2019

Page 45

1 So your comments today do not reflect the opinions of
2 the school district or its board?

3 A. Absolutely.

4 Q. Okay. Nothing further.

5 MS. BLOODGOOD: I have one follow-up.

6 REDIRECT EXAMINATION BY MS. BLOODGOOD:

7 Q.. As an individual board member, I understand
8 you don't speak for the board, but you've been a board
9 member for 11 years.

10 A. Yes.

11 Q. When a principal comes to you and tells --
12 I'm sorry, when the superintendent comes to the board
13 in executive session and says, We have a principal and
14 there's been an incident, and I want you to know about
15 it, it's got to be -- you're going to assume it's a
16 pretty serious matter?

17 A. Absolutely.

18 Q. But when Dr. Postlewait came to you to talk
19 about Dr. HaLevi, she didn't mention that he had been a
20 principal at Burke High School, did she?

21 A. I don't remember.

22 Q. She didn't -- do you recall her telling you
23 that he had been a finalist for educator of the state,
24 at one point?

25 A. No.

EXCERPTS OF
ERICA HAMILTON DEPOSITION

10/11/2019

ERICA M. HAMILTON

1 Q. Okay. By how much?

2 A. A table.

3 Q. By one table?

4 A. Yes, sir.

5 Q. Okay. Were any other adults in the class? Or in
6 the cafeteria at the time, right?

7 A. I don't remember.

8 Q. Okay. Okay. You don't remember if there were
9 any other adults around?

10 A. Yes, sir.

11 Q. Okay. So he asked you for a second time to look
12 under your dress, right?

13 A. Yes, sir.

14 Q. Okay. At the time, were you wearing shorts?

15 A. Yes, sir.

16 Q. Over your underwear?

17 A. No, they were like boy shorts. They're
18 underwear, but they're shorts.

19 Q. Like boxers?

20 A. Not really boxers, but yeah, I guess you can say
21 that.

22 Q. Forgive me, I'm a little familiar with female
23 underwear. So excuse me. Was it kind of a gauzy
24 material or --

25 A. They're called boy shorts, but they're underwear.

10/11/2019

ERICA M. HAMILTON

1 They're just like --

2 Q. Okay. Hopefully I won't get kicked off the
3 internet, and you are educating a middle-aged
4 man, so forgive me. I'm now Googling "boy short"
5 and hopefully an image will appear and you can
6 identify if this is what we're talking about.

7 A. Yes.

8 Q. So kind of an athletic short that a boy might
9 wear to gym?

10 A. Yeah. Yes.

11 Q. Okay.

12 A. Not really boys but they're --

13 Q. Here's another type of image.

14 A. Now, those are like sweat pant shorts.

15 Q. Okay. So they're not -- not what you would wear
16 in a gym?

17 A. No.

18 Q. Okay. One of my sons played baseball and would
19 sometimes under his uniform wear what he would
20 call compression pants. Is that what we're
21 thinking of?

22 A. Yes, but they're like for girls.

23 Q. Okay.

24 A. So that's like --

25 Q. Here is a --

Cola City Reporting

3004 Old Charleston Road, Gilbert, SC 29554 / (803)210-5487 / colacityreporting2@gmail.com

10/11/2019

ERICA M. HAMILTON

1 A. Boy shorts.

2 Q. -- another image. And just so my friends know,
3 this is Jockey.com, and this appears to be being
4 worn by a female; is that what we're talking
5 about?

6 A. More like that (indicating).

7 Q. The purple?

8 A. The purple one.

9 MR. PHILLIPS: I'm just curious now. Okay.

10 Q. Okay. So it's like a Jockey modern micro seam
11 free boy short?

12 A. Yes.

13 Q. Okay. So it would -- it would cover your private
14 areas, but otherwise, it would be like a -- like
15 a large panty, I guess; is that correct?

16 A. Correct.

17 Q. Okay. Kind of like -- well, the next appears to
18 be like a swimsuit that has a boy short. Is that

19

20 A. No, that's like underwear. The first -- the
21 purple is more lengthy of what I had on.

22 Q. Okay. So it would have kind of extended down --
23 well, did it go down that far?

24 A. Maybe a little -- a little longer than that
25 because it was --

10/11/2019

ERICA M. HAMILTON

- 1 Q. Okay. Why did you disobey him?
- 2 A. I didn't have anything else to put on.
- 3 Q. Well, weren't you wearing a dress at the time?
- 4 You came in a dress.
- 5 A. My friend had -- I had -- I took my friend's
- 6 jacket, and she took my dress.
- 7 Q. Okay. And who is the friend?
- 8 A. Saniyah.
- 9 Q. What's her -- how do you spell that name?
- 10 A. I'm not even sure. S-Y --
- 11 Q. What's her last name?
- 12 A. Ferguson.
- 13 Q. I'm sorry?
- 14 A. Ferguson.
- 15 Q. Ferguson?
- 16 A. Yes, sir.
- 17 Q. Okay. Is she the person in your complaint that
- 18 you reference as going to prom?
- 19 A. Yes, sir.
- 20 Q. And when did you trade clothes?
- 21 A. During my art class. And I can't remember what
- 22 period that was.
- 23 Q. Did you do it in class or did you --
- 24 A. Yes, sir.
- 25 Q. -- do it in a restroom?

Cola City Reporting

3004 Old Charleston Road, Gilbert, SC 29454 / (803)210-5487 / colacityreporting2@gmail.com

10/11/2019

ERICA M. HAMILTON

1 A. It was in class. Well, not in class. We were
2 transitioning to the computer lab, and no one was
3 in there at the time.

4 Q. So you were in a class that was empty and you
5 disrobed and gave your dress to Ms. Ferguson?

6 A. Yes, sir.

7 Q. Okay. And then she gave you a jacket to wear
8 instead of a -- instead of a dress?

9 A. Yes, sir.

10 Q. Okay. What was the jacket like?

11 A. A blue jacket.

12 Q. Was it like an athletic jacket, like a
13 letterman's jacket, or was it like a jacket --

14 A. It was an Aeropostle jacket.

15 Q. I'm sorry?

16 A. An Aeropostle jacket. I mean I don't know --

17 Q. I apologize for my lack of fashion awareness. Is
18 an Aeropostle jacket like the jacket I have here?

19 A. No, sir.

20 Q. Okay. Is it like the jacket that your attorney
21 is wearing?

22 A. Yes, with sleeves.

23 Q. So it's like an athletic-type jacket that you
24 might wear if you're running?

25 A. No, sir.

Cola City Reporting

10/11/2019

ERICA M. HAMILTON

1 Q. Was it like a sweatshirt?

2 A. A jacket, like a regular jacket. I don't know
3 how to --

4 Q. Okay. You said it's an Aeropostle jacket, right?

5 A. Yes.

6 Q. Okay. I'm going to rely on my good friend Mr.
7 Google.

8 MR. PHILLIPS: Like that?

9 THE WITNESS: Yes.

10 MR. PHILLIPS: Here you go.

11 Q. So it's like a sweatshirt with a zipper in the
12 middle?

13 MR. PHILLIPS: It's like this.

14 A. Yes.

15 Q. Just like what your attorney is wearing, just
16 with sleeves?

17 A. Yes, sir.

18 Q. Okay. Thank you. Were you wearing anything
19 under your jacket?

20 A. Yes, sir.

21 Q. A t-shirt?

22 A. No, sir.

23 Q. A bra?

24 A. Yes, sir.

25 Q. Anything else other than a bra?

Cola City Reporting

3004 Old Charleston Road, Gilbert, SC 29654 / (803)210-5487 / colacityreporting2@gmail.com

10/11/2019

ERICA M. HAMILTON

1 A. That's all.

2 Q. Okay. Is that something you would often wear, a
3 jacket and pants of that type?

4 A. I'm not understanding your question.

5 Q. Would you often come to school or go to work
6 wearing pants and a jacket like the one you were
7 wearing from Ms. Ferguson?

8 A. Yes, sir.

9 Q. Okay. Why did you change clothes at all?

10 A. Because I wanted to. I'm not sure.

11 Q. And she?

12 A. Yes.

13 Q. Is that something you would ordinarily do?

14 A. No, sir.

15 Q. In your entire school career, was this the only
16 time you changed clothes with a friend?

17 A. Yes, sir.

18 Q. So in your eight -- in your -- forgive me. In
19 your 12 years of attending school -- actually you
20 attended school for longer than that, right? Did
21 you attend school for 12 years?

22 A. Yes, sir.

23 Q. Okay. Twelve years. This is the only day during
24 that 12-year period you actually changed clothes
25 with a friend?

AFFIDAVIT OF
DR. BEVERLY VARNADO

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

AFFIDAVIT OF DR. BEVERLY VARNADO

Personally appearing before me, Dr. Beverly Varnado, being duly sworn, deposes and says:

1. I am currently a Director of Employee Relations for the Charleston County School District ("CCSD").

2. On Monday, April 25, 2016, I became involved in an investigation of the incident that occurred between Andrew HaLevi ("Plaintiff") and a 16-year old student named Erica Hamilton.

3. Along with my colleague Will Suggs, we interviewed Plaintiff on April 25, 2016. The notes that I took of that meeting are attached as Exhibit "A" to this affidavit.

4. I have reviewed Plaintiff's deposition testimony concerning our interview of April 25, 2016. Plaintiff stated that we "had a series of questions which were very leading and judgmental and we were only talking about those questions that they had." (*HaLevi Deposition, p. 131, lines 19-21*). Plaintiff also stated that he "did not trust that they, and I now know, that they did not accurately depict what I said in the meeting." (*HaLevi Deposition, p. 133, lines 13-15*).

5. Plaintiff's rendition of the interview is untrue. As my notes indicate, Plaintiff spent much of the interview giving us his version of events with minimal prompting from us. In fact, these notes indicate clearly that Plaintiff recounted his version of the incident between himself and

the 16-year old student with few questions from either Mr. Suggs or me. As an example, I took over four handwritten pages of notes from the meeting. The vast majority of these notes are from Plaintiff's description of the incident to us, not answers to questions that we posed.

6. When asked why he demanded that Erica give him the pants on the bus, Plaintiff explained that he did not know that Erica had changed her clothes. He also argued that it was reasonable for him to expect, during the confrontation on the bus, for Erica to explain why she was not returning the pants. My notes also indicate that Plaintiff expected Erica to return the pants at the end of the day even though she has been defiant throughout the day, and that he did not believe that he "pushed the situation."

7. In light of Plaintiff's rendition of events, and the other statements and evidence collected during the investigation, I concurred with the conclusions set forth concerning this incident, including the assessment that Plaintiff took no ownership of his management of the incident, and saw nothing wrong with his failure to inquire further into Erica's unwillingness to return the pants on the bus.

8. In any event, given the fact that we gave Plaintiff ample opportunity to give his side of the story at our meeting on April 25, 2016, his statement that we did not accurately depict what he said in the meeting is simply false.

9. Having reviewed the course and conduct of CCSD's investigation into the incident, which included reviewing statements from numerous students and staff members, as well as opportunities for Plaintiff to give both written and oral statements, I believe the investigation into this incident was thorough and within CCSD's normal practices for investigating these types of incidents.

10. Further the affiant sayeth naught.

Beverly Varnado
Beverly Varnado

Sworn and Subscribed to this the
11 day of May, 2020

[Signature]
Notary Public

My Commission Expires: 3.8.28

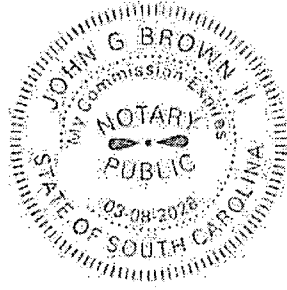


EXHIBIT A

NOTES OF INVESTIGATION

4/25/16

Andrew Hester

issues daily basis

greet's stu daily → cafe

looks for attitude + dress code compliance

- couple each day

told Erika her shirt dress was short

- shorts underneath? yes

in cafe told stu to stay after dismissal to class

- wants to resolve issue w/ going to class

- A21 no g dress was too short

stu left cafe anyway

- refusal to obey

- instr A21 to get her from cls

- stu refused to move

- A21 called for A20

- A21 said hold off, he wd come to class

- stu heard + got up on her own + went to "Nuggit"

- A21 asked stu what happened I asked you to stay in cafe

- profanity

- A21 asked again abt shorts

- she said yes was wearing but + show

- asked her to put on shorts pants

- went to cafe, ref to put on pants

- A21 cont to encourage her ~ 1 hr

left cafe anyway

(2)

SCS went to get stu for 2nd block

- stu cursing
 - A21 asked stu to go to T w/ planning, did her work
- Stu went to lunch as usual

A21 says was incred patient + encouraging all a.m.

Stu walked to office + said she wd put the pants on.

SCS brought choices.

Stu picked scrubs; she put them on under dress.

A21 reminded her to get them at end of day. 2X-3X

A21 asked SCS to get pants

- fin early + went out personally
- asked SCS to go on bus + get pants
- stu refused, was cursing + difficult

A21 boarded bus

- stu on bus (R) all the way in the back
- other stus disruptive, cursing, screaming

Driver offered to go back + speak to stu.

- then said she wd get pants + bring them Mon.

A21 + go all the way back; stu + come to say she didn't take off the pants

Never occurred to A21 stu had changed out of the dress + stu never said she had no option.

(3)

If stu yelled she had no clothes, but did not hear it. Stu says they told him + wearing dress.

Next thing A21 knows, he sees the pants called up come fwd → A21 went to get them.

Stu opens window + says now I'm wearing pants.

601 stops bus - tells A21 she's not wearing the same thing - she's in pants.

A21 gives pants to driver.

Stu puts on pants.

Stu gives gets off bus.

A21 asked stu what's happening.

A21 said stu behavior to ARO + ACS

Stu on phone.

A21 asked ARO/ACS to pls stay we need to meet w/ parent.

Sather called - You made her get into pants.

A21 tried to explain. Sather cut him off. Did you make my dau sit in pants on bus? No.

Data clerk - I spoke w/ mom + will drive her home.

A21 No - parent needs to come.

Data clerk - she can't.

A21 My ans is parent needs to come.

Another I talk to mom, she's on the way.

A21 - notify me.

④

His one notified A21. Maybe id not get parent to come in.
Parent + stu left. Hope D has a lot of \$.

A21 called Coker. Said he id handle it but asked
Coker to be there Mon. Asked for bus video via A21

A21 emailed all adults to ask them for statements.
Coker asked for statements.

A21 off grid for Passover till 8:30 Sun.

- then got in touch w/ Coker
- admin lv w/ pay

* Bus may not have camera.

∴ people can make contradictory statements

A21 feels he did e' thing procedurally. Easy to
Th. a. m. get - why didn't you just let ~~her~~ her
have the pants? D/c had no idea she had
changed her clothes.

Q: Is it reasonable for her to have come to you + say
why she isn't returning the pants? yes

A21 + think this is at all appn to frame as him -
it is her + her choice.

⑤

As I had expect ste wd give pants back at end
of day - even though ste had ignored +
disregarded him all day - he still expected
it. Does not feel he pushed the situation.

7/9/2019

ANDREW HALEVI

1 in writing?

2 A. No. Although, they handed me something in writing.

3 Q. Did they take notes, to your knowledge?

4 A. I -- I assume that they took notes. I seem to
5 remember both Bev and Will taking notes.

6 Q. Uh-huh. Did you kind of get everything off your
7 chest with them that you wanted to?

8 A. No, absolutely not. It was quite a limited
9 conversation.

10 Q. Okay. Did you want to -- did they cut you off or
11 dismiss you before you were --

12 A. Yes.

13 Q. Okay. How did they do that? Did they force you out
14 of the room?

15 A. They said, "We're only talking about this."

16 Q. They were only talking about?

17 A. Their questions.

18 Q. Okay.

19 A. They had a series of questions which were very
20 leading and judgmental and we were only talking
21 about those questions that they had.

22 Q. Okay. I certainly don't mean this as a slight in
23 any way, but you're answering my questions today,
24 what I presume to be fulsome; is that fair?

25 A. Presume to be what?

7/9/2019

ANDREW HALEVI

ELECTRONICALLY FILED - 2020 May 11 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1000123

1 and Bev in the past --

2 Q. Right.

3 A. -- and seen the way they work, I understand that
4 they take notes on some things, don't take notes on
5 others, are quite controlling in their
6 conversations. And so I was aware of that going
7 into -- going into the meeting with ER, particularly
8 when the very first thing they handed me was saying
9 that I was under suspension. So it was a very
10 different type of conversation that I was having
11 with -- with Will and Bev.

12 Q. Okay.

13 A. And I do not trust that they, and I now know, that
14 they did not accurately depict what I said in that
15 meeting.

16 Q. Okay. How did they -- how did they, in your mind
17 because of what you just said, how did they
18 misrepresent or misrecord your statements?

19 A. They did not seem interested in the larger context
20 of the situation. They kept saying -- kept
21 repeating questions in a similar way, which was why
22 did you get on that bus, you know, why didn't you
23 just let the bus go. They were questions that
24 didn't seem to be designed to get information.

25 Q. Right.

AFFIDAVIT OF
WILLIAM C. SUGGS, III

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Andrew HaLevi, Ph.D.,

Plaintiff,

v.

Charleston County School District,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A No.: 2018-CP-10-00123

AFFIDAVIT OF WILBERT C. SUGGS III

Personally appearing before me, Wilbert C. "Will" Suggs III, being duly sworn, deposes and says:

1. I am currently a Director of Employee Relations for the Charleston County School District ("CCSD").

2. On Friday, April 22, 2016, I was notified of the incident that occurred between Andrew HaLevi ("Plaintiff") and a 16-year old student named Erica Hamilton. On Monday, April 25, 2016, I became involved in an investigation of the incident.

3. Along with my colleague Dr. Beverly Varnado, we interviewed Plaintiff on April 25, 2016. The notes that I took of that meeting are attached as Exhibit "A" to this affidavit.

4. I have reviewed Plaintiff's deposition testimony concerning our interview of April 25, 2016. Plaintiff stated that we "had a series of questions which were very leading and judgmental and we were only talking about those questions that they had." (*HaLevi Deposition, p. 131, lines 19-21*). Plaintiff also stated that he "did not trust that they, and I now know, that they did not accurately depict what I said in the meeting." (*HaLevi Deposition, p. 133, lines 13-15*).

5. Plaintiff's rendition of the interview is untrue. As my notes indicate, Plaintiff spent much of the interview giving us his version of events with minimal prompting from us. In fact,

these notes indicate clearly that Plaintiff recounted his version of the incident between himself and the 16-year old student with few questions from either Dr. Varnado or me.

6. Further, Plaintiff appeared to blame Erica Hamilton for failing to tell him why she did not want to return the pants to him on the bus. My notes indicate that Plaintiff stated that he thought he could reasonably expect Erica to explain why she did not want to return the pants to him on the bus, and that "she failed to be reasonable." He also thought that the incident resulted due to Erica's "unreasonable behavior."

7. In light of Plaintiff's rendition of events, and the other statements and evidence collected during the investigation, I concurred with the conclusions set forth concerning this incident, including the assessment that Plaintiff took no ownership of his management of the incident, and saw nothing wrong with his failure to inquire further into Erica's unwillingness to return the pants on the bus.

8. In any event, given the fact that we gave Plaintiff ample opportunity to give his side of the story at our meeting on April 25, 2016, his statement that we did not accurately depict what he said in the meeting is simply false.

9. Having reviewed the course and conduct of CCSD's investigation into the incident, which included reviewing statements from numerous students and staff members, as well as opportunities for Plaintiff to give both written and oral statements, I believe the investigation into this incident was thorough and within CCSD's normal practices for investigating these types of incidents.

10. Further the affiant sayeth naught.

[SIGNATURE ON NEXT PAGE]

Wilbert C. Suggs III
Wilbert C. Suggs III

Sworn and Subscribed to this the
11 day of May, 2020

Amy Eversole
Notary Public

My Commission Expires: January 31, 2027

Embossed Hereon is My
State Of South Carolina Notary Public Seal
My Commission Expires January 31, 2027
AMY R. EVERSOLE

EXHIBIT A

NOTES OF INVESTIGATION

4/25/16

Andrew Hadwin

Clark

- These types of issues happen on a daily basis
 - arrives @ work @ 5:30 to open bldg.
 - greets students & looks for:
 - general attitude / behavior concerns
 - dress code issues
- Att came in w/ short dress; he addressed it
 - generally students say they will correct it
 - students always go to cafeteria for breakfast & for morning mtg.
- Dress code is generally not huge prob, but
 - decided if she had shorts on. she could go on to class b/c she would not show anything inappropriately
- Student non-compliant, changed issue to insubordination / disobedience
 - Att had been told to stay in cafeteria; went to English class
- us - directed to go back to cafeteria; Att stayed w/ her & another student
 - Att went into hall @ class change; stood outside cafeteria & Att left - Att did not notice her slip out
- System for managing behavior seems weak
 - no ~~pt~~ system for holding students
- Att felt he was patient w/ student

A. Haderi 2

- Around 11:30, Etl said she would put on pants
 - Etl brought in an assortment of pants; she selected a pair of pants
 - Att reminded her ^{twice - maybe 3 times} multiple times to return pants
- Directed Etl to get pants back
 - BSWA radioed back & said she was not giving back pants; Att heard her over radio using profanity @ BSWA
 - Att went to bus & boarded it; students began screaming things like "Get the fuck off the bus"
- Etl never came to him on bus to say she did not have dress/pants
 - claims no one told him of situation - no idea Etl had changed clothes
 - said there could have been people saying she did not have her dress but there was lots of noise
 - bus driver tried to intervene; Etl noncompliant, but driver did not tell Att about her not having dress
- ~~Att~~ While Att was talking to a student about being late to work, Etl threw pants toward front of bus
 - Att took pants; got off bus
 - Etl screamed out window that she had no clothes on
 - Att stopped bus; ~~called police~~ ^{got back on board}; driver said this was correct & no pants - Att said driver never told him of this even after she had tried to intervene

A. Hasari 3

- Att saw Ebt leaving w/ data clerk b/c mother could not come
 - directed her not to leave w/ student b/c he needed to speak to parent - parent's responsibility to care for child
 - parent did come; ZCS & other personnel did not alert att that parent had arrived
- Att does not feel info was presented to him in a way he could have heard it / registered it was happening
 - had no conversation expressly w/ one student except for LaDestiny ~~X~~, to whom he explained Ebt was leaving w/ some clothes she arrived wearing
- Att could not understand why Ebt did not explain why she could not return the pants
 - reasonable expectation of her, & she failed to be reasonable
 - Att said the bus was not moving until he got the pants back
- "Given result of her unreasonable behavior, it is coming back to me"
- students in alternative program see principal as "the man" and challenge/oppose/~~challenge~~ ^{mistrust} the authority figure
- theoretically, another student could have loaned her clothing

7/9/2019

ANDREW HALEVI

1 in writing?

2 A. No. Although, they handed me something in writing.

3 Q. Did they take notes, to your knowledge?

4 A. I -- I assume that they took notes. I seem to
5 remember both Bev and Will taking notes.

6 Q. Uh-huh. Did you kind of get everything off your
7 chest with them that you wanted to?

8 A. No, absolutely not. It was quite a limited
9 conversation.

10 Q. Okay. Did you want to -- did they cut you off or
11 dismiss you before you were --

12 A. Yes.

13 Q. Okay. How did they do that? Did they force you out
14 of the room?

15 A. They said, "We're only talking about this."

16 Q. They were only talking about?

17 A. Their questions.

18 Q. Okay.

19 A. They had a series of questions which were very
20 leading and judgmental and we were only talking
21 about those questions that they had.

22 Q. Okay. I certainly don't mean this as a slight in
23 any way, but you're answering my questions today,
24 what I presume to be fulsome; is that fair?

25 A. Presume to be what?

7/9/2019

ANDREW HALEVI

ELECTRONICALLY FILED - 2020 May 11 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1000123

1 and Bev in the past --

2 Q. Right.

3 A. -- and seen the way they work, I understand that
4 they take notes on some things, don't take notes on
5 others, are quite controlling in their
6 conversations. And so I was aware of that going
7 into -- going into the meeting with ER, particularly
8 when the very first thing they handed me was saying
9 that I was under suspension. So it was a very
10 different type of conversation that I was having
11 with -- with Will and Bev.

12 Q. Okay.

13 A. And I do not trust that they, and I now know, that
14 they did not accurately depict what I said in that
15 meeting.

16 Q. Okay. How did they -- how did they, in your mind
17 because of what you just said, how did they
18 misrepresent or misrecord your statements?

19 A. They did not seem interested in the larger context
20 of the situation. They kept saying -- kept
21 repeating questions in a similar way, which was why
22 did you get on that bus, you know, why didn't you
23 just let the bus go. They were questions that
24 didn't seem to be designed to get information.

25 Q. Right.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR
	)	
COUNTY OF CHARLESTON	)	THE NINTH JUDICIAL CIRCUIT
	)	
Andrew HaLevi, Ph.D.,	)	Case No.: 2018-CP-10-00123
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S RESPONSE TO
	)	DEFENDANT CHARLESTON COUNTY
Charleston County School District,	)	SCHOOL DISTRICT'S MOTION FOR
	)	SUMMARY JUDGMENT
Defendant.	)	
	)	
	)	
	)	

Plaintiff files this Response to Defendant Charleston County School District's (CCSD's) Motion for Summary Judgment. Plaintiff has alleged three (3) causes of actions in his Complaint against Defendant: defamation *per se*, violation of due process under the State Constitution and S.C. Code § 59-25-470; and breach of the covenant of good faith and fair dealing.

I. STANDARD OF REVIEW

On a motion for summary judgment, "in determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party." *Hancock v. Mid-South Mgmt. Co., Inc.*, 381 S.C. 326, 329-30, 673 S.E.2d 801, 802 (2009). "A court considering summary judgment neither makes factual determinations nor considers the merits of competing testimony." *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006). "A material fact is one that might affect the outcome of the suit under governing law." *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 183 (4th Cir. 2001) (internal citations and quotes omitted).

II. BACKGROUND

1. Plaintiff obtained a BA in English from Skidmore College; a Masters in Reading and Language from Harvard, and started his Ph.D. in English and Education at University of Michigan, which was awarded by the University of South Carolina after completion of his dissertation. (Ex. 1, Resume.)

2. Plaintiff worked as a Reading Specialist in Mississippi before being employed by Defendant. (*Id.*)

3. Plaintiff was employed by Defendant from 1995 until 2017, first as an English teacher at Burke High School from 1995-2006, during which time he was named CCSD *Teacher of the Year*; he was a finalist for SC Teacher of the Year; and served as Teacher Specialist on Site for the South Carolina State Department of Education. (*Id.*)

4. In 2009, Plaintiff became the Program Director of Clark Academy, an alternative program for at-risk high school students. (Ex. 2, appointment letter.)

5. On Thursday, April 21, 2016, Defendant's recently hired Superintendent Dr. Postlewait called Plaintiff out of a Secondary Learning Community Meeting to ask him why he appeared so uncomfortable when she was speaking earlier in the day about her frustrations with the Charleston Teacher Alliance (CTA). Plaintiff told Dr. Postlewait he was not uncomfortable and that he had no connection with the CTA since becoming a CCSD administrator in 2008. Ex. 3, Pl. Dep., 196-198.)

6. Plaintiff was abruptly removed as Program Director of Clark Academy due to an incident involving a dress code violation involving a student named Erica Hamilton that occurred on a Friday afternoon Friday, April 22, 2016 and two (2) other alleged issues, which two issues

Defendant later admitted were without basis in fact. (Ex. 4, May 3, 2016 letter; Ex. 5, May 11, 2017 letter from Postlewait; Ex. 3, Pl. Dep. 58-63; 185-195.)

7. Plaintiff was employed under an annual administrative contract which ran through for the next academic year prior (2016-2017) at the time this incident occurred. (Ex. 6, 2016-2017 contract.)

8. Before school resumed the next Monday (April 25, 2016), Plaintiff's supervisor, Jennifer Coker, placed him on paid administrative leave "pending an investigation." (Ex. 3, Pl. Dep. 132-134.)

9. Jennifer Coker told Plaintiff the leave would likely be for two (2) days and that she was placing him on leave based primarily on social media posts made by Erica Hamilton's uncle. (*Id.*, 198-199; Ex. 7, Hamilton's uncle's complaints to CCSD)

10. When Ms. Coker placed Plaintiff on leave on Sunday night after the incident, she had only been his supervisor for about three (3) months; she had no information other than she was told by another CCSD employee that the police were investigating the incident; she had not yet started an investigation that she testified she finished on Friday April 30, 2016 - after Plaintiff's replacement had already been appointed. (Ex. 8, Coker Dep. 6-49.)

11. Plaintiff objected to being placed on leave as he knew his sudden absence from the School would make it appear that he had done something improper. (Ex. 3, Pl. Dep. 198-199.)

12. Jennifer Coker then started and completed her "investigation" in a week without speaking to Erica Hamilton and within five (5) school days Defendant had hired a permanent replacement for Plaintiff. (Ex. 4; Ex. 3, Pl. Dep. 86-88.)

13. In April 26, 2016, *The Post and Courier* published two (2) articles about the incident with Plaintiff's photograph that reported Defendant had no comment. (Ex. 9, newspaper articles and emails.)

14. On Wednesday, April 27, 2016, three (3) days into Jennifer Coker's investigation, Plaintiff was notified by several co-workers that John O'Connell, an Assistant Principal at CCSD, had introduced himself to the students at Clark as "the Program Director for the remainder of the year" and told them that "things had been done wrong around here for a long time." (Ex. 3, Pl. Depo. 86-87.)

15. On Friday, April 29, 2016, Plaintiff was approached by a neighbor, who said that Ms. Merriweather, an assistant principal at Burke High School, sent an e-mail to the Burke faculty saying farewell as she had been asked to be the Interim Program Director of Clark through the end of the year. (*Id.*, 87-88.)

16. On May 1, 2016, Plaintiff sent an e-mail to Dr. Postlewait and other District administrators with an advanced copy of an Op-ed that he had written regarding the Post and Courier's coverage of the disciplinary incident and requesting CCSD provide correct information. (Ex. 10, email and letter to editor.)

17. When Jennifer Coker learned about Plaintiff's letter to the editor she told a colleague of Plaintiff's, "Things were going to get much worse for Andrew in the District." (Ex. 3, Pl. Dep 157.)

18. On May 3, 2016, Plaintiff met with Michele English-Watson, Jennifer Coker, and Will Suggs. Ms. English-Watson gave Plaintiff a letter notifying him that he was being removed from his position as Program Director at Clark Academy due to: 1) contract issuance problems (which Jennifer Coker later testified at her deposition had been resolved prior to the April 22,

2016 incident); 2) concerns about his leadership, none of which had ever been communicated to Dr. HaLevi; and 3) failure to handle a dress code incident properly. (Ex. 4.)

19. Plaintiff was told that he would remain on paid administrative leave, that he needed to be ready to report to a new work assignment at any time, and that he could not appeal. (*Id.*; Ex. 3, Pl. Dep. 199.)

20. On May 4, 2016 CCSD Board Member Chris Collins told the Chronicle newspaper that Plaintiff should be fired due to how he handled the dress code incident. (Ex. 11.)

21. In July 2016, CCSD falsely told the Post & Courier reported that Plaintiff had been reassigned. That was false; in until August, after Plaintiff learned there were no plans to reassign him to an administrative position, he volunteered to teach English. (Ex. 3, Pl. Dep. 62, 84-85; Ex. 12, CCSD reassignment policy and email.)

22. Throughout the summer of 2016, Plaintiff waited to be informed of his new assignment within CCSD. He never received a call, letter or other indication as to where Defendant was planning to reassign him. (Ex. 3, Pl. Dep. 84-85.)

23. One week prior to the start of the 2016-17 school year, Plaintiff was called to meet with Terri Nichols. Plaintiff asked directly about his administrative placement and was told by Ms. Nichols that she had no information about his reassignment. (*Id.* 174; Ex. 13, July 28, 2016 Nichols letter.)

24. Plaintiff offered to work as a teacher for the year ahead and was assigned to teach English at Stall High School as he was concerned about the damage to his reputation from remaining out of work so long. (Ex. 3, Pl. Dep. 175, 203.)

25. Plaintiff filed a grievance per the existing CCSD grievance policy against Jennifer Coker, Michele English Watson, Dr. Postlewait, and Chris Collins in August of 2016. (Ex. 3, Pl. Dep. 63-74; Ex. 14, CCSD approved grievance policy.)

26. Six weeks after Plaintiff's grievance was submitted, on October 18, 2016, CCSD Board Chair Cindy Bohn Coats informed Plaintiff that she was returning his grievance because the policy "requires that you start with your immediate supervisor and work your way up the chain of command." (Ex. 15, Coats letter.)

27. On October 31, 2016, Plaintiff requested a copy of the written procedures regarding the grievance process from Defendant's attorney John Emerson. (Ex. 16, email.)

28. On November 15, 2016, Plaintiff received a letter from a different attorney working for Defendant that contained an entirely different employee grievance process. Plaintiff was told the new grievance procedures "have not been submitted in final form to the Superintendent" but that "Dr. Postlewait has reviewed the procedures and maintains a copy in her office." (Ex. 17, letter and unapproved CCSD grievance policy.)

29. On November 28, 2016, three months after his original grievance was submitted, Plaintiff was asked to present his grievance in a meeting to Jennifer Coker, his immediate supervisor, and then to a grievance meeting with his next immediate supervisor, English-Watson. (Ex. 3, Pl. Dep. 64-74.)

30. Plaintiff was next told to meet with Dr. Valerie Harrison, who was not involved in any of the decisions regarding Plaintiff and had no knowledge of the dress code incident. (*Id.*)

31. On March 8, 2017, Plaintiff formally appealed to Dr. Postlewait. (*Id.*)

32. On May 17, 2017, Plaintiff notified Dr. Postlewait that he was appealing to the full Board. (*Id.* at 164-165.)

33. Plaintiff never received a grievance hearing before the Board. (*Id.*)

34. On September 12, 2017, the State Board of Education issued an Order finding Dr. HaLevi had handled the dress code disciplinary issue appropriately. (Ex. 18, Department of Education's Report and Recommendations; Ex. 19, Final Order.)

DISPUTED ISSUES OF FACT

1. The facts regarding the Erica Hamilton dress code incident are in dispute; specifically, Erica Hamilton and Plaintiff's actions and interactions prior to, during, and after Erica Hamilton boarded the school bus on April 22, 2016. (*See, e.g.*, Ex. 20, various statements by Erica Hamilton; Ex. 21, Hamilton Dep. 16-40; 60-224; Ex. 3, Pl. Dep., 185-198..)

2. The adequacy of Defendant's subsequent investigation into Hamilton's allegations.

3. Defendant's motive(s) in removing Plaintiff from his position as Program Director at Clark Academy; e.g., why Dr. Postlewait singled Plaintiff out in a meeting; why two (2) allegations were made against him justifying his immediate suspension were later dropped; why was a successor was hired within a matter of days; and why CCSD failed to follow its policy regarding reassignment of administrators.

4. Whether Chris Collins' statement to the Chronicle newspaper was improper and made in an unjustified manner and whether Collins acted recklessly. (Ex. 22, Collins Dep., 6-9; 14-15; 20-23; 29-38; 45-46.)

5. What Defendant's grievance procedure was in 2016-2017; whether Defendant followed an approved grievance procedure; and if not, why not?

6. Why Plaintiff was refused a full hearing before the Board.

7. Why was the Department of Education's Order finding Plaintiff had acted properly during the Erica Hamilton incident never communicated to Defendant's Board.

III. LEGAL ARGUMENT

A. Defamation

1. Plaintiff was not a Public Official¹

Defendant's argument that Plaintiff was a public official because he was a Principal and, thus, must prove actual malice, fails as Plaintiff was never a Principal, he was always an Assistant or Associate Principal.² In fact, Defendant acknowledges South Carolina case law holds that assistant principals are not public officials. (Def. Memo, p.10, fnt 4.) Defendant also correctly notes that there is no case law in South Carolina holding Principals are public officials.

Even if Plaintiff had ever been a Principal, which he never was, many jurisdictions have held principals are not public officials. *See, e.g., Ellerbee v. Mills*, 422 S.E.2d 539 (Ga. 1992) (a high school principal is not a public official as they are removed from the general conduct of government and are not policy makers); *Richmond Newspapers, Inc. v. Lipscomb*, 362 S.E.2d 32 (Va. 1987), cert denied, 486 U.S. 1023, 108 S. Ct. 1997 (1988) (public high school teacher was not a public official as he did not influence or control any public affairs or school policy); *McCutcheon v. Moran*, 425 N.E.2d 1130 (Ill. App. Ct. 1981) (relationship a public school teacher or principal has with the conduct of government is far too remote to justify a qualifiedly

¹ A person can become a public figure under two circumstances: by achieving such fame and notoriety that he becomes a public figure for all purposes and in all contexts, or by voluntarily injecting himself into a public controversy and thereby becoming a public figure for a limited range of issues. In either case, such persons assume special prominence in the resolution of public questions. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974). A public question involves the resolution of a serious social or governmental problem. *Time Inc. v. Johnston*, 448 F. 2d 378 (4th Cir. 1971). Disputed personnel disciplinary matters do not involve serious social or governmental problems.

² A Program Director is a position equal in grade and pay to that of an Assistant or Associate Principal; it is not on the same level as a Principal. (Ex. 23.)

privileged assault upon their reputation.) *Franklin v. Benevolent etc. Order of Elks*, 97 Cal. App. 3d 919 (1979) (public high school teachers are not public officials); and *Poe v. San Antonio Exp.-News*, 590 S.W.2d 537 (Tex. App. 1979) (summary judgment proof failed to establish plaintiff was a public official).

2. Defamation by innuendo is actionable under South Carolina law

Defendant errs by stating that conduct cannot be defamatory. "To render the defamatory statement actionable, it is not necessary that the false charge be made in a direct, open and positive manner. A mere insinuation is as actionable as a positive assertion if it is false and malicious and the meaning is plain." *Tyler v. Macks Stores of S.C., Inc.*, 275 S.C. 456, 458, 272 S.E.2d 633, 634 (1980) (quoting *Timmons v. News & Press, Inc.*, 232 S.C. 639, 644, 103 S.E.2d 277, 280 (1958)). In *Fountain v. First Reliance Bank*, 398 S.C. 434, 441-42, 730 S.E.2d 305, 309 (2012), the Supreme Court cited to the case of *Tyler v. Macks Stores of S.C., Inc.*, *supra*:

The respondent contends that his discharge, following the giving of a polygraph test and the immediate firing of the manager thereafter, gave fellow employees and others the feeling and belief that he had been discharged for some wrongful activity. He concludes that this insinuation and inference of wrongdoing can amount to the publication of defamatory matter. It is established that **a defamatory insinuation may be made by actions or conduct as well as by word.** 50 Am.Jur.2d Libel and Slander, Section 26, page 539.

275 S.C. at 458, 272 S.E.2d at 634 (emphasis added).

Here, Defendant's intentional silence and failure to convey truthful information, its immediate removal of Plaintiff as Program Director, and repeated refusal to provide accurate information to the press and public about Plaintiff's actions, although it did so for another. Rarely are long-term Assistant Principals or Principals in the District removed rather than reassigned. Further, the cases cited by Defendant all acknowledge a cause of action for

defamation by *innuendo* exists; the courts just found the facts in those particular cases were insufficient to support the claim.

3. The statements made by Board Member Chris Collins can be attributable to the Board

The term “agency” means that a person has placed another person in such a situation that someone else is justified in assuming that the agent is authorized to act on behalf of the Board. The public rightly assumes that statements by a Board Member, whether authorized or not, reflect the Board’s sentiments- in this case, that Plaintiff was unfit for his job position.

The Tort Claims Act does not bar this defamation claim. When a statement is classified as actionable *per se*, under common law malice is presumed. *Castine v Castine*, 403 S.C. 259, 743 S.E.2d 93 (Ct. App. 2013). Here, malice is presumed in Plaintiff’s claim of defamation because Defendant’s false statements charge Plaintiff is unfit for his job. *Fountain v. First Reliance Bank*, 398 S.C. 434, 442, 730 S.E.2d 305, 309 (2012) (quoting *Goodwin v. Kennedy*, 347 S.C. 30, 36, 552 S.E.2d 319, 322–23 (Ct. App. 2001)). As Plaintiff does not have to prove “actual” malice because it is presumed, his defamation claim is not barred by the Tort Claims Act.

4. Chris Collins’ statement to the press is not protected on the basis it was opinion

In *Potomac Valve & Fitting Inc. v. Crawford Fitting Co.*, 829 F.2d 1280 (4th Cir. 1987), the Fourth Circuit outlined factors that should be considered when determining whether a statement is a protected statement of opinion. The Court in *Potomac* stated in a footnote that whether a statement constitutes fact or opinion is a question of law for the trial court to decide (See *Id.* at p. 1285, n.12). However, questions of motive and intention are generally not proper determinations to be made at the summary judgment stage of litigation. See *Hunt v. Cromartie*, 526 U.S. 541, 549, 551-52, 119 S. Ct. 1545, 1551-52, (1999) (when the issue of motivation

includes disputed facts it cannot be decided on summary judgment because to do so would require the judge to weigh evidence and make determinations of credibility.) As explained in *Sunshine Sportswear & Electronics, Inc. v. WSOC Television, Inc.*, 738 F. Supp. 1499, 1506 (D.S.C. 1989), the test outlined in *Potomac* requires an initial determination of whether the statement is capable of being characterized as true or false and then, assuming the initial determination is decided in the affirmative, an examination of three additional factors. While the first determination is a question of law for the Court, the additional factors are questions for the jury as they concern motive and intention.

CCSD Board Member Chris Collins testified in his deposition he did not know Plaintiff or Plaintiff's educational or teaching background. (Ex. 22, 6-9.) However, based on what Dr. Postlewait had reported to him, Collins admitted he told a reporter for the Chronicle newspaper that Plaintiff should be fired. (*Id.*, 14-15.) Whether Collins' statement was reckless is an issue for the jury to decide.

As there are multiple issues of fact regarding Collins' statement and CCSD's actions, the defamation cause of action should go to a jury.

B. Violation of due process

Dr. HaLevi was denied a grievance hearing required under S.C. Code § 59-25-470. S.C. Code § 59-25-470 states:

- (A) Within fifteen days after receipt of notice of suspension or dismissal, a teacher may serve upon the chairman of the board or the superintendent a written request for a hearing before the board, or its designee.
- (B) If the teacher fails to make such a request, or after a hearing as provided in this article, the board shall take action and shall enter an order as it considers lawful and appropriate.
- (C) **The hearing must be held by the board, or its designee, within forty-five days after the request is served.** A notice of the time and place of the hearing must be given the teacher not less than five days before the date of the hearing.

(D) The teacher may be present with counsel at the hearing, and may cross-examine witnesses, may offer evidence and witnesses, and present defenses to the charges. The board, or its designee, shall order the appearance of any witness requested by the teacher, subject to the limitations of Section 59-25-460. The superintendent shall initiate the introduction of evidence in substantiation of the charges.

The South Carolina State Constitution recognizes a private cause of action for violations of due process. *See, e.g., Dew v. City of Florence*, 279 S.C. 155, 161, 303 S.E.2d 664, 667 (1983) (“Both the constitution of the United States and of South Carolina require notice and a hearing comporting with due process if [plaintiff] could show she had a ‘property’ interest in continued employment.”) Where a “property” interest is alleged to have been created, the sufficiency of the claim of entitlement is determined by reference to state law. *Bishop v. Wood*, 426 U.S. 341, 344, 96 S.Ct. 2074, 48 L.Ed.2d 684 (1976). Here, S.C. Code § 59-25-470 affords Plaintiff due process:

For ‘(w)here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential.’ *Wisconsin v. Constantineau*, 400 U.S. 433, 437, 91 S.Ct. 507, 510, 27 L.Ed.2d 515; *Wieman v. Updegraff*, 344 U.S. 183, 191, 73 S.Ct. 215, 219, 97 L.Ed. 216; *Joint Anti- Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 71 S.Ct. 624, 95 L.Ed. 817; *United States v. Lovett*, 328 U.S. 303, 316—317, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252; *Peters v. Hobby*, 349 U.S. 331, 352, 75 S.Ct. 790, 801, 99 L.Ed. 1129 (Douglas, J., concurring). *See Cafeteria & Restaurant Workers v. McElroy*, 367 U.S. 886, 898, 81 S.Ct. 1743, 1750, 6 L.Ed.2d 1230. In such a case, due process would accord an opportunity to refute the charge before University officials.

Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 573, 92 S. Ct. 2701, 2707, 33 L. Ed. 2d 548 (1972)

The U.S. Constitution and South Carolina Constitution both mandate that no person shall “be deprived of life, liberty, or property without due process of law.” U.S. Const. amend. XIV, § 1; S.C. Const. art. I, § 3. An essential part of due process is a party’s right to notice and

opportunity to be heard, which “must be granted at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *See also, Weaver v. S.C. Coastal Council*, 309 S.C. 368, 373-374, 423 S.E.2d 340, 343 (1992) (denial of respondent's permit was a violation of her equal protection *and due process rights under the federal and state constitutions* and that Council's decision was based upon matters not properly before the agency) (emphasis added).

Here, there is ample evidence Plaintiff was denied due process as he was denied the ability to grieve the actions taken against him in a timely or fair manner, and denied a hearing before the full Board, which resulted in the loss of his administrator position.

C. Breach of covenant of good faith and fair dealing

A covenant of good faith and fair dealing is implied in employment contracts in South Carolina. *Shelton v. Oscar Mayer Foods Corp.*, 459 S.E. 2d 851 (Ct. App. 1995) *aff'd*, 481 S.E.2d 706 (1997). Plaintiff was not an employee at will; it is undisputed that he had a continuing annual contract as an administrator. *Commercial Credit Corp. v. Nelson Motors, Inc.*, 147 S.E.2d 481 (1966) (the covenant of good faith and fair dealing is merely another term of the contract at issue). Plaintiff has not pled a separate breach of contract claim so the covenant of good faith and fair dealing claim is not subsumed in any other contract claim. *See, e.g., In re TD Bank, N.A. Debit Card Overdraft Fee Litig.*, 150 F. Supp. 3d 593 (D.S.C. 2015) (plaintiffs pled sufficient facts to state a plausible claim for relief under the implied covenant of good faith and fair dealing). The South Carolina Court of Appeals, in *Shelton v. Oscar Mayer Foods Corp.*, 459 S.E.2d 851, 857(S.C. Ct. App. 1995) recognized the covenant of good faith and fair dealing is implied in employment contracts that alter the at-will employment status. There are disputes of material fact as to whether Defendant breached the implied duty of good faith and fair dealing in

Plaintiff's administrator's contract when it removed and replaced him so suddenly, failed to make any statement on his behalf to the press, performed an inadequate investigation, failed to reassign him, and denied him a hearing before the Board.

For all of these reasons, as there are material issues of fact to be decided by a jury, Plaintiff respectfully requests Defendant's Motion for Summary Judgment be denied in its entirety.

BLOODGOOD & SANDERS LLC

S/ Nancy Bloodgood

Nancy Bloodgood, SC Bar No.: 6459

242 Mathis Ferry Road, Suite 201

Mt. Pleasant, SC 29464

Telephone: (843) 972-0313

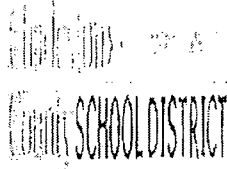
Email: nbloodgood@bloodgoodsanders.com

Attorneys for Plaintiff

Charleston, South Carolina

Date: June 3, 2020

EXHIBIT 1



Yvonne Marshall
843-937-6365
yvonne_marshall@charleston.k12.sc.us

Resume for Andrew Halevi

Candidate Phone: (843) 822-7220 | Secondary Phone:
(843) 762-8219 | Email: ahteacher@mac.com

Andrew HaLevi
7 Wesson Avenue, Charleston, SC 29403
(843) 822-7220 / AHTeacher@mac.com

Education

University of South Carolina Columbia, SC
* Ph.D. Program in Educational Leadership 2007-ongoing

University of Michigan Ann Arbor, MI
* Ph.D. Program in English and Education (all but dissertation) 1991-1994

Harvard University Graduate School of Education Cambridge, MA
* Ed.M in Reading and Language 1989-1990

Skidmore College Saratoga Springs, NY
* BA in English 1984-1988

Professional Experience

Interim Director, Septima P. Clark Academy Charleston, SC
*Lead administrator of overage/drop-out prevention program

Student Placement Coordinator Charleston, SC
*Conducted disciplinary hearings and coordination of P & I initiatives

English Teacher/Department Chairperson, Burke High School Charleston, SC
* English Teacher (1995-2006) / Department Chairperson (1997-2001)

English/Language Arts Teacher Specialist On Site John's Island, SC
* St. John's High School (2003-2004)

Lead Instructor, Program of Alternative Certification for Educators

* Regional onsite director of teacher training program (2003-2006)

English Teacher/Reading Specialist Mississippi

* South Delta School District (1994-1995) and East Jasper School District (1990-1991)

English/Education Teaching Assistant, University of Michigan Ann Arbor, MI

* Composition Instructor and Supervisor of Pre-service Teachers (1991-1994)

Leadership Experience/Certification

Charleston Futures

* Founder and Director of educational nonprofit organization that helps low-income students plan and prepare for college

Teacher Leadership

* Founder and President of Charleston Teacher Alliance, 2003 to present

o Largest teacher advocacy organization in the CCSD

* Charleston County School District Teacher of the Year, 2000

o South Carolina Teacher of the Year Finalist, 2000

o Chair of Charleston County Teacher Forum, 2001

Certification

* National Board Certification, 2003

* South Carolina English, Reading, Secondary Administration, Advanced Placement