

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANASTASIOS KAMOITSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

DOAH Case No. 25-5786PL
Agency Case No. 256-0563

HOPE McMATH,

Respondent

_____ /

**RESPONDENT'S MOTION FOR SUMMARY FINAL ORDER AND
INCORPORATED MEMORANDUM OF LAW**

COMES NOW, Respondent, HOPE McMATH, by and through her undersigned counsel, pursuant to Section 120.57(1)(h), Florida Statutes, and Rule 28-106.204, Florida Administrative Code, moves for entry of a Summary Final Order in her favor on the Administrative Complaint and states:

INTRODUCTION

1. The Commissioner of Education seeks to discipline Respondent's Florida Educator's Certificate based on a single Facebook post made on her personal account, on her personal time, on a matter of public concern, coinciding with the death of a national political figure. Ms. McMath's post as exhibited in Page 3 of the DOE McMath Case File is posted herein and attached hereto as Exhibit "A".



2. This should be the end of the analysis necessary for judgment as a matter of law under the First Amendment and the *Pickering* test. However, McMath is an educator so is here to provide more to her accuser in the form of history.

3. To date, the FDOE has only identified three witnesses. Besides Ms. McMath, it named FDOE Chief of Professional Practices Services Randy Kosec and DCPS Office of Professional Standards investigator Ronald Bennett. Their depositions are attached and referenced herein. The sole identified testimony shows

unrebutted, clear and convincing evidence that there is no violation identified at any level by any witness.

4. Respondent further herein produces an undisputed factual record on every issue material to the constitutional and statutory predicates the Commissioner must establish to discipline a Florida educator certificate based on protected off-duty speech. That undisputed record forecloses the Commissioner's case as a matter of fact and law.

5. This proceeding does not originate in any independent state-investigative determination. Unlike the thousands of cases on this Division's docket, the case does not originate from a victim, a concerned teacher, an administrator, or concerned parent with any connection to her school. No person has ever attended any classroom taught by Ms. McMath and complained. That should also be a sign of legal frivolity.

6. This was purely a political hit in its own right. According to counsel for Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter, Mathew D. Staver, the complaint against Respondent originated in an email sent by Moms for Liberty - Duval County Chapter, a local chapter of Moms for Liberty, Inc., a 501(c)(4) political advocacy organization. On his "Faith and Freedom" broadcast dated May 5, 2026, in an episode titled "Teacher's Lawsuit Against Moms for Liberty Should Be Dismissed," Mr. Staver stated: "Moms for the Liberty of Duval,

the Duval chapter, they emailed Duval County Public Schools and the Florida Department of Education with screenshots of this teacher's public social media post."

See <https://libertycounsel.blubrry.com/2026/05/05/teachers-lawsuit-against-moms-for-liberty-should-be-dismissed-3>.

7. Mr. Staver's law firm, Liberty Counsel, is a 501(c)(3) legal organization that represents Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter in Respondent's related federal civil rights action. Despite Rules of Professional Conduct to the contrary, Liberty Counsel has elevated its public campaign against Respondent and her counsel to a broadcast attack on more than 140 AM and FM radio stations. While she gets called vile and attacked, they fundraise off of her case. Meanwhile, their clients fundraise and publicize each of the politicians attached to McMath's case. The institutional posture of this proceeding, on the undisputed record, is the State of Florida operating as the enforcement instrument of a private political organization's campaign against a teacher whose protected political speech that organization disfavors. Yet, again, this is something which should not be tolerated under the law even according to the Supreme Court's most staunch justices.

8. It's not even remote or accidental. During the pendency of McMath's investigation, the named Petitioner here, the Commissioner of the Florida Department of Education, appeared as a featured speaker at Moms for Liberty, Inc.'s

"Joyful Warrior National Summit." By contrast, the Commissioner has never given Ms. McMath or any of the students or teachers at Douglas Anderson School of the Arts his time. Prior to his appearance on McMath's Complainant's stage, Moms for Liberty verified social media channels began promoting the Commissioner's appearance while he was making claims he found a probable cause determination in fifty Kirk-related FDOE investigations. A probable cause determination his chief investigator could not corroborate.

9. During his speech before Moms for Liberty's most devout, the Commissioner said, "We saw in the immediate aftermath of the assassination of Charlie Kirk, I was appalled by what I was seeing educators post publicly. . . . Glorifying, celebrating, condoning a school shooting is not going to be tolerated in Florida. We do anticipate additional litigation as we fight back on this, but we're not afraid of it because we've done it before and we are going to always put students first." See Joyful Warrior National Summit panel video (Freedom to Choose), Moms for Liberty, YouTube (Oct. 24, 2025), at 10:27-11:05, https://www.youtube.com/watch?v=ctlQr_il_EI. Which students? What about the students who lost their AP Art History teacher who wrote to the Department of Education begging for answers to no response?

10. On the same stage, the Commissioner publicly thanked Moms for Liberty-aligned activists and parents by name, including "the Crystal Marules, the

Jennifer Pippens" and "Jennifer Kennedy, Kim Kendall, Mon'nique Miller, and Evette Beno," and stated that those individuals "have brought to our attention the issues that are taking place at the local level." *Id.* at approx. 9:39-10:08. This shows Commissioner Kamoutsas' familiarity and kinship with the complainant. This would make any objective leader recuse himself, not be the sole shotgun firing rhetoric and accusations aimlessly at educators' protected speech.

11. On October 27, 2025, Commissioner Kamoutsas publicly committed the State of Florida to enforcement action in support of Turning Point USA. On his verified X account, Commissioner Kamoutsas declared: "If you try to serve as an obstacle, if you are a hurdle, if you get in the way of any student or teacher trying to start a @TPUSA Club America Chapter in Florida, you will be met with the full force of the law." Anastasios Kamoutsas (@StasiKamoutsas), X (Oct. 27, 2025, 4:15 PM), <https://x.com/StasiKamoutsas/status/1982903886865412275>. The tweet was published in connection with Governor DeSantis's same-day announcement of a partnership between the State of Florida and Turning Point USA to launch "Club America" chapters across every Florida high school. *Id.* (quote-tweeting @tpusastudents). Once again, this is bias by every definition.

12. In a separate appearance, at the September 2025 Teacher Freedom Summit organized by the Teacher Freedom Alliance, Commissioner Kamoutsas made biblical references in his prepared remarks and, on the record, anticipated that

“they’re going to call me a Bible thumper at the end of it.” Defending Freedom In Education | Anastasios Kamoutsas LIVE at 2025 Teacher Freedom Summit, Teacher Freedom Alliance, YouTube, at 36:14, <https://www.youtube.com/watch?v=nMCEgtoFnys>. The Commissioner has, in his official capacity, aligned the enforcement posture of the Florida Department of Education with Turning Point USA, the political organization founded by Mr. Kirk and whose death was the triggering event for Respondent’s investigation, and with Moms for Liberty, the complainant organization in this matter. This is exactly the type of viewpoint discrimination the First Amendment and United States Supreme Court clearly rebuke.

13. The United States Supreme Court warned against this exact institutional posture two and a half months before the McMath investigation began. **Justice Thomas, in a five-page statement respecting the denial of certiorari in *MacRae v. Mattos*, 145 S. Ct. 2617 (2025), wrote that "public employers cannot use *Pickering-Garcetti* balancing generally or unsupported claims of disruption in particular to target employees who express disfavored political views," and that lower courts must scrutinize school claims of disruption to avoid "giving schools a playbook for evading the First Amendment."** *Id.* at 2621 (citing *Mahmoud v. Taylor*, 606 U.S. 522 (2025) (Thomas, J., concurring)). The Statement of Justice Thomas Respecting the Denial of Certiorari is attached as Exhibit J.

14. McMath is not a marginal application of that playbook. McMath is a more aggravated form of it. Where *MacRae* had a single school district acting on its own institutional concerns about posts which were not purely political speech, McMath has the State of Florida acting at the direction of a private 501(c)(4) political organization that simultaneously hosted the Commissioner of Education at its national summit during the pendency of the proceeding. That distinction sharpens the constitutional analysis, not softens it. Every day that goes by students are without teacher and teacher is closer to being without a job for next year. This is harm and also public weaponization of what happens when you don't abide by the Commissioner's wants and wishes or believe what he believes.

15. Meanwhile, back to history class. It's entirely on McMath's side. The Commissioner's lead investigator admitted under oath that he conducted no First Amendment analysis at any decisional level. Indeed, the chief of Kamoutsas' own department admitted that he had never heard of *Pickering v. Board of Education*, 391 U.S. 563 (1968), much less use the test the U.S. Supreme Court mandates before punishing speech. Unlike the DOE, Ms. McMath passes that test with a perfect A: (1) the Commissioner's lead investigator further testified, under oath, that no student of Respondent reported seeing any of the posts under investigation; (2) that no student or school-level witness identified any disruption of the educational process; (3) that Respondent did not bring her political views into the classroom or

schoolhouse; and (4) that, in the lead investigator's own opinion, the post does not violate any state statute. His honesty is to be commended, but his inability to dismiss a frivolous complaint needs oversight as he admits only comes from Kamoutsas.

16. The Commissioner cannot, on this record, sustain his burden under Sections 1012.795(1)(d), (g), and (j), Florida Statutes, or Rules 6A-10.081(2)(a)(1) and 6A-10.081(2)(b)(1), Florida Administrative Code. An English educator's favorite punctuation should be placed here - period.

17. The Commissioner's recently filed Motion for Leave to File Amended Administrative Complaint, filed May 6, 2026, also fails, as it confirms rather than refutes the deficiency. The Commissioner did not move to amend until after the depositions exposed the Kirk-only theory's collapse. The tardy proposed amendment seeks to import allegations spanning years and pre-dating Respondent's certification, including the November 2021 "God is Trans" allegation that originated from complaints by Moms for Liberty - Duval County Chapter. It's like failing a student in 5th grade because of something they did in kindergarten - expect worse because it's protected political speech.

STANDARD

18. Section 120.57(1)(h), Florida Statutes, provides that "any party may move for summary final order whenever there is no genuine issue as to any material fact." Rule 28-106.204(4), Florida Administrative Code, governs the procedure.

Summary final disposition is appropriate where the moving party demonstrates, on undisputed facts in the record, that it is entitled to disposition as a matter of law. *See McDonald v. Fla. Birth-Related Neurological Inj. Comp. Ass'n*, 396 So. 3d 891 (Fla. 1st DCA 2024); *Agency for Persons with Disabilities v. Meadowview Progressive Care Grp. Home*, 340 So. 3d 547 (Fla. 1st DCA 2022); *Abbott Labs. v. Mylan Pharms., Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009).

19. On a motion for summary final order, the Tribunal views the record in the light most favorable to the non-movant. See § 120.57(1)(h), Fla. Stat. That standard is not in tension with the relief Respondent seeks here. The dispositive factual admissions on which Respondent relies are not drawn from her own testimony, from any self-interested representation, or from any source whose credibility this Tribunal would need to weigh on a more developed record.

20. They are drawn from the sworn deposition testimony of the Commissioner's own solely identified witnesses identified in Exhibit A. First is the lead investigator, Mr. Kosec, who was at all times the Florida Department of Education's Chief of Professional Practices Services, whose deposition transcript is attached as Exhibit B, and from the parallel sworn deposition testimony of Mr. Bennett, the Duval County Public Schools Office of Professional Standards investigator the Commissioner, whose deposition transcript is attached as Exhibit C.

21. The non-movant Commissioner cannot dispute, on a record viewed in his favor, statements his own witnesses gave under oath against his interest. The undisputed evidence here is the Commissioner's evidence. His only evidence.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Respondent's Speech Was Off-Duty, Off-Campus, Personal, and on a Matter of Public Concern

22. The Facebook post that is the basis of the original Administrative Complaint was made on or about September 11, 2025, on Respondent's personal Facebook account, in the immediate aftermath of the assassination of national political figure Charlie Kirk. The post stated: “Karma's a bitch and she heard all your speeches when you proudly proclaimed that you didn't give a shit about other people's lives.” (Original Administrative Complaint ¶ 4 (Exhibit K); FDOE Case File 256-0563, page 3 (attached as Exhibit D); Kosec Depo. P81:L23-P82:L03 (acknowledging post was “made on a private Facebook page on private time”).) The face of the post identifies it as posted on Respondent's personal Facebook account. The post does not identify Respondent as a teacher, does not reference her school, students, or Duval County Public Schools, and contains no statement directed at any student. (See FDOE Case File 256-0563, page 3 (Exhibit D).)

No Student Was Harmed; No Disruption Occurred

23. Mr. Kosec testified under oath that, during his school-site interviews of Respondent's students, not one student reported having seen any of the posts under investigation. (Kosec Depo. P75:L21-P76:L05.)

24. Mr. Bennett testified, in the parallel DCPS investigation, that no student was named, no student saw the posts, and no student or school-level witness described any resulting disruption. (Bennett Depo. P36:L02-L17.)

25. Mr. Bennett further testified that the only basis for any "disruption" finding in his investigation was an opinion based on "potential" disruption with no factual support: "Q. Did it disrupt the educational process? A. I think it had the potential to. Q. How? A. Just per policy, it had the potential to. Q. Give me your basis for that opinion, please? A. It's just that it's an opinion." (Bennett Depo. P35:L03-L12.)

Respondent Did Not Bring Her Political Views Into the Classroom

26. Mr. Kosec testified he found "no evidence" that Respondent "was somebody that brought politics and inappropriate commentary into the school or classroom." (Kosec Depo. P66:L15-L21.)

27. Mr. Bennett testified that he found no evidence that Respondent "brought her activism into the classroom." (Bennett Depo. P48:L21-L24.)

28. Mr. Kosec testified that, during his school-site interviews of Respondent's students at Douglas Anderson School of the Arts, two students

independently reported to him that Respondent had affirmatively instructed her students not to follow her on social media: “Two of them even said Ms. McMath said, ‘Don't follow my social media,’ so” (Kosec Depo. P24:L18-L19.) Mr. Kosec further testified that, when asked whether his school-site interviews supported the proposition that Respondent was “bringing her own activism into the hearts and minds of Douglas Anderson students,” he answered “No, sir,” and confirmed that “[n]one of the students . . . from my recollection even remembered seeing the post or anything like that.” (Kosec Depo. P75:L21-P76:L05.) These admissions, made by the Commissioner's own lead investigator on the basis of his own school-site interviews, establish that Respondent does not bring contemporary political subjects into her classroom and that her affirmative practice is to direct students not to follow her on personal social media.

No First Amendment Analysis Was Performed at Any Decisional Level

29. Mr. Kosec testified that he had never heard of *Pickering v. Board of Education* and had received no First Amendment training during his tenure at FDOE. (Kosec Depo. P29:L09-L11; P38:L05-L12.)

30. Mr. Bennett testified that he had not read the First Amendment in the past year, did not know what *Pickering v. Board of Education* was. (Bennett Depo. P09:L01-L18.)

31. Mr. Bennett further testified that DCPS general counsel was not consulted on any First Amendment question in Respondent's case. (Bennett Depo. P30:L21-L22.)

32. The Commissioner's records contain no document reflecting a *Pickering* balancing analysis at any level of the FDOE proceeding. The Commissioner has produced no such document in discovery.

The Lead FDOE Investigator Concluded the Post Violates No State Statute

33. Mr. Kosec was asked under oath: "Are these either one of these posts made on a private Facebook page on private time a violation of any state statute?" Mr. Kosec answered: "Not that I'm aware of, but again, I'm not the attorney." (Kosec Depo. P81:L23-P82:L03.)

The Probable Cause Determination Was Personally Signed by Commissioner Kamoutsas During the Moms for Liberty Summit Pendency

34. Mr. Kosec testified that the only probable cause determination issued in any of approximately fifty Kirk-related educator investigations opened by FDOE was the determination personally signed by Commissioner Kamoutsas in Respondent's case. (Kosec Depo. P82:L17-P83:L23.)

35. The Commissioner personally signed that probable cause determination on October 8, 2025. Moms for Liberty, Inc.'s October 1, 2025 promotional posts on its verified social media channels publicly identified Commissioner Kamoutsas, by

his official Florida governmental title, as a featured speaker at the Moms for Liberty "Joyful Warrior National Summit" scheduled for October 16-19, 2025. Commissioner Kamoutsas appeared as scheduled and used the Moms for Liberty stage to publicly announce FDOE's enforcement posture, by name, against the category of speech that includes Respondent's, and to thank Moms for Liberty-affiliated activists by name as the source of FDOE investigative leads. (See Joyful Warrior National Summit panel video (Freedom to Choose), Moms for Liberty, YouTube (Oct. 24, 2025), https://www.youtube.com/watch?v=ctlQr_i1_EI: Moms for Liberty, Inc. verified social media accounts, October 1, 2025 promotional posts identifying Commissioner Kamoutsas as a featured speaker at the Joyful Warrior National Summit scheduled for October 16-19, 2025, publicly accessible.)

The Origin of the FDOE Referral: Mr. Staver's Broadcast Representation and the Documentary Record

36. On May 5, 2026, one day before the Commissioner filed his Motion for Leave to File Amended Administrative Complaint, Liberty Counsel, the legal organization that represents Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter in Respondent's related federal civil rights action, *McMath v. Duval County Public Schools*, et al., No. 3:25-cv-01498-HES-MCR (M.D. Fla.), published an episode of its "Faith and Freedom" broadcast titled "Teacher's Lawsuit Against Moms for Liberty Should Be Dismissed". The episode is hosted by Liberty Counsel's

founder and chairman Mathew D. Staver (Florida Bar No. 701092) and co-hosted by Liberty Counsel's Vice President of Media Holly Meade. The episode is available at <https://libertycounsel.blubrry.com/2026/05/05/teachers-lawsuit-against-moms-for-liberty-should-be-dismissed-3> (Exhibit L).

37. On the broadcast, Mr. Staver stated, in the course of describing the genesis of the proceeding now before this Tribunal: "Moms for the Liberty of Duval, the Duval chapter, they emailed Duval County Public Schools and the Florida Department of Education with screenshots of this teacher's public social media post." That statement, by counsel for Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter, attributes the FDOE referral that produced this proceeding to a coordinated reporting campaign by Moms for Liberty - Duval County Chapter directed simultaneously at DCPS and at the Florida Department of Education.

38. The documentary record on the DCPS side of the referral corroborates that a Moms for Liberty - Duval County Chapter complaint was received by DCPS Office of Professional Standards Investigator Ronald Bennett on September 11, 2025 at approximately 2:56 PM. The complainant was identified to DCPS only as "Moms for Liberty Duval," with no individual signer named, and DCPS did not investigate the identity of the signer. (Bennett Depo. P21:L14-P22:L07.)

39. The documentary record on the FDOE side of the referral does not contain any email attributed on its face to Moms for Liberty - Duval County Chapter.

FDOE Case File 256-0563 begins, by FDOE's own docket table at page 2 of the file, with an item titled "Social Media Posting Filed Sep 11, 2025," which appears at page 3 of the file. Page 3 of the file is a printed screenshot of Respondent's Facebook "Karma's a bitch" post. The screenshot bears no email-sender attribution and is not in the form of an email. Page 3 of FDOE Case File 256-0563 is attached as Exhibit D.

40. The screenshot at page 3 of FDOE Case File 256-0563 displays the Facebook mobile interface, including a small profile avatar in the bottom-navigation Menu icon of the Facebook mobile application. Upon information and belief, that avatar is the personal Facebook profile photo of April Carney, then-current Vice Chair of the Duval County School Board, as it appeared on or about September 11, 2025, the date and approximate time of the captured post (9:26 a.m., per the iPhone status bar visible at the top of the screenshot). Ms. Carney subsequently changed her personal Facebook profile photo in April 2026. The avatar visible in the FDOE Case File 256-0563 screenshot, when compared to Ms. Carney's then-current personal Facebook profile photo, displays consistent hair color, length, styling, clothing, background, framing, and head orientation.

41. Mr. Kosec, the Commissioner's lead investigator, testified that the screenshot at page 3 of FDOE Case File 256-0563 came to him by email from Deputy Chancellor Josey McDaniel, and that "most of the Charlie Kirk social media

things came from the deputy chancellor and then also some of the people in the communications office." (Kosec Depo. P42:L21-P43:L08.) Mr. Kosec further acknowledged on the record that the avatar visible in the screenshot displays "blonde hair," that Deputy Chancellor McDaniel "does not have blonde hair," that he had never personally met Ms. Carney, and that, when informed that the avatar matches Ms. Carney's then-current Facebook profile photograph, he answered "Okay" and conceded that Ms. Carney "might have been one of the complainants." (Kosec Depo. P44:L14-P45:L01.)

42. Mr. Bennett's deposition exhibits include the same screenshot in both color form (Bennett Plaintiff's Exhibit 2, captioned on the formal Index of Exhibits as "Color graphic of April Carney's Screenshot") and black-and-white form (Bennett Plaintiff's Exhibit 3, captioned on the formal Index of Exhibits as "Black and white version of April Carney's screenshot on page 37 of 84"). Mr. Bennett confirmed Ms. Carney's identity as "one of these School Board members." (Bennett Depo. P15:L21-P17:L13.)

43. The first email correspondence in FDOE Case File 256-0563 from any putative complainant is an anonymous communication from "AmericanPatriot2022@protonmail.com" sent at 11:15 PM on September 11, 2025 to six FDOE officials (Paul Burns, the Commissioner, Steven Koncar, Kimberly

Richey, Amelia Johnson, and Juan Copa). That email contains no DCPS recipient. The AmericanPatriot2022 email is attached as Exhibit E.

44. Mr. Kosec testified under oath that the AmericanPatriot2022 email "is not the trigger of the investigation"; that the only complaint artifact predating FDOE's opening of the case is "a photocopied cellphone screenshot of two of [Respondent's] Facebook posts," the origin of which was unknown to him on the face of the file; and that the AmericanPatriot2022 email was anonymous in violation of FDOE's own policy requiring complaints from identified individuals. (Kosec Depo. P55:L24-P57:L13; P33:L01-L16.)

45. Mr. Staver's broadcast representation accordingly admits, by counsel for Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter, one of two propositions: (a) Moms for Liberty - Duval County Chapter is the source of the screenshot at page 3 of FDOE Case File 256-0563 and is responsible for the AmericanPatriot2022 submission, in which case Moms for Liberty - Duval County Chapter is the FDOE complainant of record; or (b) Mr. Staver's broadcast statement is inaccurate as to the FDOE side of the referral. The Commissioner conducted no investigation into the source of the screenshot prior to the Deputy Chancellor's transmission of it to Mr. Kosec. (Kosec Depo. P42:L21-P43:L08; P55:L24-P57:L13.)

46. Moms for Liberty, Inc. is a Florida-based 501(c)(4) tax-exempt social welfare and political advocacy organization. Moms for Liberty - Duval County Chapter is a local chapter of that organization. Both entities, together with the Florida Department of Education and Duval County Public Schools, are defendants in Respondent's related federal civil rights action. Liberty Counsel, the legal organization whose Vice President of Media announced the May 5, 2026 broadcast described above, is a separate Florida-based 501(c)(3) tax-exempt organization that serves as counsel of record for Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter in the related federal action.

47. The Liberty Counsel "Faith and Freedom" broadcast is not solely a digital podcast. Liberty Counsel has published a station directory authored by Liberty Counsel Vice President of Media Holly Meade and dated September 6, 2024, identifying more than 140 AM and FM broadcast radio stations carrying the "Faith and Freedom" program across the United States. The May 5, 2026 episode targeting Respondent and her counsel was disseminated through that AM and FM broadcast distribution network in addition to digital streaming. The broadcast distribution by counsel for Moms for Liberty, Inc. and Moms for Liberty - Duval County Chapter, conducted on the day before the Commissioner filed his Motion for Leave to File Amended Administrative Complaint, occurred during the pendency of this DOAH proceeding and during the pendency of Respondent's related federal action.

48. The Commissioner did not identify any other Florida educator against whom he has pursued comparable disciplinary action for similar speech or conduct. Pet'r's Resp. to Resp.'s First Set of Interrogs. No. 8 (Mar. 18, 2026) (Exhibit M).

Comparator: The Most Recent Adjudicated Educator Social-Media Discipline Case Was Reversed on First Amendment Grounds by the Fifth District Court of Appeal on Materially More Aggravated Facts Than the Conduct Alleged Against Respondent

49. In the most recent prior DOAH proceeding adjudicating educator discipline arising from social-media activity by a DCPS teacher, *Duval County School Board v. Caggiano*, DOAH Case No. 20-5259TTS, Administrative Law Judge Robert J. Telfer III recommended, on November 15, 2021, that the School Board enter a final order finding the respondent teacher in violation of Florida Administrative Code Rules 6A-5.056(1) and (2)(b); 6A-10.081(1)(b), (c), (2)(a)1., (2)(a)5., and (2)(b)1.; and DCPS Policy 10.10(IV)(A), and recommended a sanction of: (a) written reprimand; (b) three (3) consecutive working days of suspension without pay; and (c) completion of a Cultural Diversity course. *Duval County Sch. Bd. v. Caggiano*, DOAH Case No. 20-5259TTS, Recommended Order at 30 (Nov. 15, 2021) (Exhibit N).

50. The *Caggiano* facts as adjudicated by Judge Telfer included: (a) two publicly accessible Facebook posts on the respondent's account; (b) the respondent's Facebook account identified him as an employee of Duval County Public Schools; (c) members of the public, including students, parents, other teachers, and the local

media, had access to those posts; and (d) the posts concerned, in Judge Telfer's words, "violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped." *Id.* at 28. The recommended sanction for those facts, on the lower preponderance burden applicable to school-board discipline, was three days' suspension and a Cultural Diversity course.

51. Respondent's case is materially less aggravated than the *Caggiano* case in every comparable respect. Respondent's Facebook post was made on a personal account that did not identify Respondent as an employee of Duval County Public Schools. The post was, on the testimony of the Commissioner's own lead investigator, not viewable by any of Respondent's students. (Kosec Depo. P75:L21-P76:L05.) The post did not reference violence, abuse of a child, gender, sexual orientation, race, or national origin. The Commissioner nevertheless seeks revocation of Respondent's Florida Educator Certificate and a permanent disqualification of Respondent's eligibility to teach in any Florida public school, on the higher clear-and-convincing burden applicable to certificate proceedings. The disproportion between the State's requested sanction in this case and the most recent prior comparable adjudicated educator-discipline outcome at this Division is itself evidence that the present proceeding is not a good-faith application of educator-discipline statutes.

52. More importantly, the discipline initially imposed was reversed on appeal. *Caggiano*'s three-day suspension that the School Board adopted on Judge Telfer's Recommended Order was subsequently reversed by the Fifth District Court of Appeal on First Amendment grounds. *Caggiano v. Duval Cnty. Sch. Bd.*, 403 So. 3d 1081 (Fla. 5th DCA 2025) (Makar, J.) (attached as Exhibit R). The Fifth DCA, applying the *Pickering-Connick* framework, held that *Caggiano*'s two Facebook reposts "address[ed] a matter of public concern: a Presidential candidate," notwithstanding Judge Telfer's characterization of those reposts as concerning "violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped." *Id.* at 1086. The point bears emphasis. The Fifth DCA held that even reposts the ALJ characterized as concerning violence, the abuse of a child, and the abuse and rape of women, content that no educator could lawfully bring into a classroom, were nevertheless beyond the State's reach because they addressed a matter of public concern. Off-duty First Amendment protection thus did not depend on the speech being decorous, classroom-appropriate, or even tasteful. Respondent's case is the cleaner application of that same rule. Her post contains no graphic content, no reference to violence against any identifiable person, and no language an educator could be disciplined for speaking in a classroom. It is, on its face, the kind of off-duty public-affairs commentary the First Amendment exists to

protect. If *Caggiano*'s reposts were protected, Respondent's post is protected *a fortiori*.

53. Applying the second *Pickering-Connick* prong, the Fifth DCA found that "[n]o evidence was presented that the two reposts had any meaningful impact on the School Board's operations or that they created any disruption." *Id.* **The court characterized the two reposts as "amount[ing] to little more than harmless political chitchat" that "collectively amounted to the proverbial hill of beans," and held that the "*Pickering-Connick* balance tips entirely in *Caggiano*'s favor. His suspension, reprimand, and diversity training were insupportable; his free speech rights were violated." *Id.* The Fifth DCA reversed with instructions to strike the suspension and reprimand from *Caggiano*'s employment records and to reinstate his back pay and benefits. *Id.* at 1087.**

54. If the three-day suspension imposed on *Caggiano* for posts Judge Telfer found to involve "violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped" was constitutionally insupportable under *Pickering*, then the Commissioner's pursuit of revocation and permanent disqualification of Respondent's Florida Educator Certificate, on materially less aggravated facts and on the higher clear-and-convincing evidence burden, is *a fortiori* insupportable. The Fifth DCA's holding in *Caggiano* controls the constitutional analysis in Florida public-school social-media discipline cases.

The Commissioner cannot proceed by seeking, on lesser facts and a higher burden, a more severe sanction than the appellate court has already held the school district could not impose on more aggravated facts and a lower burden.

ARGUMENT

The Commissioner Cannot Discipline an Educator Certificate Based on Protected Off-Duty Speech on a Matter of Public Concern Without Performing the *Pickering* Balance

55. A public employee's off-duty speech on a matter of public concern is protected by the First Amendment. *Pickering v. Board of Education*, 391 U.S. 563 (1968); *Connick v. Myers*, 461 U.S. 138 (1983); *Garcetti v. Ceballos*, 547 U.S. 410 (2006). To impose discipline based on such speech, the government must demonstrate that its interest as employer in the efficient delivery of public services outweighs the employee's interest in speaking on the matter. *Pickering*, 391 U.S. at 568.

56. The United States Supreme Court reaffirmed the *Pickering* framework, and warned lower courts about misapplying it, in *MacRae v. Mattos*, 145 S. Ct. 2617 (2025), decided June 30, 2025, two and a half months before the McMath investigation began. Justice Thomas's five-page statement respecting the denial of certiorari makes four propositions clear, each of which controls the present case.

57. First, the "tone" of an employee's speech "cannot bear on the weight of her First Amendment interest," and the "inappropriate or controversial character of

a statement is irrelevant to the question whether it deals with a matter of public concern." *Id.* at 2619 (citing *Snyder v. Phelps*, 562 U.S. 443, 451-52 (2011); *Rankin v. McPherson*, 483 U.S. 378, 387 (1987)).

58. Second, "factors whose disruptive potential was purely speculative," including the fact that "some students and staff . . . were aware" of the speech, "should have [been] discarded." *Id.* at 2620.

59. Third, "the core First Amendment principle of viewpoint neutrality applies in the *Pickering-Garcetti* context as elsewhere," and "[i]t undermines core First Amendment values to allow a government employer to adopt an institutional viewpoint on the issues of the day and then, when faced with a dissenting employee, portray this disagreement as evidence of disruption." *Id.*

60. Fourth, school claims of disruption must be scrutinized to avoid "giv[ing] schools a playbook for evading the First Amendment." *Id.* at 2621 (quoting *Mahmoud v. Taylor*, 606 U.S. 522 (2025) (Thomas, J., concurring)).

61. Justice Thomas closed: "In an appropriate case, I would make clear that public employers cannot use *Pickering-Garcetti* balancing generally or unsupported claims of disruption in particular to target employees who express disfavored political views." *Id.*

62. The McMath record fits each of the four *MacRae* propositions point for point. The Commissioner's investigators have admitted under oath that they

conducted no First Amendment analysis. Bennett Depo. P10:L01-L08; Kosec Depo. P29:L09-L11; P38:L05-L12. The Commissioner's probable cause adjudicator has admitted that the post does not violate any state statute. Kosec Depo. P81:L23-P82:L03.

63. The only disruption testimony in the record is the "potential to" speculation Justice Thomas identified as discardable. Bennett Depo. P35:L02-L15. The verbatim DCPS enforcement standard Bennett admitted he applied, speech that "could negatively impact or not align with the District's policies and views," Bennett Depo. P19:L07-L10, is the verbatim viewpoint test Justice Thomas labeled illicit.

64. The McMath proceeding is the playbook *MacRae* warned against, and the case Justice Thomas identified as "an appropriate case" to make clear that the State cannot use *Pickering-Garcetti* balancing to target disfavored political views.

65. The Moms for Liberty institutional predicate set out in the Statement of Undisputed Material Facts above distinguishes the present case from *MacRae*, and it does so in a direction that strengthens rather than weakens the *Pickering* analysis required here. In *MacRae*, a single school district, acting as the employee's direct employer, made a discipline decision based on its own institutional concerns. Here the State of Florida acts as a state licensing authority that does not even maintain a personnel file for Respondent, see Pet'r's Resp. to Resp.'s Req. for Produc. No. 4 (Mar. 18, 2026) (Exhibit O); does not employ her, see Pet'r's Resp. to Resp.'s First

Set of Interrogs. Nos. 2, 4 (Mar. 18, 2026) (Exhibit M); and was not the original complainant. The original complainant, on the representation of counsel for the entity, was Moms for Liberty - Duval County Chapter, a chapter of a national 501(c)(4) political advocacy organization, see Statement of Undisputed Material Facts § G, *supra*. The Commissioner of Education, having received that complaint, then appeared as a featured speaker at Moms for Liberty, Inc.'s national summit during the pendency of the resulting investigation, see Statement of Undisputed Material Facts § F, *supra*; signed the only probable cause determination issued in any of approximately fifty Kirk-related FDOE investigations within seven days of his appearance promotion on the Moms for Liberty verified channels, see *id.*; and is now being publicly defended on more than 140 AM and FM stations by the 501(c)(3) litigation arm of the same organization that initiated the complaint, see Statement of Undisputed Material Facts § G, *supra*. *MacRae* warned against a school district using the *Pickering-Garcetti* framework as "a playbook for evading the First Amendment." 145 S. Ct. at 2621. The *McMath* proceeding is not just an instance of that playbook. It is a more aggravated form of it.

66. The *Pickering* analysis is mandatory, not optional. The government has the burden of showing actual or reasonably foreseeable disruption. See *Connick*, 461 U.S. at 152. Speculative or "potential" disruption based solely on the possibility that students might encounter the speech is not enough. See *Belyeu v. Coosa County Bd.*

of Educ., 998 F.2d 925, 929 (11th Cir. 1993) (holding that "weak speculation" about a teacher's speech causing potential disruption is insufficient under *Pickering* where there is no evidence of actual disruption).

67. The deposition record establishes that no *Pickering* analysis was performed at any decisional level of the FDOE proceeding. Mr. Kosec, the FDOE Chief of Professional Practices Services who directed Respondent's investigation, has never heard of *Pickering*. (Kosec Depo. P29:L09-L11.) Mr. Bennett, the parallel DCPS investigator, does not know what *Pickering* is. (Bennett Depo. P9:L13-L18.) The Commissioner has produced no document reflecting any *Pickering* balancing performed at any level of his agency. The dispositive constitutional analysis was not performed. The Commissioner cannot sustain his burden on a record where the analysis was never performed.

68. The constitutional avoidance is documented at three additional points in the record beyond the deposition admissions. First, on October 1, 2025, at the initial DCPS Office of Professional Standards interview of Respondent, Mr. Bennett told undersigned counsel on the record, in response to a contemporaneous First Amendment objection, that "[t]he First Amendment is not what the . . . allegation is." Interview Tr. at 9 (time stamp 12:10) (Oct. 1, 2025) (Exhibit P). The October 1, 2025 statement and the March 30, 2026 deposition admission described above are the same admission, made twice, by the same investigator, six months apart. Second,

on March 18, 2026, the Commissioner's counsel filed a sworn discovery response objecting that training given to Department personnel "regarding First Amendment rights, academic freedom, or employee speech" is "not relevant to the issues in this case." Pet'r's Resp. to Resp.'s First Set of Interrogs. No. 11 (Mar. 18, 2026). Third, in the same set of discovery responses, the Commissioner has affirmatively admitted, under oath, that the Department of Education has "no concerns regarding public reaction, media attention, or political pressure related to Respondent's conduct," *id.* No. 12, and that the Department of Education "does not maintain a personnel file for Respondent," Pet'r's Resp. to Resp.'s Req. for Produc. No. 4 (Mar. 18, 2026). Each of these admissions is dispositive for the *Pickering* analysis. The disruption prong, on which the government bears the burden of producing more than speculation, see *United States v. Nat'l Treasury Emps. Union*, 513 U.S. 454, 465 (1995); See *Connick*, 461 U.S. at 152, has been conceded by the Commissioner under oath. The State-as-employer framing of *Garcetti* is structurally unavailable on a record in which the Commissioner has admitted, under oath, that the Department of Education does not maintain a personnel file for Respondent. The Commissioner cannot meet a *Pickering* burden by speculation, much less by a record on which the constitutional analysis was disclaimed at three distinct points across two agencies and seven months.

69. The applicable First Amendment standard requires not just any government interest but one stronger than speculation. *Pickering* itself states that, "absent proof of false statements knowingly or recklessly made by him, a teacher's exercise of his right to speak on issues of public importance may not furnish the basis for his dismissal from public employment." *Pickering*, 391 U.S. at 574. The government bears the burden of justifying any adverse action premised on protected speech. *Rankin v. McPherson*, 483 U.S. 378, 388 (1987). The government's justification "must be far stronger than mere speculation in regulating it." *United States v. Nat'l Treasury Emps. Union*, 513 U.S. 454, 465 (1995). When the speech substantially involves a matter of public concern, the "stronger showing [of government interests] may be necessary." *Connick v. Myers*, 461 U.S. 138, 152 (1983). Off-duty employee speech unrelated to the employee's official duties is protected absent a far stronger justification than speculation. *City of San Diego v. Roe*, 543 U.S. 77, 80 (2004); *Treasury Employees*, 513 U.S. at 470.

70. The Commissioner cannot meet that burden on this record. The Commissioner's lead investigator at FDOE, Mr. Kosec, testified that the post does not violate any state statute he was aware of and that no student reported having seen the post. (Kosec Depo. P81:L23-P82:L03; P75:L21-P76:L05.) The Commissioner's parallel DCPS-side investigator, Mr. Bennett, testified that the only basis for any "disruption" finding was that the post had a "potential to" disrupt, with no

documented disruption identified. (Bennett Depo. P35:L04-L10.) "Potential to" is the very speculation that the United States Supreme Court has held insufficient. *Treasury Employees*, 513 U.S. at 465. The *Pickering* record on these depositions is not a balanced record of competing interests. It is an undisputed record of speculation insufficient as a matter of law.

71. On this record, the Commissioner cannot carry his burden of proving the allegations against Respondent by clear and convincing evidence as required for educator-certificate discipline. Where, as here, the Commissioner cannot establish a *Pickering* predicate, cannot establish a statutory violation, and cannot establish a documented disruption, dismissal of the Administrative Complaint is the appropriate remedy.

Section 1003.4505, Florida Statutes, Independently Forbids the Commissioner's Action

72. Section 1003.4505, Florida Statutes, prohibits "[d]istrict school boards, administrative personnel, and instructional personnel . . . from taking affirmative action, including, but not limited to, the entry into any agreement, that infringes or waives the rights or freedoms afforded to instructional personnel, school staff, or students by the First Amendment to the United States Constitution, in the absence of the express written consent of any individual whose constitutional rights would be impacted."

73. The Commissioner's initiation and continuation of certificate-revocation proceedings against Respondent for her off-duty Facebook post on a matter of public concern is "affirmative action" within the meaning of Section 1003.4505, and it infringes Respondent's First Amendment rights. Respondent has not consented to that infringement. The statute, by its terms, forbids the Commissioner's prosecution.

The Commissioner Cannot Establish the Statutory Predicates for Discipline Under Sections 1012.795(1)(d), (g), or (j), Florida Statutes, or Rules 6A-10.081(2)(a)(1) or 6A-10.081(2)(b)(1), Florida Administrative Code

74. The applicable burden of proof is clear and convincing evidence. The Commissioner seeks revocation, suspension, or other discipline of Respondent's Florida Educator Certificate. The Florida courts have long held that proceedings to suspend or revoke a professional license or certificate require proof by clear and convincing evidence, the more stringent standard reserved for licensure adjudications, as opposed to the preponderance standard applicable to school-board discipline. *Cropsey v. Sch. Bd. of Manatee Cty.*, 19 So. 3d 351 (Fla. 2d DCA 2009), rev. denied, 29 So. 3d 1118 (Fla. 2010); *Cisneros v. Sch. Bd. of Miami-Dade Cty.*, 990 So. 2d 1179 (Fla. 3d DCA 2008). The Commissioner cannot meet the lower preponderance burden on the undisputed deposition record. He cannot meet the higher clear-and-convincing burden *a fortiori*.

75. Because educator-discipline proceedings are penal in nature, the Commissioner is required to prove the allegations in the Administrative Complaint by clear and convincing evidence. *Department of Banking & Finance v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996); *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987). The Florida Supreme Court has defined the clear-and-convincing standard as follows:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts in issue. The evidence must be of such a weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

76. In re Davey, 645 So. 2d 398, 404 (Fla. 1994) (quoting *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)). Although the clear-and-convincing standard may be met where the evidence is in conflict, it "seems to preclude evidence that is ambiguous." *Westinghouse Electric Corp. v. Shuler Brothers, Inc.*, 590 So. 2d 986, 989 (Fla. 1st DCA 1991).

77. Charges in a disciplinary proceeding must be strictly construed, with any ambiguity construed in the licensee's favor. *Elmariah v. Department of*

Professional Regulation, 574 So. 2d 164 (Fla. 1st DCA 1990); *Taylor v. Department of Professional Regulation*, 534 So. 2d 782 (Fla. 1st DCA 1988). "Disciplinary statutes and rules must be construed in terms of their literal meaning, and words used by the Legislature may not be expanded to broaden their application." *Beckett v. Department of Financial Services*, 982 So. 2d 94 (Fla. 1st DCA 2008); *Dyer v. Department of Insurance & Treasury*, 585 So. 2d 1009 (Fla. 1st DCA 1991).

78. Applied to the present record, neither the clear-and-convincing standard nor the strict-construction rule can be met by the Commissioner. The deposition record is not merely in conflict; it is undisputed in Respondent's favor on every dispositive issue, and where any ambiguity exists, that ambiguity is construed in Respondent's favor. Mr. Kosec's sworn testimony that the post is not a violation of any state statute he is aware of is not "precise" evidence supporting the Commissioner's allegation that it is; it is the opposite. Mr. Bennett's sworn testimony that the post had only a "potential to" disrupt the educational process is the very category of ambiguous evidence that, under *Westinghouse*, the clear-and-convincing standard precludes.

79. The Commissioner has recently failed to meet the clear-and-convincing burden in multiple comparable cases at this Division. Three days before this Motion, in *Kamoutsas v. Pulis*, DOAH Case No. 25-5751PL, Administrative Law Judge James H. Peterson, III recommended dismissal of all three counts of the

Commissioner's Administrative Complaint, including counts under Section 1012.795(1)(j) and Rule 6A-10.081(2)(a)1. (the same provisions invoked here). Judge Peterson concluded: "In sum, the allegations of the Administrative Complaint were not supported by clear and convincing evidence." Pulis Recommended Order at 16 (May 4, 2026), DOAH Case No. 25-5751PL. The Recommended Order is attached as Exhibit F.

80. Similar dismissals on the same standard have issued in three additional educator-discipline cases at this Division within the past year. First, in *Kamoutsas v. Mersinger*, DOAH Case No. 25-4192PL, Administrative Law Judge Francine M. Ffolkes entered a Recommended Order on March 30, 2026, concluding that "Petitioner failed to prove by clear and convincing evidence that Respondent violated section 1012.795(1)(g)," Mersinger Recommended Order at 10, and recommending dismissal of the Amended Administrative Complaint. The Mersinger Recommended Order is attached as Exhibit G. Second, in *Kamoutsas v. Burchers*, DOAH Case No. 25-3933PL, Administrative Law Judge Hetal Desai entered a Recommended Order on April 1, 2026, concluding that "the COE did not prove by clear and convincing evidence that Respondent failed to make reasonable efforts to protect [the student] from conditions harmful to learning," Burchers Recommended Order at 13, and recommending dismissal. The Burchers Recommended Order is attached as Exhibit H. Notably, in *Burchers*, the Commissioner was represented by

Ron Weaver, Esquire, the same counsel of record for Petitioner in the present matter. Third, in *Diaz v. Shelton*, DOAH Case No. 24-831PL, the Administrative Law Judge presiding over the present matter, Administrative Law Judge Garnett W. Chisenhall, entered a Recommended Order on July 16, 2024, concluding that "Petitioner's witnesses present when the alleged incident occurred was vague, inconsistent, uncertain, and lacking in detail. Accordingly, Petitioner did not carry its burden of proving the allegations against Ms. Shelton by clear and convincing evidence." Shelton Recommended Order at 5. The Shelton Recommended Order is attached as Exhibit I. The Commissioner was likewise represented in Shelton by Ron Weaver, Esquire.

81. These recent recommended dismissals confirm that the Commissioner cannot proceed against an educator certificate where, as here, the deposition record forecloses the substantive predicates the Commissioner must establish. The deficiencies in the McMath record are materially greater than the deficiencies that produced dismissal in Pulis, Mersinger, and Burchers, where the Commissioner at least had in-classroom or test-administration conduct to argue. Here, by contrast, the Commissioner has no in-classroom conduct, no documented disruption, no statutory violation, and no *Pickering* analysis at any decisional level.

82. Section 1012.795(1)(d): To establish "gross immorality or an act involving moral turpitude," the Commissioner must prove conduct meeting the State

Board of Education's rule-defined standard. Under Florida Administrative Code Rule 6A-10.083, "Standards Relating to Gross Immorality and Acts of Moral Turpitude" (effective May 27, 2015, amended September 26, 2023), "[a]n act of moral turpitude is defined as a crime, regardless of whether the individual is charged or convicted, that is a felony or a first degree misdemeanor under the laws of the State of Florida or equivalent law in another state or U.S. Territory, or laws of the United States of America, that is evidenced by an act of baseness, vileness or depravity in the private and social duties." Fla. Admin. Code R. 6A-10.083(2). Respondent's Facebook post is not a crime, much less a felony or first-degree misdemeanor. The Commissioner's lead investigator concurs that the post violates no state statute. (Kosec Depo. P81:L23-P82:L03.) "Gross immorality" under the same rule requires conduct that "brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual's service in the community." Fla. Admin. Code R. 6A-10.083(1). The deposition record forecloses impairment: no student saw the post (Kosec Depo. P75:L21-P76:L05); no student described disruption (id.); no parent complained; Respondent continues to teach AP Art History at Douglas Anderson School of the Arts effectively (Kosec Depo. P66:L15-L21; Bennett Depo. P48:L21-L24). The State Board of Education's own rule further provides that "[a]ccidental, negligent or reckless conduct alone does

not meet the definition of an act of moral turpitude or gross immorality." *Id.* Section 1012.795(1)(d) cannot be established as a matter of law.

83. Section 1012.795(1)(g): To establish "personal conduct which seriously reduces that person's effectiveness as an employee," the Commissioner must prove actual reduction of effectiveness. *See Jenkins v. State Bd. of Educ.*, 399 So. 2d 103, 105-06 (Fla. 1st DCA 1981) (holding that, under predecessor to § 1012.795(1)(g), a finding that the teacher's "effectiveness as a teacher has in no way been reduced" "rendered impossible any finding that [the teacher] was guilty of 'personal conduct which seriously reduces his effectiveness as an employee of the school board'"). The Commissioner's investigators identified no such reduction. No student saw the post (Kosec Depo. P75:L21-P76:L05); no student described disruption (*id.*); no parent complained; no classroom event was disrupted (Bennett Depo. P36:L02-L17). Respondent continues to teach AP Art History at Douglas Anderson School of the Arts effectively, with classroom-clearing testimony from both investigators (Kosec Depo. P66:L15-L21; Bennett Depo. P48:L21-L24).

84. Section 1012.795(1)(j): To establish a violation of the Principles of Professional Conduct prescribed by State Board rule, the Commissioner must establish a specific underlying rule violation. The two predicates pleaded are Rules 6A-10.081(2)(a)(1) and (2)(b)(1).

85. Rule 6A-10.081(2)(a)(1) requires reasonable effort to protect students from conditions harmful to learning, mental health, or physical health/safety. There is no evidence in the deposition record of any condition harmful to any student arising from Respondent's Facebook post. No student saw it. No student was harmed. No student described any harm. (Bennett Depo. P36:L02-L17; Kosec Depo. P75:L21-P76:L05.)

86. Rule 6A-10.081(2)(b)(1) requires reasonable precautions to distinguish between personal views and those of the affiliated educational institution. Respondent's post was made on her personal Facebook account, did not identify her as a DCPS or Douglas Anderson employee, did not reference any educational institution, and did not purport to speak on behalf of any institution. The "reasonable precautions" requirement was met by the very nature of the post.

The Original Administrative Complaint Is Constitutionally Infirm and Cannot Be Salvaged by Amendment

87. Independent of constitutional limits on educator-speech discipline, Florida due process limits the Commissioner's discipline to the facts specifically alleged in the charging document. A licensee "may not be disciplined for an offense not charged in the complaint." *Trevisani v. Dep't of Health*, 908 So. 2d 1108, 1109 (Fla. 1st DCA 2005); *see also Pilla v. Sch. Bd. of Dade Cty.*, 655 So. 2d 1312, 1314 (Fla. 3d DCA 1995); *Sternberg v. Dep't of Prof'l Reg., Bd. of Med. Examiners*, 465 So. 2d 1324, 1325 (Fla. 1st DCA 1985); *Klein v. Dep't of Bus. & Prof'l Reg.*, 625

So. 2d 1237, 1238-39 (Fla. 2d DCA 1993); *Cottrill v. Dep't of Ins.*, 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996). The original Administrative Complaint did not allege the November 2021 "God is Trans" leaflet, the September 22, 2024 EJI post, the August 18, 2025 "Liar 45" post, the July 16, 2025 "Fuck ICE" artwork, the August 21, 2025 slavery and Gaza commentary, the September 3, 2025 vaccine-policy post, the "Jim Crow 2.0" artwork, or the Yellow House invitations. The Commissioner's post-deposition Motion for Leave to Amend, even if granted (which Respondent opposes by separate motion), cannot constitutionally cure the deficiencies of the original charging document on which the Commissioner has already proceeded for seven months and on which the existing investigatory record was built.

88. The Commissioner's pending Motion to Amend, filed May 6, 2026 (Exhibit Q), after the Bennett, Kosec, and McMath depositions, seeks to add allegations spanning years and pre-dating Respondent's certification. As Respondent has separately demonstrated in her Opposition to that Motion, the proposed amendment is procedurally improper and substantively deficient.

89. The relevant point for purposes of this Motion is that the proposed amendment does not alter the dispositive constitutional and statutory deficiencies established above. Each of the new allegations involves off-duty, off-campus speech on Respondent's personal social media account, on matters of public concern, outside the scope of any teacher-employer relationship. Each requires a *Pickering*

analysis. None has been subjected to one. None can supply the Commissioner with the predicate he needs to discipline Respondent's certificate.

90. The November 2021 "God is Trans" allegation specifically pertains to conduct Respondent engaged in as a museum curator, eight months before she became a Florida certified educator. The Commissioner has no statutory authority to discipline a certificate based on conduct of a person who was not at the time a certificate holder. The amendment does not cure the existing infirmity; it only multiplies the constitutional defects.

Why the Deposition Record Forecloses a Finding for the Commissioner

91. This Tribunal need not weigh competing testimony or resolve credibility on this Motion. The Commissioner's own lead investigator and the parallel DCPS investigator have admitted, under oath, every fact the Commissioner needs to lose. Each admission tracks a specific element of the Commissioner's case. Together they leave no element on which a finder of fact could rule for the Commissioner by clear and convincing evidence.

92. The structure is straightforward. The Commissioner must prove, by clear and convincing evidence, each of the statutory and rule predicates he has pleaded. The depositions establish, on undisputed testimony, the opposite of each predicate. The list is set out below in the order of the Commissioner's burden.

What the Commissioner Must Prove	What the Depositions Establish	Cite
<p>That Respondent's speech caused, or could reasonably be foreseen to cause, actual disruption of the educational process (Pickering disruption prong; §1012.795(1)(g) effectiveness)</p>	<p>No student saw the post. No student described disruption. No classroom event was disrupted. The only "disruption" testimony was Bennett's admission that the post had a "potential to" disrupt, with no factual support: "It's just that it's an opinion."</p>	<p>Kosec Depo. P75:L21-P76:L05; Bennett Depo. P35:L03-L12; P36:L02-L17</p>
<p>That Respondent brought political content into the classroom (Pickering 'as employee' framing; §1012.795(1)(g) effectiveness)</p>	<p>Both investigators independently found, on the record, that Respondent did not bring her political views into the classroom. Kosec: "no evidence" she "was somebody that brought politics and inappropriate commentary into the school or classroom." Bennett: no</p>	<p>Kosec Depo. P66:L15-L21; Bennett Depo.</p>

	evidence Respondent "brought her activism into the classroom."	P48:L21-L24
That Respondent's post constitutes a violation of state statute (§1012.795(1)(d) moral turpitude; §1012.795(1)(j) Principles of Professional Conduct)	The Commissioner's own lead investigator testified that the post does not violate any state statute he is aware of. He is the State's witness.	Kosec Depo. P81:L23-P82:L03
That a First Amendment analysis was performed at any decisional level (Pickering balancing requirement)	Both investigators testified they have never heard of Pickering v. Board of Education. Neither has received any First Amendment training. DCPS general counsel was not consulted on any First Amendment question.	Kosec Depo. P29:L09-L11; P38:L05-L12; Bennett Depo. P09:L01-

		L18; P10:L01- L08; P35:L04- L10
That the State investigated the source of the complaint (predicate to relying on the complaint at all)	Bennett accepted the DCPS-side complaint signed "Moms for Liberty Duval" without investigating who actually filed it or what Moms for Liberty - Duval County is. Kosec accepted the FDOE-side screenshot without investigating its source; the screenshot was passed to him by the Deputy Chancellor for Educator Quality. Kosec conceded that April Carney "might have been one of the complainants."	Bennett Depo. P21:L14- P22:L07; Kosec Depo. P42:L21- P43:L08; P44:L14- P45:L01
That the Commissioner applied a viewpoint-	Bennett admitted that the DCPS enforcement standard he applied is	Bennett Depo.

<p>neutral enforcement standard (Pickering viewpoint-neutrality requirement, MacRae v. Mattos)</p>	<p>whether the speech "could negatively impact or not align with the District's policies and views." That is the verbatim viewpoint test Justice Thomas labeled illicit in MacRae.</p>	<p>P19:L01-L10</p>
<p>That comparator content by similarly situated public officials was investigated under the same policy (Pickering equal-application requirement)</p>	<p>Bennett testified he did not review April Carney's social media. When walked through specific Carney posts, Bennett conceded each one "would violate" his understanding of Policy 6.84(D)(1). The Commissioner has admitted under oath he cannot identify any other Florida educator he has pursued comparable discipline against.</p>	<p>Bennett Depo. P19:L11-P21:L13; Pet'r's Resp. to Resp.'s First Set of Interrogs. No. 8 (Mar. 18, 2026)</p>
<p>That the DCPS application of its analogous policy reaches Respondent's speech</p>	<p>DCPS's own Memo to File, written in the parallel Bartlett investigation by the same Office of Professional Standards officials, concludes that Policy</p>	<p>Statement of Undisputed Material</p>

<p>(Pickering as-applied limit)</p>	<p>6.84(D)(1) "applies specifically to publicly accessible communications," and that "[t]he District does not regulate personal political expression unless it is publicly accessible and professionally inappropriate." Respondent's post was personal political expression.</p>	<p>Facts § G, supra</p>
<p>That a Pickering balancing analysis is documented anywhere in the FDOE record</p>	<p>The Commissioner has produced no document reflecting any Pickering balancing performed at any level of his agency. The Department of Education does not even maintain a personnel file for Respondent.</p>	<p>Pet'r's Resp. to Resp.'s Req. for Produc. No. 4; Pet'r's Resp. to Resp.'s First Set of Interrogs. No. 11</p>

93. Each row above corresponds to an element of the Commissioner's burden. Each admission is from the State's own witness or the State's own written response. None requires this Tribunal to weigh credibility, resolve conflicting accounts, or believe Respondent over the Commissioner. The Commissioner's case is foreclosed on the Commissioner's own record.

94. The point is even more stark when stated affirmatively. To rule for the Commissioner on this Motion, this Tribunal would have to find, by clear and convincing evidence and on a record where the Commissioner's own witnesses say the opposite, that: students saw a post Mr. Kosec testified no student saw; that the post disrupted a classroom Mr. Bennett testified was not disrupted; that Respondent brought politics into a classroom both investigators agreed she did not; that Respondent's post violates a state statute the Commissioner's lead investigator testified it does not violate; and that a First Amendment balancing was performed by officials who have never heard of *Pickering*. The Commissioner has not just failed to meet his burden. He has, through his own witnesses, conceded he cannot meet it.

95. The Commissioner cannot proceed by hoping that the record will improve at hearing. The depositions are the record. The witnesses have been examined. The depositions are not preliminary information that might be modified; they are sworn testimony from the same officials the Commissioner will need to call

at hearing. The Commissioner has already deposed Respondent and has had his own opportunity to develop the record. He cannot, by holding a hearing, manufacture testimony from Mr. Kosec and Mr. Bennett that contradicts what they said under oath in March 2026.

96. Summary final disposition is appropriate where the record forecloses the case as a matter of law. This is such a case. There is nothing left to try.

CONCLUSION

97. The undisputed deposition record establishes that the Commissioner of Education proceeded against Respondent's Florida Educator's Certificate based on a single Facebook post on a matter of public concern, made off-duty on a personal account, with no documented disruption to the educational process, no student impact, no classroom misconduct, no *Pickering* analysis, no First Amendment training of any decisional official, and no opinion from the Commissioner's own lead investigator that the post violates any state statute. The Commissioner has not conducted, and cannot now retroactively conduct, the constitutional balancing required to support the discipline he seeks. Respondent is entitled to a Summary Final Order in her favor on each Count of the Administrative Complaint.

WHEREFORE, Respondent HOPE McMATH respectfully requests that the Administrative Law Judge enter a Summary Final Order: (1) granting Respondent's Motion; (2) entering judgment in Respondent's favor on each Count of the

Administrative Complaint; (3) closing the proceeding; and (4) granting such other and further relief as the Administrative Law Judge deems just and proper.

Respondent further respectfully requests that this Tribunal reserve jurisdiction over Respondent's right to file a separate Petition for Attorney's Fees and Costs under Section 57.111, Florida Statutes, and any other applicable fee-shifting authority, upon entry of a final order in Respondent's favor.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been filed electronically through the Division of Administrative Hearings, eALJ e-Filing portal which will serve Ron Weaver, Esq., 2220 County Road 210 West, Suite 108, PMB 334, Jacksonville, FL 32259 at ron@ronweaverlaw.com (Attorney for Petitioner *Anastasios Kamoutsas, Commissioner Of Education*) this 12th day of May, 2026.

PHILLIPS, HUNT & WALKER

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EXHIBIT A

Statement of Justice Thomas Respecting the Denial of Certiorari

MacRae v. Mattos, 145 S. Ct. 2617 (2025)

Statement of THOMAS, J.

SUPREME COURT OF THE UNITED STATES

KARI MACRAE *v.* MATTHEW MATTOS, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 24–355. Decided June 30, 2025

The petition for a writ of certiorari is denied.

Statement of JUSTICE THOMAS, respecting the denial of certiorari.

Hanover Public Schools and two of its officials (collectively, respondents) fired petitioner Kari MacRae for her pre-employment political expression on the social-media platform TikTok. Through her personal account, MacRae had “liked, shared, posted, or reposted” six memes—images or other items that are “‘spread widely online’”—expressing her views that immigration laws should be enforced, that an individual’s sex is immutable, and that society should be racially color-blind. 106 F. 4th 122, 126–128, and n. 1 (CA1 2024). After her firing, MacRae sued respondents for “retaliating against her for exercising her First Amendment rights.” *Id.*, at 130. But, the District Court granted summary judgment to respondents, and the First Circuit affirmed, finding that MacRae had not established a protected First Amendment interest under this Court’s framework for public-employee speech. Because her petition for a writ of certiorari does not squarely challenge the First Circuit’s application of that framework, I agree with our decision to deny it. I write separately, however, to raise serious concerns about the First Circuit’s approach.

Our precedents establish that “the First Amendment protects a public employee’s right, in certain circumstances, to speak as a citizen addressing matters of public concern.” *Garcetti v. Ceballos*, 547 U. S. 410, 417 (2006). Although “[g]overnment employers, like private employers, need a significant degree of control over their employees’ words

Statement of THOMAS, J.

and actions,” they can regulate their employees’ private speech about “matters of public concern” only to the extent “necessary . . . to operate efficiently and effectively.” *Id.*, at 418–419. Under the so-called *Pickering-Garcetti* framework, whether such speech is protected turns on a balancing test, wherein the employee’s speech interest is weighed against the government’s interest as an employer in avoiding workplace disruption. See *Garcetti*, 547 U. S., at 419; *Pickering v. Board of Ed. of Township High School Dist. 205, Will Cty.*, 391 U. S. 563, 568 (1968).

This case turns on the balancing component of the *Pickering-Garcetti* framework. All agree that MacRae’s TikTok posts qualify as speech on matters of public concern, but the First Circuit concluded that the balance of interests favored respondents. That court first discounted the value of MacRae’s speech interest because her posts, which are reproduced below, at times spoke in what the court described as a “mocking, derogatory, and disparaging manner.” (See Figures 1 and 2.) 106 F. 4th, at 137; see Pet. for Cert. 7 (reproducing posts).



Figure 1. Kari MacRae TikTok posts

Statement of THOMAS, J.



Figure 2. Kari MacRae TikTok posts

In contrast, the First Circuit explained that respondents—who fired MacRae out of “concern about the potential negative impact [her] social media posts would have on staff and students”—had a “strong” interest in avoiding disruption, and that they made a “reasonable prediction of disruption.” 106 F. 4th, at 130, 137–138. The court pointed to factors such as the public attention and news coverage MacRae had received in light of her position on a neighboring town’s school board, as well as the fact that at least some Hanover students and staff were aware of her posts. *Id.*, at 139–141. It also cited the fact that “some of her TikTok posts (at least arguably) conflicted with the District’s belief of ‘[e]nsur[ing] a safe learning environment based on respectful relationships’ and Core Value of ‘[r]espect[ing] . . . human differences,’” “given the potential to perceive some of her posts as transphobic, homophobic, or racist.” *Id.*, at 139–140. The First Circuit concluded that, on balance, the risk of disruption outweighed MacRae’s interest.

The First Circuit’s analysis strikes me as deeply flawed. To start, I do not see how the tone of MacRae’s posts can

Statement of THOMAS, J.

bear on the weight of her First Amendment interest. “Speech on matters of public concern is at the heart of the First Amendment’s protection.” *Snyder v. Phelps*, 562 U. S. 443, 451–452 (2011) (internal quotation marks and alterations omitted). And, “[t]he inappropriate or controversial character of a statement is irrelevant to the question whether it deals with a matter of public concern.” *Rankin v. McPherson*, 483 U. S. 378, 387 (1987). “[H]umor, satire, and even personal invective can make a point about a matter of public concern.” *De Ritis v. McGarrigle*, 861 F. 3d 444, 455 (CA3 2017) (internal quotation marks omitted). Accordingly, we have declined to “affor[d] less than full First Amendment protection” even for speech that we have deemed “particularly hurtful,” such as the picketing signs used by the Westboro Baptist Church. *Snyder*, 562 U. S., at 454–456; see *id.*, at 454 (listing, among other Westboro signs, placards reading, “God Hates the USA/Thank God for 9/11,” “God Hates Fags,” and “Thank God for Dead Soldiers”).¹ Against this backdrop, I do not see how the First Circuit could discount the First Amendment value of MacRae’s comparatively mild posts, all of which reflected positions that represent “by no means an isolated segment of public opinion.” *Noble v. Cincinnati and Hamilton Cty. Public Library*, 112 F. 4th 373, 382 (CA6 2024).

The First Circuit’s analysis of respondents’ countervailing interest in avoiding disruption is similarly questionable. Although this Court has “consistently . . . given substantial weight to government employers’ reasonable

¹Although *Snyder* was not a *Pickering-Garcetti* case, we grounded our analysis in caselaw from the public-employer context. See 562 U. S., at 451–455. And, our *Pickering-Garcetti* cases have not treated the tone or style of an employee’s speech as bearing on its First Amendment value. Cf. *Rankin*, 483 U. S., at 379–380, 386–387 (recognizing, without qualification, that a “remark[k], after hearing of an attempt on the life of the President, ‘If they go for him again, I hope they get him,’” “dealt with a matter of public concern”).

Statement of THOMAS, J.

predictions of disruption,” the key word here is “reasonable.” *United States v. Treasury Employees*, 513 U. S. 454, 492 (1995) (Rehnquist, C. J., dissenting). The First Circuit accordingly should have discarded factors whose disruptive potential was purely speculative, such as the fact that “some students and staff . . . were aware of’ [MacRae’s] posts” or that “students [were overheard] discussing her social media activity.” 106 F. 4th, at 139–140.

Even worse, the First Circuit compounded its reliance on speculative factors with consideration of illicit ones. We have made clear that the core First Amendment principle of viewpoint neutrality applies in the *Pickering-Garcetti* context as elsewhere. See *Rankin*, 483 U. S., at 384 (“Vigilance is necessary to ensure that public employers do not use authority over employees to silence discourse . . . simply because superiors disagree with the content of employees’ speech”). Yet, the First Circuit cited an arguable conflict between MacRae’s posts and institutional expressions of viewpoint such as Hanover’s “Core Value of [r]espect[ing] . . . human differences” as evidence of potential disruption. 106 F. 4th, at 139. It undermines core First Amendment values to allow a government employer to adopt an institutional viewpoint on the issues of the day and then, when faced with a dissenting employee, portray this disagreement as evidence of disruption. And, the problem is exacerbated in the case of an employee such as MacRae, who expressed her views only outside the workplace and before her employment.

Whatever the proper weight of respondents’ interest in minimizing disruption, the First Circuit failed to conduct a proper balancing inquiry because it improperly discounted MacRae’s First Amendment interest. To its credit, that court recognized that “[t]he government employer’s interest must be proportional to the value of the employee’s speech.” *Id.*, at 136; see *Connick v. Myers*, 461 U. S. 138, 152 (1983) (“[A] stronger showing may be necessary if the employee’s

Statement of THOMAS, J.

speech more substantially involved matters of public concern”). But, because the court viewed MacRae’s interest as “weigh[ing] less than it normally would,” it did not hold respondents to their full burden. 106 F. 4th, at 137.

This case is the latest in a trend of lower court decisions that have misapplied our First Amendment precedents in cases involving controversial political speech. See, e.g., *L. M. v. Middleborough*, 605 U. S. ___, ___–___ (2025) (ALITO, J., joined by THOMAS, J., dissenting from denial of certiorari) (slip op., at 6–13). And, a concerning number of these cases have arisen in the context of the *Pickering-Garcetti* framework. See, e.g., *Kennedy v. Bremerton School Dist.*, 586 U. S. 1130, 1132–1133 (2019) (statement of ALITO, J., respecting denial of certiorari) (explaining how “the Ninth Circuit’s understanding of the free speech rights of public school teachers is troubling”); *Porter v. Board of Trustees of N. C. State Univ.*, 72 F. 4th 573, 586, 595 (CA4 2023) (Richardson, J., dissenting). If left unchecked, this number will likely increase: In many cases, government employers may find it convenient to attempt to “restric[t] . . . disfavored or unpopular speech in the name of preventing disruption.” *Dodge v. Evergreen School Dist. #114*, 56 F. 4th 767, 786 (CA9 2022). But, the *Pickering-Garcetti* framework plainly forbids using “the guise of protecting administrative interests” to “disfavor any particular view.” 56 F. 4th, at 785–787; cf. *Mahmoud v. Taylor*, 606 U. S. ___, ___ (2025) (THOMAS, J., concurring) (slip op., at 11) (recognizing, in the free-exercise context, that school claims of disruption must be scrutinized to avoid “giv[ing] schools a playbook for evading the First Amendment”).

Lower courts are bound to apply the *Pickering-Garcetti* framework as we have articulated it.² I have serious con-

²This obligation does not mean that the *Pickering-Garcetti* framework is necessarily correct as a matter of original meaning. Given that the

Statement of THOMAS, J.

cerns about how the First Circuit applied it here. But, rather than raise these broader issues, MacRae’s petition focuses on the discrete question whether the framework’s balancing test applies at all in the context of a public employee’s “unrelated, preemployment speech.” Pet. for Cert. i. Because I agree with the Court that this question does not independently warrant review, I concur in the denial of certiorari. In an appropriate case, I would make clear that public employers cannot use *Pickering-Garcetti* balancing generally or unsupported claims of disruption in particular to target employees who express disfavored political views.

historical rule was that “a public employee had no right to object to [employer-imposed] restrict[ions on] the exercise of constitutional rights,” there is good reason to think it may not be. *Connick v. Myers*, 461 U. S. 138, 143 (1983). But, “unless and until this Court revisits it, [the *Pickering-Garcetti* framework] is binding precedent that lower courts must faithfully apply.” *L. M. v. Middleborough*, 605 U. S. ___, ___ (2025) (THOMAS, J., dissenting from denial of certiorari) (slip op., at 1).

EXHIBIT B

Petitioner's Witness List

Kamoutsas v. McMath, DOAH Case No. 25-5786PL

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MANNY DIAZ, JR., AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

DOAH Case No. 25-5786PL
Agency Case No. 256-0563

HOPE MCMATH,

Respondent.

_____ /

PETITIONER'S WITNESS LIST

Hope McMath
Randy Kosec Jr.
R. D. Bennett, Jr.

Respectfully submitted,

/s/ Ron Weaver _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been forwarded by email via the DOAH e-filing portal to all registered users this 5th day of March 2026.

Ron Weaver _____
RON WEAVER

EXHIBIT C

Deposition Transcript of Randy Kosec, Jr. (Vol. I)

Chief of Professional Practices Services, Florida Department of Education

March 24, 2026

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANASTASIOS KAMOITSAS, As :
Commissioner of Education, :
 :
 :
 Petitioner, :
 vs. : DOAH CASE NO:
 : 25-5786PL
 HOPE McMATH, :
 :
 :
 Respondent. :

TRANSCRIPT OF PROCEEDINGS

REMOTE
DEPOSITION OF: RANDY KOSEC, JR.

ON BEHALF OF: Respondent

DATE: Tuesday, March 24, 2026

TIME: 1:31 p.m. to 3:47 p.m.

PLACE: Via Zoom Videoconference

STENOGRAPHICALLY
REPORTED
VIA ZOOM BY: KENNETH A. REGAN
Court Reporter
Notary Public
State of Florida at Large

JOB NO. 444199

1 APPEARANCES:

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14 -- Attorney for Respondent

15 ALSO PRESENT:

16 BONNIE ANN WILMOT, ESQUIRE

17 HOPE McMATH, RESPONDENT

18

19

(All appeared remotely via Zoom Videoconference.)

20

21

22

23

24

25

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1 (Whereupon, the proceedings commenced at
2 1:31 p.m.)

3 THE STENOGRAPHIC REPORTER: Would
4 counsel please identify themselves.

5 MR. PHILLIPS: John Phillips on behalf
6 of Hope McMath.

7 MR. WEAVER: Ron Weaver for the
8 Petitioner, Department of Education.

9 MS. WILMOT: Bonnie Wilmot, deputy
10 general counsel for the Department of
11 Education.

12 THE STENOGRAPHIC REPORTER: All right.
13 Randy, would you please raise your right hand
14 to be sworn.

15 THE WITNESS: (Complies.)

16 THE STENOGRAPHIC REPORTER: Do you
17 solemnly swear or affirm to tell the truth, the
18 whole truth, and nothing but the truth?

19 THE WITNESS: Yes, sir.

20 THE STENOGRAPHIC REPORTER: Thank you.

21 RANDY KOSEC, JR.,
22 called as a witness, having been duly sworn, was
23 examined and testified as follows:

24
25

1 DIRECT EXAMINATION

2 BY MR. PHILLIPS:

3 Q. Would you please state your name for the
4 record?

5 A. Randy Michael Kosec, Jr.

6 Q. I am also a Michael. Middle tucked in
7 there. John Michael Phillips, so -- well, if nothing
8 else, we got that in common.

9 A. We got that.

10 Q. So I -- I have got you for a while
11 today. I got some -- some questions typed up. A lot
12 of what you are going to be doing today is just kind
13 of filling me in in the process, right? I'm not the
14 usual player to this -- to this world. I am on the
15 First Amendment side, but not necessarily to the --
16 the DOE and how it works, other than being a parent
17 who is actively involved on sack. So you are going to
18 give me the other side of things.

19 If for any reason I ask a question that
20 you don't understand, will you say, "Mr. Phillips, I
21 need you to re-ask it." We will be dealing with
22 objections on some of those issues as well. But, you
23 know, if I'm asking a question, and you don't
24 understand it, you can't very well tell the truth to
25 it if you didn't understand it, so let's -- let's get

1 that fixed.

2 Contrarily, if you answer one of my
3 questions, I'm going to assume that you understood it;
4 is that fair?

5 A. Yes, sir.

6 Q. Have you ever had your deposition taken
7 before?

8 A. I have.

9 Q. Okay. And so you kind of know, you
10 know, generally how this goes. If you need a break
11 for any reason, just let me know. I don't know how
12 long we are going to go. I usually wrap things up in
13 an hour to two, but, you know, every case is
14 different.

15 So what is your current job title,
16 Mr. Kosec?

17 A. I am the chief of the Office of
18 Professional Practice Services.

19 Q. Now, in an -- in a corporate structure,
20 if you think of the boxes and the lines, who is -- who
21 is -- who is on top of you? Who is your supervisor?

22 A. I report to the deputy chancellor for
23 educator quality.

24 Q. And who is that?

25 A. Josey McDaniel, and it's J-O-S-E-Y.

1 Q. Anybody else that you report to?

2 A. After -- I can go up after her if you
3 would like.

4 Q. Okay. Please.

5 A. So she reports to the senior chancellor,
6 Paul Burns.

7 Q. Okay.

8 A. And then he reports to the commissioner
9 of education, Anastasios Kamoutsas.

10 Q. I'm going to try to get Mr. Anastasios
11 name consistently correct, but bear with me. I guess
12 that's --

13 A. Commissioner always works for me.

14 Q. Yeah, right. Exactly, I will stick with
15 that?

16 THE STENOGRAPHIC REPORTER: Do you have
17 a spelling? I don't know that name.

18 THE WITNESS: Yes, sir. It's -- the
19 first name A-N-A-S-T-A-S-I-O-S, the last name is
20 K-A-M-O-U-T-S-A-S.

21 THE STENOGRAPHIC REPORTER: Thank you.

22 BY MR. PHILLIPS:

23 Q. How long have you been chief?

24 A. I started as chief in January of 2019.

25 Q. And when did Commissioner Diaz leave?

1 A. He left, I believe it was June of 2025.

2 Q. Was he the -- was there a commissioner
3 that you served under other than Kamoutsas and Diaz?

4 A. County and interim commissioner, but I
5 think I've been under 14 commissioners.

6 Q. Okay. Okay. Fair enough.

7 A. As chief, I think it was three.

8 Q. Okay. Diaz, Kamoutsas and who?

9 A. Richard Corcoran.

10 Q. Okay. Okay. He's gone on to be some
11 stuff.

12 All right. So what's your educational
13 background?

14 A. I have a bachelor's degree in
15 criminology from Florida State University.

16 Q. Okay. Any other degrees?

17 A. No, sir.

18 Q. Any -- did you -- did you -- have you
19 ever attended law school?

20 A. No, sir.

21 Q. Okay. Have you ever attended any other
22 graduate school?

23 A. No, sir.

24 Q. Okay.

25 A. I finished with school, and I was done.

1 Q. Yeah, I gotcha.

2 Have you ever held a Florida's

3 educators -- educator certificate?

4 A. No, sir.

5 Q. Have you ever taught?

6 A. No, sir.

7 Q. Even as a substitute?

8 A. No, sir.

9 Q. Okay. Have you had any occasion to sit
10 in classrooms and watch teachers work?

11 A. Very rarely.

12 Q. On what type of occasion would you do
13 that?

14 A. Sometimes when we are doing an
15 investigation, and it's nonverbal students, we might
16 sit in to see what the students' abilities are. So we
17 will sit, you know, 10, 20 minutes, nothing -- not a
18 full day or anything like that.

19 Q. Okay. So by the answer to that
20 question, I think I can -- and a lot of these
21 questions, you know, I know the answer to, but I got
22 to ask them because somebody is typing it down.

23 A. I understand.

24 Q. Have you ever sat in Ms. McMath's
25 classroom while she taught?

1 A. I have not.

2 Q. Okay. Do you know of anybody at the
3 Department of Education that has sat in Ms. McMath's
4 classroom as she taught?

5 A. No, sir.

6 Q. Same question about DCPS, Duval County
7 Public Schools, I'm going to abbreviate as DCPS. Do
8 you know if anybody, or you talked to anybody that's
9 at administrative level that's -- you've spoken with
10 that sat in Ms. McMath's class as she taught?

11 A. Not that I know of.

12 Q. Okay. And in your investigation, you
13 talked some of the fellow teachers and students and
14 obviously, we will get to that, but other than that?

15 A. Correct.

16 Q. Okay. Before joining the Department of
17 Education, what did you do?

18 A. I worked at a hotel as the assistant
19 general manager.

20 Q. Okay. And how long have you been a DOE?

21 A. Since 2007, so just about 19 years.

22 Q. Okay. Very good. Kind of give me a
23 brief summary of -- of how you started versus how you
24 achieved chief, like out of your progression.

25 A. So when I started in 2007 for about

1 maybe four months, I was secretary answering phones
2 and clerical duties. Then I moved to a program
3 specialist 2 assisting with investigations. Then I
4 moved to a program specialist 4, actually conducting
5 investigations. I did that for probably five years.
6 Then I moved to a program director role where I
7 oversaw the investigators underneath me, and then for
8 about 18 months in 2017 to '19, I served as the
9 director of labor relations for the department. And
10 then when Commissioner Kamoutsas came in, he moved me
11 back as the chief of professional practices.

12 Q. Very good.

13 A. So other than about 18 months, I've
14 always been in this professional practices unit.

15 Q. Very good. So professional practices,
16 what does it do? What -- what does your department
17 do?

18 A. The -- there's three main sections of
19 the office. The first section does background
20 screenings on individual applying to be an educator
21 for the first time, and they either have a criminal
22 history or professional licensure sanction in their
23 background, so they could have been a realtor and lost
24 their real estate license or something like that or
25 come from another state, and we look to see what

1 actually the underlying conduct was for that.

2 Then we have the investigative unit that
3 actually goes out and investigates allegations of
4 misconduct against certified educators. And then the
5 third piece is a compliance unit, so if there was a
6 disciplinary sanction, say the educator was put on
7 probation, we monitor that probation and make sure
8 they are compliant with whatever the sanction is on
9 the certificate.

10 **Q. Okay. And we talked about chief and**
11 **above. I'm not going to ask you to name every**
12 **employee beneath you, but how big is the -- how big is**
13 **the professional practices division?**

14 A. Including myself, there's 29 employees
15 when we are fully staffed.

16 **Q. Okay. And who reports to you?**

17 A. I have some support staff secretary,
18 things like that. And then I have two program
19 directors underneath me that report to me.

20 **Q. And --**

21 A. I have five direct reports.

22 **Q. Okay. Who are the two program --**

23 A. Directors?

24 **Q. Yeah, thank you.**

25 A. Alicia McCall, and she is over the

1 investigative unit for the certified teachers.

2 Q. Okay.

3 A. And then Nicholas Sermon, and he's the
4 program director over the applicant section and the
5 compliance section.

6 Q. Okay. Did either Ms. McCall or
7 Mr. Sermon, were they involved in Ms. McMath's case at
8 all?

9 A. No, sir.

10 Q. Okay. What -- who reports to them?

11 A. The -- we have -- so Ms. McCall has
12 investigators program specialists 4 that report to
13 her. She has 12 of them and one program specialist 2.
14 And then Mr. Sermon has nine direct reports that
15 report to him, and that's the applicant investigators
16 and then the compliance officers.

17 Q. Okay. I watched one of your seminars
18 last night. We will -- we will get into it in a
19 second, but what I liked about it is a lot. But one
20 of the things I liked about it was when you were
21 referring to examples of discipline, you just used
22 yourself, you are like Randy did this, and I just
23 thought that was a good way to -- to teach a lesson,
24 so that you are constantly the bad example rather
25 than, you know, making up examples or -- or using

1 people's, you know, unfortunate situations.

2 But -- so I'm going to do it to you. So
3 Randy says -- has a -- has a bad problem with cursing
4 in front of students. The district opens an
5 investigation, and it's forwarded onto the state.
6 Where does it land? Help me understand how it -- how
7 a complaint goes from a school board or a public
8 school district to the state.

9 A. So the state statute requires school
10 districts within 30 days of knowledgeable complaints
11 if it's legally sufficient to be submitted to
12 professional practices. While the bigger districts,
13 so like Duval County, we have an electronic share file
14 system where they upload their report, any supporting
15 documents, the evidence if Randy hits somebody or
16 Randy used the profanity in the hallway, most of the
17 cameras only have video, not audio, but if there was,
18 they can upload that video in there, everything like
19 that. And then one of the clerical staff that I
20 mentioned, they pull everything out of the share file
21 system and put it into our internal case management
22 system that assigns it. The case number, and then we
23 have all the stuff together so when we are at the end
24 of the process, the files all meet together, it's all
25 electronically stored.

1 **Q. Okay.**

2 A. Some of the smaller districts, they
3 choose to sell mail -- paper mail stuff in, and I will
4 get a jump drive every now and then with a video or
5 something, and I get that. I'm trying to get them all
6 become electronic. I'm not a technology person, so it
7 takes a lot for me to admit that it is helpful, but it
8 does save time and things come in quicker. And then
9 especially with the videos and things like that,
10 because if I can't play them, then I can ask them,
11 "Can you try to reload it," or something like that.

12 **Q. Gotcha. So when let's just say bigger**
13 **district, Duval County Public Schools has this**
14 **complaint about Randy, where does it land?**

15 A. So when it comes into our office, what
16 we do is open it up, it gets assigned a case number.
17 We send a letter of receipt back to the district
18 letting them know that we received their complaint.
19 And then when we look into the file, we make -- we do
20 some behind the scenes, we make sure they really have
21 a certificate, things like that. We make sure that we
22 have jurisdiction over them. Then we would send an
23 opening letter to the educators so that Mr. Randy gets
24 letters saying, "Hey, we have opened a case on you.
25 If you have questions, you can contact us." I would

1 say some people reach out right away, some people wait
2 until the investigation starts.

3 At the conclusion of the investigation,
4 we always schedule what's called an informal
5 conference to give the educator an opportunity to
6 review our case file. Any materials in it could be
7 what came from Duval County, could be what the
8 investigator collected when he or she went out. Even
9 if Mr. Randy sent in character reference statements
10 from 10 different students, we send them back to him,
11 so he sees that it's part of the case record, because
12 we try to keep everything together. And that's the
13 thing I like about our case management system: At the
14 end, we can merge everything into one PDF file.

15 **Q. Good. And as a chief, you used a lot of**
16 **leads in your world of teams, but let me -- let me**
17 **break it down.**

18 **So -- so this new file from DCPS**
19 **involving Randy's cursing, does it -- does it start --**
20 **the investigation start at a -- at a chief? How does**
21 **it -- where does it go?**

22 **A. I gotcha. So when the secretarial**
23 **clerical staff opens the case file, they give it to**
24 **the program director. She sends out that opening --**
25 **and that would be Ms. McCall. She sends out that**

1 opening letter to Mr. Randy letting him know we have
2 the case file. She holds all of the case files until
3 it's assigned to an investigator.

4 Typically what we will do -- I say "we",
5 I'm talking about the office. We will assign cases
6 out to the investigators in batches. I'm not going to
7 send somebody to Key West to work one case unless we
8 have only one case, but then they are going to work
9 Miami-Dade area because it's in the region, because it
10 wouldn't make sense for me to send somebody to work
11 Duval County and Escambia County at opposite ends of
12 the state. So we try to make sure we put them
13 together, then we travel for a week at a time
14 typically.

15 We do have certain cases that take
16 priority based on state statutes and things like that.
17 Sexual misconduct cases, for example. So those I
18 might assign to somebody, "Hey, I need you to go to
19 Tampa tomorrow at the end of the week because this is
20 a priority." Once that investigator goes out,
21 collects all the information that they need for the
22 case, they will then schedule an informal conference
23 with the educator and/or with their attorney if they
24 have one.

25 If they have an attorney, we will

1 provide them a copy of the case file up front. If
2 it's an educator during the informal conference, we
3 will ask them if they would like a copy of the case
4 file, and then we will ask them, "Do you want that
5 emailed to you, so you can download it through our
6 secure system or do you want a paper copy mailed to
7 you?"

8 And then once that is done -- excuse me,
9 once the informal conference is done, we typically
10 give the educator two weeks to respond with anything
11 they want to include in the case file. If they tell
12 us right at, you know, "I don't want to send
13 anything," or if they send stuff already, we are not
14 sending anything else, we finish up our case report.
15 And then -- sorry about that. We send it to our
16 office of general counsel. It is assigned to one of
17 our general counsel for the professional practices
18 section. They -- so it goes to the general counsel.
19 They look at it to see if there is a violation of
20 state statute or rule.

21 Then the case comes back to professional
22 practices, and the facts are presented to the
23 commissioner of education who makes a determination if
24 there is probable cause or not to sanction the
25 educator's certificate.

1 **Q. Okay. Are there cases that just stay at**
2 **a district level for discipline?**

3 A. There could be if they feel it's not
4 legally sufficient or I will tell you I get ones every
5 now and then, you know, Randy has used 20 vacation
6 days in the year and excessive absenteeism or
7 something like that calling in sick. That style of
8 state licensure issue unless it's directly impacting
9 students, so we would take it and send it back to the
10 district and say, you know, "Hey, Duval County, we
11 understand that Randy might be absent a lot, but
12 that's an employment issue, you need to deal with the
13 employer."

14 **Q. Okay. From a -- so my understanding is**
15 **-- is Duval County Public Schools has six**
16 **investigators including Mr. Bennett, we will talk to I**
17 **think next week. Do they work with your investigators**
18 **or are they autonomous and report to the district?**
19 **How does that work?**

20 A. They are autonomous. I will tell you
21 other than so maybe seeing their name on a case report
22 or a letter, I don't know who their district
23 investigators are --

24 **Q. Okay.**

25 A. -- and things like that. I normally

1 deal with somebody in HR if we need something that's
2 missing from the file. So occasionally, there will be
3 something that says, you know, the district or the
4 principal reviewed the video surveillance, they
5 confirm that Mr. Kosec and Randy got into a physical
6 altercation in the hallway. And we didn't get that
7 video, so then I'll reach out to my HR person, and we
8 will say, "Hey, on page 17 of your report, it says
9 that the principal reviewed the video. Can we get a
10 copy of that video," or things like that. But our
11 investigations are independent of the school
12 districts.

13 **Q. Okay. And -- and does the DOE, does**
14 **your office investigate violations of school board**
15 **rules or does it go with state statutes? Do you**
16 **understand my question?**

17 **A.** Yes, sir. We follow the state statutes
18 and state board of education rules. I will tell you
19 there's 67 counties, so there will be 67 different
20 policies, some of them are similar, but verbiage
21 changes and things like that. And even if we include
22 in our report, you know, it's a violation of school
23 board policy 1, 2, 3, that's just a reference. We
24 still -- when our general counsel's office drafts the
25 administrative complaint, they will cite what statute

1 or rule was violated because that's what we are
2 enforcing.

3 Q. Okay. And you will agree with me, will
4 you not, that what we have talked about the last five
5 minutes is not how Ms. McMath's case has proceeded?

6 A. Correct.

7 Q. Okay.

8 A. There were some differences.

9 Q. And in McMath's case, it seems like you
10 were the active investigator?

11 A. Yes, sir. I investigate cases
12 regularly.

13 Q. Okay. What -- where is the -- is there
14 a distinction or a breakdown in kind of assignments
15 with what cases you represent investigator versus --
16 your investigators versus their, the people in between
17 you?

18 A. Not particularly. I'll tell you next
19 week, I am traveling cases, and Ms. McCall just I told
20 her I'm going to go out, I told her what days I'm
21 available so I pick a county that's not super far
22 away, so I'm spending time investigating. She gave me
23 cases just like she would if it was a regular
24 investigator. When we travel, I mentioned we travel
25 usually a week at a time. It does take time to

1 coordinate that visit to the school, to the county and
2 things like that. So the ones that come in that are
3 more a priority, so if we had a teacher, and it comes
4 in today, you know, Randy had sex with a student, I'm
5 going to take that case because I don't want to take
6 somebody off the road from working a week's worth of
7 cases to go to an odd county.

8 But if it's a Duval County, and I have
9 got investigator A going to Duval County next week,
10 I'll say, "Can we work this case in or can we pull
11 this case out?" But I try to work ones that are more
12 timely so I don't disrupt the flow of the office. I
13 will also share, I said we have 29 who are fully
14 staffed. I have had several people out on medical
15 leave and vacancies, so to make sure cases are moving
16 timely for the educators, as I'm able to, I go work
17 cases just so we can keep cases moving forward and
18 then not sitting in a file cabinet while the Ms.
19 McMATHs of the world are sitting there wondering
20 what's going to happen, I want to get them resolution.

21 Q. How did you get assigned Ms. McMath's
22 case?

23 A. We had a couple of cases that came in
24 about the same time period, and a lot of them were
25 citizen complaints, kind of what I refer to them, and

1 they went to the commissioner of education, they went
2 to the chancellor's office, the chief of staff,
3 various people in the department, and they started
4 funneling those to us to see if there were violations.
5 And I worked -- the week I worked on Ms. McMath's
6 case, I worked several I think in five different
7 counties that we -- I think every day, I was in a
8 different county.

9 **Q. Were all of them Charlie Kirk related?**

10 A. They were. They were all Charlie Kirk
11 social media type things, and it was trying to look to
12 establish what's going on.

13 And one of the big things I did when I
14 was working the cases is I was looking for
15 similarities between the cases to see how they were
16 impacting -- well, not between the cases, but I was
17 looking for the same things, did they impact the
18 school. And that's why I spoke with students to see
19 what they knew, how were the educators, things like
20 that.

21 I will tell you one of the cases, they
22 had so many upset parents, they had to call in law
23 enforcement to help have additional security at the
24 school.

25 **Q. Which case was that?**

1 A. That one is still open, so I cannot
2 discuss it.

3 **Q. Okay. That was not Hope McMath?**

4 A. That was not.

5 **Q. Okay. Did you find any evidence**
6 **whatsoever that Ms. McMath's statement had impacted**
7 **Douglas Anderson?**

8 A. I have not seen anything. I believe --
9 I believe you have seen the statements I collected
10 from the students and staff members. We referenced
11 them earlier. And the students all were pretty
12 consistent that they did not have anything negative to
13 say about Ms. McMath or any viewpoints pushed on her.

14 **Q. Quite the opposite, I think they were**
15 **all very positive towards Ms. McMath; is that fair?**

16 A. That's correct.

17 **Q. Okay.**

18 A. Two of them even said Ms. McMath said,
19 "Don't follow my social media," so...

20 **Q. Then why are we here?**

21 A. I think that would be a question for our
22 general counselor or the commissioner. I'm just a
23 fact finder.

24 **Q. Okay.**

25 A. I don't make determinations.

1 **Q. Okay. Fair enough. And we will get**
2 **into that, and I appreciate the frankness there.**

3 **What is your working relationship, if**
4 **any, with the commissioner day to day?**

5 A. When we present the facts of the case to
6 the commissioner, I am at that meeting presenting the
7 facts of cases. But other than that --

8 **Q. How often does that meeting occur?**

9 A. It depends on the schedule. He hears
10 all of the cases. I will tell you right now with
11 legislate -- with the legislative session in, we have
12 met with him a little slower than we do during
13 non-session times. But there's sometimes he's
14 traveling during school visits around the state, but
15 we typically try to meet with him at least weekly.

16 **Q. What happens when he has a -- and I'm --**
17 **I don't mean what happens. Let me rephrase it.**

18 **Are there any regulations or rules or --**
19 **or guidebooks that discuss what happens when a**
20 **commissioner has a conflict of interest related to a**
21 **case?**

22 A. Not to my knowledge.

23 **Q. Okay. So if it was -- and I don't know**
24 **his family situation, but if -- if the commissioner's**
25 **own daughter was brought before the DOE, could he**

1 oversee that case?

2 A. I think that would be the -- for our
3 general counsellor to decide. From what I understand,
4 state statute says that the commissioner makes the
5 decisions. I know in my 19 years here, it's never
6 been delegated to anybody other than the Commissioner
7 of Education making that determination.

**8 Q. Is there a deputy commissioner who
9 would -- I mean, is there -- is there -- I guess if
10 you have not seen it in 19 years, who would be
11 delegated?**

12 A. I don't know if it would be one of the
13 deputy commissioners or the chief of staff. That --
14 that -- that's one of those questions I think you
15 would have to look at.

16 Q. Fair enough. So --

17 A. Like I said, I just have my bachelor's
18 degree. I didn't go to a law school.

19 Q. No, no, no. We are good.

**20 So when you came to visit Douglas
21 Anderson, you were also investigating five to six
22 other cases or included in Ms. McMath is the five to
23 six?**

24 A. At the week I traveled, I went to -- I
25 would have to look at -- pull up my case schedule, but

1 I went to like five or six -- I guess five counties
2 because there were five days in the week, but I only
3 had the one case at Douglas Anderson.

4 Q. Okay. And --

5 A. I have been to other cases, but not the
6 same trip. We are not related to the social media.

7 Q. How many other than McMath and the one
8 that officers were called continue?

9 A. To like the commissioner, you mean?

10 Q. Yes, or active cases that the DOE is
11 prosecuting or investigating.

12 A. I don't know the exact number. I know
13 when we -- within the week, two weeks after Charlie
14 Kirk's death, we probably had about 50 cases.

15 Q. How many are left?

16 A. I do not know that. I know the
17 commissioners found probable cause on some of them.
18 Some of them, I think they're still waiting to go
19 before him. And I worked some of them, I had other
20 staff members work them as we had people in different
21 areas and things.

22 Q. What's the opposite of finding probable
23 cause, not finding probable cause?

24 A. No probable cause.

25 Q. No probable cause? At any of the

1 **Charlie Kirk's cases, has the commissioner found no**
2 **probable cause that you are aware of?**

3 A. I don't recall specifically.

4 **Q. Okay. How many cases does your office**
5 **handle at any given point?**

6 A. So I can tell you last school year, so
7 that would be '24, '25 school year, our office had
8 over 5,000 cases come in.

9 **Q. Okay.**

10 A. Right now, we are on track to exceed
11 that. I actually looked this morning. We were 493
12 cases ahead of where we were March 24th of 2025.

13 **Q. Is there a reason for that? And I'm not**
14 **trying to be vague or funny here, but is there -- is**
15 **there something that you guys understand that we are**
16 **prosecuting these cases more significantly or -- or I**
17 **mean, is there any justification that you guys know of**
18 **for that?**

19 A. So I have seen -- I will tell you, so
20 when I started 19 years ago, Facebook was just
21 starting out. Now we get a couple hundred cases a
22 year because of things from Facebook or communicating
23 with students, things like that. I think every time
24 something new comes out -- last year, there were
25 changes in the state law regarding classroom door

1 locks, so we probably -- if I had to guess, 350 to 400
2 cases came in for door lock violations. So it's new
3 laws changed or get created, it expands, so we only
4 had the teacher that hits the student or says that
5 profanity when Mr. Randy gets upset, so we -- we get
6 those cases, but then we always add to it as the laws
7 and rules expand.

8 Q. I got you. That makes sense.

9 Have you received any training in
10 constitutional law, specifically the First Amendment?

11 A. No, sir.

12 Q. The good news is when I -- when I sit
13 here quietly, I'm getting rid of pages so...

14 So in that nice office, is there -- is
15 there like a military people? I just hired a
16 paralegal that's -- that's military trained, and he
17 talks in SOP. You know, other people rule book. Like
18 is there -- is there a manual -- other than state
19 statutes, right, is there a manual that your office
20 has, this is kind of what we do, this is how we handle
21 an investigation?

22 A. We do not. It's something I aspire to
23 have one day so I can give the new employees, say,
24 "Hey, look through this and this," but right now, we
25 sit down with our new investigators, and we pull out

1 old case files and say read through these to start,
2 and we work kind of hands-on training.

3 **Q. Of -- of the 5,000 investigations last**
4 **year or just kind of -- of some raw number of**
5 **investigations that you get year to year, what**
6 **percentage of that is -- is started from -- initiated**
7 **by the DOE?**

8 A. So can I break the 5,000?

9 **Q. Yes.**

10 A. So probably 2,000 of those are applicant
11 cases for the background screen that I mentioned.

12 **Q. Okay.**

13 A. So then we look at 3,000 that would be
14 certified educators like Ms. McMath. I would say
15 probably 2,500, 2,600 come from the school districts,
16 and that could also be charter schools and the private
17 school that accepts scholarship funds follow our
18 jurisdiction.

19 Really anybody with a certificate. So
20 even if you have a certificate, and you are not
21 working, and you get arrested for a DUI, we have
22 jurisdiction over that arrest because you still have
23 the license and certificate.

24 **Q. Okay.**

25 A. The other 400 or so that come in, they

1 come from parents, they come from citizens, they could
2 be things we are looking at Mr. Randy for use of
3 profanity, and then it turns out, well, he was arguing
4 with a Mrs. Randy over here, and they were both
5 profanity back and forth, so then we open on that
6 educator as well. So sometimes they are the ones we
7 get. And then we get ones, I will see a newspaper
8 article: Teacher arrested for, so sometimes we will
9 open on that, and we will open up before the district
10 sees and reported it to us because we have knowledge
11 of the case.

12 **Q. Okay. Are there referrals directly from**
13 **the commissioner, meaning the commissioner does the**
14 **same thing, he sees a newspaper article or he sees,**
15 **you know, an interview on television and says, "Let's**
16 **go investigate this"?**

17 A. Yes, sir. I'll be honest. Every --
18 well, not every morning, but every morning, I get an
19 email with newspaper links if there's a story, so if
20 there's no story, there's no email, but it could be
21 teacher arrested for this, and they could -- sometimes
22 there are cases we have opened, and we have been
23 watching the criminal proceedings, and it's like, you
24 know, teacher convicted 20 years for this or whatever
25 it might be. And they will -- the communications

1 office sends that to me daily. The commissioner,
2 chief of staff, chancellor, deputy chancellors, if
3 they see things or they start getting things from the
4 citizens, as I call them, the public constituents or
5 whoever, those will come in and be funneled to me to
6 look into.

7 We also get ones that upset parents that
8 writes a letter to the governor's office, Mr. Randy at
9 Douglas Anderson Schools, mean, he grabs my son all
10 the time and pushes him. The governor sends it to the
11 commissioner, the commissioner funnels down,
12 eventually gets to me because of the complaint. I
13 take a look into it. I will talk to the parents and
14 get information. And if it's something we want to
15 open, we will look at it. Sometimes we open cases
16 that the district hasn't opened because they came
17 straight to us from the parent.

18 **Q. Have you opened up cases that come from**
19 **school board members?**

20 A. We have in the past.

21 **Q. Even when they are not reported at the**
22 **district level or being investigated at the district**
23 **level?**

24 A. If they are legally sufficient and have
25 information, we have.

1 **Q. Okay. It -- okay.**

2 **What about clinical organizations like**
3 **Moms for Liberty, have you ever opened up**
4 **investigations when -- when you received inquiry from**
5 **a -- or complaint from a political organization?**

6 A. It has to be from an individual so we --
7 we don't accept like anonymous complaints, so if it
8 just said, Moms for Liberty at the end, what we
9 typically do is we would forward that to the school
10 district to make them aware, and for any action they
11 deem warranted. But I don't just open a case on
12 Mr. Randy because it's signed Moms for Liberty or
13 something like that.

14 **Q. Who is**
15 **americanpatriot2022@protonmail.com?**

16 A. I do not know their name.

17 **Q. Okay. Then isn't that the original**
18 **complaint adhered?**

19 A. To the commissioner's office, it was,
20 and then the commissioner asked us to look into it.
21 Because of the postings, they felt it was a legally
22 sufficient complaint because they had the postings.

23 **Q. Okay. So am I correct that you just**
24 **said that there were -- there's no complaints that**
25 **start off anonymous, but this one started off**

1 **anonymous because we don't know who**
2 **americanpatriot2022@proton is, correct?**

3 A. Correct.

4 **Q. Okay. And what investigation was -- was**
5 **made by your office to determine who that is?**

6 A. We will try that email. Sometimes
7 people to -- to see if we can get responses back.

8 **Q. Right.**

9 A. I have no response back from the person,
10 so I have no knowledge of who they are.

11 **Q. Okay. Does -- does that factor in your**
12 **office as to whether a complaint is meritorious or --**
13 **or, you know, really warrants probable cause of an**
14 **investigation if -- if the person has used an**
15 **anonymous email, and they -- they don't -- they are**
16 **not able to follow through?**

17 A. We take in, we will try to get
18 information if it's something we can look at that's
19 legally sufficient. So like the anonymous complaint,
20 so if the parent -- whoever writes in, you know,
21 Mr. Randy's name, he uses profanity in the classroom
22 all the time, we don't know what class period, we
23 don't know which students, things like that, so that's
24 when we'll send those back to the district. If they
25 send us something, a news article, for example, saying

1 Mr. Randy was arrested for a DUI, I can look up and
2 see was he arrested or not, and then we will open on
3 that case. With the social media ones that were
4 coming in, we were looking at the post themselves that
5 we had it if we were able to establish that it matched
6 the educator.

7 Q. Okay. I gotcha. Let me go to this
8 here.

9 Can you see your name there?

10 A. I do.

11 Q. Okay. Do you remember a video
12 presentation -- well, you weren't video, you were
13 live, but a presentation you made on November 20th,
14 2024?

15 A. It was probably to FASA, the Florida
16 Association of School Administrators because I do
17 theirs every November.

18 Q. Okay. Let me just play a little bit.
19 (Video playing.) To be honest, if you
20 issue any type of certificate, that I know
21 sometimes --

22 BY MR. PHILLIPS:

23 Q. Does that refresh your recollection
24 about this particular speech?

25 A. I was going to say it looks like it --

1 that might be the charter school, private school
2 conference.

3 **Q. That was a lot of the topic was charter**
4 **school and private school?**

5 A. I was going to say I see the logo on the
6 podium, the Caribe Royale Hotel.

7 **Q. Right.**

8 A. I'm pretty sure that's where that one
9 was at.

10 **Q. Okay. In the handouts that are outlined**
11 **associated with that speech, let me see. Most of this**
12 **I think you have covered. You referenced section**
13 **1012.796 Florida Statutes: Complaints against**
14 **teachers and administrators procedure penalties. And**
15 **I think you have discussed all of this other than I**
16 **had the question of, you know, this statute talks in**
17 **terms of requesting department to investigate legal**
18 **sufficient -- legally sufficient complaints. What**
19 **constitutes a legally sufficient complaint?**

20 A. That -- that is a question we get all
21 the time, and the statute just says that it contains
22 ultimate facts to show if violation occurred.

23 **Q. Okay.**

24 A. When we get -- a school district or a
25 charter school or whatever will ask --

1 Q. Yeah.

2 A. -- I will tell them I would consult your
3 school board attorney because they are a lot smarter
4 than me.

5 Q. And then you have a slight -- I think
6 that was actually cued up when I randomly hit the
7 video, but let's -- who and what to report to PPS and
8 -- and again, we boil back down to the legally
9 sufficient complaint.

10 When determining legally sufficient
11 complaints, whose role is it to determine whether
12 there's U.S. Supreme Court precedent or Florida case
13 law that would accept it or exclude it?

14 A. So when we get cases in, normally they
15 are very similar in nature, profanity, grabbing or
16 hitting a student, things like that, and those are the
17 ones we know we have jurisdiction over.

18 If it's something odd or I'm not sure
19 about, we will reach out to our office of general
20 counsel and ask them, you know, is this -- so if it
21 comes in, "Hey, Randy is late 10 days a month to
22 work," and he has first period planning, so no
23 students are impacted by it, we might call and say,
24 "Is this more of an employment issue or is this
25 something we should be looking at?" And they give us

1 guidance on that.

2 Q. Did that occur here in Ms. McMath's
3 case?

4 A. No, sir.

5 Q. When was the last time you read
6 Pickering versus the Board of Education?

7 A. I don't think I ever heard of it until
8 just now.

9 Q. Okay. Are you aware that's the number
10 one presidential First Amendment case involving
11 educators?

12 A. I do now.

13 Q. Okay. What is 6A-10.081?

14 A. That is the Florida Administrative Code,
15 the professional conduct for the education profession
16 in Florida.

17 Q. And when, to the extent you are aware,
18 was it enacted?

19 A. It was the 1980s, early '80s, I believe,
20 and it's been updated continuously. I think it's been
21 updated more in the last four or five years than it
22 were, you know, the original 20 years that I was
23 there.

24 Q. Have you ever described it as -- as
25 vague or confusing?

1 A. Not that I recall.

2 Q. Okay. Now, in the -- in the
3 presentation, you talk about gathering of evidence,
4 and you -- you even have on your PowerPoint to include
5 photos, videos, communications including emails, text
6 messages, letters and cards, financial records,
7 audits, documents, testing information, and reasonable
8 suspicion observation forms.

9 Is there anything -- is there any of
10 this in Hope McMath's case that you gathered other
11 than the social media posts?

12 A. No, sir.

13 Q. Okay. I want to -- do you have the
14 investigator file in front of you?

15 A. I've got it on my other computer screen
16 if I need it.

17 Q. Okay. I have got the pages kind of put
18 together. We will attach a full copy of your
19 investigative files Plaintiff -- no, not Plaintiff.
20 That's a force of habit. As Respondent's Exhibit 1.

21 (Whereupon, Exhibit Number 1 was marked
22 for identification.)

23 BY MR. PHILLIPS:

24 Q. PPS and number 256-0563, does that sound
25 like Ms. McMath's case?

1 A. That is.

2 Q. Okay. And that is -- and I can pull up
3 the file itself if I need to. Let me do that
4 actually, if I have it handy.

5 A. Okay. Do you see my PowerPoint still or
6 do you see the window at the -- with the thing on it?

7 A. I see the window that says Educator Hope
8 McMath with a PPS number.

9 Q. Okay. Let me pull back from that.

10 A. Now, I see you.

11 Q. Hi. And go to this report.

12 A. All right. So now you see your report?

13 A. Yes, sir.

14 Q. Okay. Let me get rid of the -- okay.

15 A. Page 1, title page; page 2, docket Hope McMath and
16 index. Who created this index?

17 A. That would have been myself when I
18 merged the file together.

19 Q. Okay. Is it accurate?

20 A. To the best of my knowledge.

21 Q. Okay. Are you aware as we sit here
22 today of any inaccuracy within -- within this index?

23 A. No, sir.

24 Q. Okay. First thing we're going to go to
25 is the next page, so Page 3 social media posting filed

1 **September 11, 2025. So what does that mean filed?**

2 A. So all of them you will see says -- has
3 the file before the date.

4 **Q. Yep.**

5 A. That's the date it was saved onto our
6 internal case management system, docket entry.

7 **Q. Okay.**

8 A. And so just to -- for your knowledge, so
9 every one of these is a separate PDF file in my
10 system, and when I'm at the end, I can create -- click
11 a button that says create merge document, and it
12 merges them all together, automatically puts pages and
13 makes this index as I call it, but --

14 **Q. Would the -- the files as they are saved**
15 **on your computer, what -- what program are they saved**
16 **in?**

17 A. It is called case management system.

18 **Q. Okay.**

19 A. And it's an internal system that we have
20 a programmer from what I understand made in 1998.

21 **Q. Probably updated it since then?**

22 A. He still works for us. He comes in as
23 we need to, but -- yeah, it's just something
24 internally, not you would -- you wouldn't find it at
25 Best Buy or whatever.

1 Q. Some will call it CMS. Okay?

2 A. All right.

3 Q. If -- if I was digging into the CMS or
4 you had a chance where you needed to dig into the
5 documents and the CVS, did anyone ever pull metadata?
6 Do you know what metadata is?

7 A. I do not.

8 Q. Okay. So like this the first -- the
9 first item in your report is this Karma is a bitch
10 post. It -- and is this saved as like a JPEG and
11 picture?

12 A. Everything has to be in a PDF format.

13 Q. Okay. Who converts it from a screen
14 capture or JPEG to a PDF?

15 A. So if it was a JPEG, I told you earlier,
16 I'm not a big technology guy.

17 Q. Right.

18 A. What I do is by right clicking copy the
19 image, I go into Microsoft Word and paste it, and then
20 I save it as an Adobe PDF.

21 Q. Do you know how this JPEG or screen
22 capture of her -- her post got to you or got to the
23 file?

24 A. I believe it came from an email from the
25 deputy chancellor.

1 **Q. Okay. And the deputy chancellor's name**
2 **is?**

3 A. Josey McDaniel.

4 **Q. Okay.**

5 A. I will be honest, most of the Charlie
6 Kirk social media things came from the deputy
7 chancellor and then also some of the people in the
8 communications office.

9 **Q. Okay. Does Josey McDaniel talk**
10 **politics?**

11 A. Not with me. I just come in to do my --

12 **Q. Your job?**

13 A. Job, yeah. I don't -- I don't socialize
14 a lot.

15 **Q. Do you know if Josey talks politics with**
16 **the commissioner?**

17 A. She might have. I don't know of those
18 conversations, so --

19 **Q. There's a -- and I don't know who Josey.**
20 **I never met with her, never seen her, but there's a**
21 **look -- so this is an iPhone. Do you have an iPhone**
22 **or an Android?**

23 A. I have an iPhone.

24 **Q. So they updated a few years ago where**
25 **this -- this bar now has information -- I can't --**

1 **this might even be just like a music app, but do you**
2 **recognize this picture or know what that is?**

3 A. I'm not going to be sarcastic with you,
4 but to me, it kind of looks like Colonel Sanders.

5 Q. **It's -- it's so blurry. And now that**
6 **I'm seeing this little thing, it could be that they**
7 **were listening to music when they -- when they --**

8 A. It could be an album cover because as
9 you zoom in, there's words.

10 Q. **Exactly.**

11 A. That are blurred, but --

12 Q. **I agree. All right. I'm going to go do**
13 **the other side.**

14 **Do you know who this lady is?**

15 A. Can't tell who she is because it gets
16 blurry. I see blonde hair. Dr. McDaniel does not
17 have blonde hair.

18 Q. **Does that look like April Carney?**

19 A. I have never met Ms. Carney.

20 Q. **Okay. I can tell you that that photo**
21 **matches her Facebook page.**

22 A. Okay.

23 Q. **So do you know how a screen capture from**
24 **Ms. Carney got to Ms. McDaniel -- or Dr. McDaniel?**

25 A. She might have been one of the

1 complainants.

2 **Q. Okay. Would Ms. McMath be subject to**
3 **the Duval County School Board's discipline as well?**

4 A. So the school board would look as far as
5 employment is concerned, and then PPS looks at
6 certificates. So you could get a letter of reprimand
7 from the school board, and you could also get one from
8 DOE could actually come from the Education Practices
9 Commission because they are the ones that actually
10 issue the final orders. But theoretically, you could
11 get two letters of reprimand for the same incident.

12 **Q. Okay. If -- if I'm right that this is**
13 **-- this is Ms. Carney, and this is a screen capture**
14 **from her Facebook, that would have been received**
15 **according to your file by the Florida Department of**
16 **Education on September 11th, 2025, correct?**

17 A. That's when it came to me, so it could
18 have come somewhere to Dr. McDaniel or somebody on the
19 10th, for example, and then it didn't get to me until
20 the 11th.

21 **Q. Okay. And the other piece of**
22 **information we have besides the battery was pretty**
23 **full, and she was in an area with two bars, is that it**
24 **was 9:26, but we don't know whether it's 9:26 a.m. or**
25 **p.m., correct?**

1 A. And that's what I was going to say, we
2 don't know if it's a.m. or p.m.

3 **Q. Unless she's one of those strange people**
4 **that puts military time on their phone.**

5 A. That's true. Unless it's after 12, we
6 wouldn't know that anyways.

7 **Q. That's right. That's right.**

8 **Okay. So that's -- that's three. And**
9 **is this designed to be chronological? Why is that**
10 **three and not five for instance, Page 5?**

11 A. I'm sorry.

12 **Q. Why is this social media posting Page 3**
13 **and not Page 5 or 4?**

14 A. It goes in order of what this merged
15 file does, so the first page was the title with Ms.
16 McMath's name. The index is Page 2, so the first
17 thing would be Page 3.

18 **Q. Okay.**

19 A. And just for explanation, say Ms.
20 McMath's file was 10 times bigger and the docket index
21 was five pages long, that one would be Page 8 then.

22 **Q. Okay. Okay.**

23 A. So the page numbers, I was making this
24 file for you.

25 **Q. Gotcha.**

1 A. Or whoever it goes to.

2 **Q. So then we go to Page 4, and it's a**
3 **letter dated September 11th to Ms. McMath by**
4 **ostensibly you, right, but signed by who?**

5 A. That is Morgan Thompson. And I can tell
6 you on September 11th, I was at the Education
7 Practices Commission hearings in Tampa, so I know for
8 a fact, I wasn't in the office that day.

9 **Q. So did you write this letter?**

10 A. This is a -- I think you used the term
11 cookie cutter letter, but on all the letters that --
12 or every case we open, this letter will generate. The
13 only thing that changes is basically, you know, the
14 educator's name, the date, the case number. And then
15 in paragraph 2 on the second line, it says, that you
16 engaged in inappropriate conduct, that could change
17 depending on it could say that you were arrested for
18 driving under the influence. So it will tailor a
19 little bit to specific things, but engaging in
20 inappropriate conduct is probably if I had to guess 70
21 percent of what the letters say.

22 **Q. Did you ask for this letter to be**
23 **written?**

24 A. That is -- whenever we open a case, that
25 letter would be what generates.

1 **Q. And I'm sorry, I missed it. What --**
2 **what's the name of the person who signed?**

3 A. Morgan Thompson.

4 **Q. And what is Morgan Thompson's role?**

5 A. She -- well, her -- at the time, she was
6 an educational policy consultant for PPS. She is
7 medically -- she is out of the office medically and
8 only has a few weeks left to live, so she -- like I
9 said, when I'm fully staffed, I've got all kinds of
10 issues going on, but yes, so...

11 **Q. Well -- but love and prayer up in the**
12 **air for -- for Ms. Thompson. That is not where I**
13 **expected you to head.**

14 A. I wasn't expecting it either, but --

15 **Q. So Ms. Thompson -- I guess --**

16 A. I'll give you a fun fact.

17 **Q. What's that?**

18 A. Ms. Thompson trained me when I started
19 in PPF back in 2007.

20 **Q. That's great.**

21 A. So --

22 **Q. So yeah, she probably already signed for**
23 **you sometimes. But -- but she didn't sign her own**
24 **name, she signed for you and -- and I just want to**
25 **figure out under what authority?**

1 A. The letter is a template, so all of them
2 will say sincerely, Randy Kosec --

3 **Q. Right.**

4 A. -- when they come out.

5 Ms. Thompson being a senior educational
6 policy consultant that was in the office for 20
7 something years, her and both my program directors
8 when they have opening letters, they will occasionally
9 sign them if I'm not available, if I'm out so that
10 cases don't just sit, they can continue to move
11 forward.

12 **Q. Did a bunch of Charlie Kirk letters go**
13 **out that day signed by Ms. Thompson?**

14 A. I would imagine so. I think I mentioned
15 earlier, I think there were probably about 50 that we
16 opened. I would say he probably signed the majority
17 of them. There might have been a few that were
18 straggling when I got back into the office.

19 **Q. And -- and I realize the distinction is**
20 **made that you didn't need to know, right, that -- that**
21 **Ms. Thompson can certainly has authority to send out a**
22 **letter, but did you know that -- that your office was**
23 **investigating Ms. McMath at the time this letter went**
24 **out with your name on it?**

25 A. I don't know that I specifically recall

1 Ms. McMath's name from that time. I did see we had a
2 list of all the cases that we were reviewing and
3 looking at because we were trying to keep everything
4 separate, and I will -- not with Ms. McMath
5 specifically that I recall, but there were some
6 people, 10 different people sending the same
7 screenshot or Facebook post or Twitter post or
8 whatever it might have been, and we had to start
9 making a list because we don't want to open 10 cases
10 on Ms. McMath, for example, or Mr. Randy --

11 Q. Right.

12 A. -- for example. So we were kind of
13 putting it together with the information we had so,
14 you know, Randy Kosec, Duval County, Doug Anderson
15 School, Facebook. And then if we got another one, but
16 it was on Twitter, then we would add that so we can
17 show it was on multiple platforms or things, but that
18 was stuff Ms. Thompson was trying to organize it in my
19 absence here in the office.

20 Q. At any point in the investigation, did
21 you have discretion to dismiss a claim or a case?

22 A. When I get direction from general
23 counsel about my -- when I mentioned the -- Randy's
24 absent 10 days a month, that it's an employment issue,
25 we can close those administratively as no further

1 action or legally insufficient if it's something that
2 doesn't maintain or if I don't have authority. Say
3 Duval County accidentally reported a bus driver that
4 doesn't have a certification, I then send them up a
5 cookie cutter-type letter saying thanks, but Mr. Randy
6 doesn't hold a certificate; therefore, we don't have
7 jurisdiction.

8 **Q. Wild question. I also represent a lady**
9 **named Haley Bartlett who was a paraprofessional and**
10 **didn't have a certificate. Do you know if you**
11 **investigated her at all?**

12 A. That name does not sound familiar, and
13 if she did have a certificate that they came in, I
14 would have sent back my cookie cutter letter, thanks,
15 but not thanks for lack of a better --

16 **Q. Do you remember any emails or**
17 **communications, so emails, text messages or phone**
18 **calls in the morning of September 11th about the --**
19 **the Charlie Kirk plan of action, right, the -- the --**
20 **that the DOE was going to get involved, and we were**
21 **going to accept -- that we were going to pursue these**
22 **50 or so cases?**

23 A. So I will be completely transparent
24 because I was at the disciplinary hearings. I wasn't
25 in too much. Ms. Thompson, I believe, sent me a text

1 to call her when I had a break, and I called her at
2 that point, and she said that there were several cases
3 coming in that we might be looking at regarding Mr.
4 Kirk's death.

5 And not all of them were social media.
6 Some of them, teachers were having writing assignments
7 in their classroom, tell us why this was -- why -- why
8 was this was wrong. So we had a variety of things.
9 So she was looking at all -- and that's when I say
10 those 50 probably were all related to Mr. Kirk in
11 some --

12 Q. Gotcha.

13 A. -- component.

14 Q. Do you know whether this letter was sent
15 before or after commission -- the commissioner put his
16 bulletin or letter out to commissioners -- I'm sorry,
17 superintendents?

18 A. I would imagine because I believe his
19 letter -- I don't remember if it was dated the 10th or
20 the 11th that it went out to be honest.

21 Q. Okay.

22 A. I would have to look. It is probably in
23 this packet to be honest with you, but I will tell you
24 if we mailed this on the 11th, by the time it actually
25 left out of our building just knowing our mailroom

1 processes, it was probably after the letter went out
2 to the superintendents.

3 **Q. Okay.**

4 MR. PHILLIPS: Does anybody need a
5 break?

6 THE WITNESS: Whatever you guys need,
7 I'll --

8 MR. PHILLIPS: I hear no break. I'm
9 going to go a little bit longer.

10 MR. WEAVER: Yeah, yeah. Let's take
11 about five minutes.

12 MR. PHILLIPS: Okay. We will come back
13 about 2:42, 2:43.

14 THE WITNESS: All right.

15 (Whereupon, the proceedings went off the
16 record at 2:38 p.m. through 2:46 p.m.)

17 BY MR. PHILLIPS:

18 **Q. Back on the record at 2:46 p.m.**

19 **Mr. Kosec, the next thing I will show**
20 **you is Page 6 of your report, which is a letter to Dr.**
21 **Grant over at DCPS.**

22 **Have you worked with -- had an occasion**
23 **to work with the wonderful Dr. Grant?**

24 **A. I have.**

25 **Q. Okay. She doesn't pay me extra to say**

1 that, I just -- we have -- we've spent lot of time
2 together in the last few months.

3 Where were you September 12th? Were you
4 still in hearings?

5 A. I would imagine so. I was gone that
6 whole week, and I think September 12th might have been
7 a Friday. I will say -- let me look at the calendar
8 really quick.

9 Q. Let me see. Yep.

10 A. Yes, sir. So I was in hearings Friday
11 morning. And then Friday whenever we got done with
12 the hearings, I drove back from Tampa to Tallahassee.

13 Q. Okay. So this would have been Ms.
14 Thompson sending a letter to the district to let them
15 know that -- that the state was initiating an
16 investigation; is that a fair description?

17 A. That is correct.

18 Q. Okay.

19 A. And again, it's a cookie cutter letter
20 that's basically the same for the counties other than
21 the top portion of it with the name, date, and stuff
22 like that.

23 Q. Okay. And then Page 7 of your file, and
24 I can go to the file or we can go here, is -- continue
25 to share PowerPoint window. Continue share. Why are

1 you not letting me share? Hold on. Why are you
2 giving me an alert? That's weird. What are we doing
3 here? What do y'all see right now?

4 A. I just see you.

5 Q. Okay. That's good. I guess I'm stuck
6 on a stop sharing or continue to sharing PowerPoint
7 that I can't click out of. Can't escape out of it. I
8 may log back on -- if I log off, I will log right back
9 on.

10 A. Okay.

11 (Whereupon, the proceedings went off the
12 record at 2:49 p.m. through 2:52 p.m.)

13 BY MR. PHILLIPS:

14 Q. Back to American Patriot. All right.
15 Americanpatriot2022@protonmail.com: Have you ever had
16 a Proton mail account or known anybody that has as
17 something that you --

18 A. No, sir.

19 Q. Okay. It looks like that was sent -- I
20 do not want to do what I did again.

21 Okay. The screen looks like it was sent
22 September 11th -- it's Page 7 of your file. September
23 11th, 2025 at 11:15 p.m.

24 A. To me, that says it came in after we
25 already opened the case on Ms. McMath.

1 **Q. Why do you say that?**

2 A. Because we know from the docket page
3 that we opened, the opening letter was sent on
4 September 11th, and, you know, I'm a good state
5 employee, but I'm not here at 11:15 at night answering
6 emails.

7 **Q. Right. So the letter went out, and then**
8 **this email comes in, right?**

9 A. Correct. So it goes back to where I was
10 saying earlier that we had some that came in from
11 multiple people or multiple sources on the same
12 individual, and that's why Ms. Thompson was trying to
13 make an organization of it.

14 **Q. Okay. So let me be very clear: Between**
15 **11:15 p.m. on a Friday night -- no, Thursday --**

16 A. Thursday.

17 **Q. Thursday night at midnight, you didn't**
18 **send out or Ms. Thompson didn't send out a letter on**
19 **September 11th?**

20 A. No, sir. It would have been earlier.

21 **Q. Okay.**

22 A. I would venture to say it was at least
23 before 5:00 p.m.

24 **Q. Okay. Very good.**

25 A. On September 11th.

1 **Q. Very good. So --**

2 A. And knowing Ms. Thompson, it was
3 probably closer to 4:30 at the latest because when she
4 would leave to go pick up her kids from school.

5 **Q. Okay. So we have -- we have referred to**
6 **the American Patriot email as the initial complaint,**
7 **but we can rule that out, correct?**

8 A. Correct. So it would have been the --
9 the cellphone screenshot that was I think Page 3.

10 **Q. And we don't know how that got into the**
11 **Department of Education's possession and control, do**
12 **we?**

13 A. No, sir.

14 **Q. The -- the raw file, the raw JPEG or**
15 **photo file that -- that you or somebody would have**
16 **turned into a PDF to save, do we know where that is or**
17 **do you know where that is?**

18 A. I do not know. The first thing in my --
19 and I'm looking at my management -- my CMS system that
20 we were calling it.

21 **Q. Right.**

22 A. I have that it was saved on 9/11, but I
23 don't have a time, and it was the title social media
24 posting.

25 **Q. The -- the screen capture?**

1 A. I mean, the -- the -- that was just what
2 we called the entry that we saved in the system. You
3 have to give it some type of --

4 **Q. Right.**

5 A. -- name.

6 **Q. But -- but where is the social media**
7 **posting itself, not the PDF uploaded version?**

8 A. I do not know.

9 **Q. Okay. And --**

10 A. I will be honest. When you looked at
11 Page 3 before --

12 **Q. Yeah.**

13 A. -- it almost looks like somebody laid
14 their cellphone on a scanner or printer or something
15 like that and made a copy of it. In my opinion, the
16 way it has -- or I guess you could have screenshoted
17 the way it has the time, the battery bar.

18 **Q. I agree, but here, let me screenshot**
19 **something real quick. I -- it doesn't have the edges,**
20 **right? It doesn't have a phone edge?**

21 A. Yeah, that's why to me, it's a little --

22 **Q. But I just screenshot -- we are so off**
23 **where depositions go. But yet that doesn't have the**
24 **black bar on it, though. That's interesting.**

25 A. So the way the top is, it makes it look

1 like it was a photocopy, but like I said, I'm not the
2 technology person so I wouldn't know.

3 Q. And it could be an Apple update, but --
4 but we -- regardless, we are kind of just speculating
5 at this point. But -- all right.

6 How would -- you're the investigator.
7 How would you find out who sent this if you were
8 tasked to do it or how the DOE got it?

9 A. Normally, if I was here, and it came to
10 me from the commissioner, chief of staff, Dr.
11 McDaniel, whoever, I would ask them where did this
12 come from, how was it transmitted, you know, was there
13 an email to it, or did it come in an envelope, I get
14 the envelope and is there a return address on it or
15 stuff like that. So I would ask those questions
16 because I was at disciplinary hearings. I was not
17 here at the exact minute to know and ask those
18 questions that I don't know if --

19 Q. Right.

20 A. -- Ms. Thompson asked those. And at
21 this point, I can't really go ask her either.

22 Q. Right, right, right, right, right.

23 Okay. So September 12th, Ms. Thompson
24 sends out the letter to Dr. Grant, Page 6 of your
25 report. At some point, probably before that, this

1 email comes in at least overnight, and that email now
2 is addressed to -- so let me just ask who these people
3 are. Was he Paul Burns?

4 A. He's the senior chancellor, and he's
5 over the public school division of DOE.

6 Q. Okay.

7 A. Oh, yeah, yeah. He's -- he's direct
8 under to the commissioner.

9 Q. Commissioner, okay. And then Steven
10 Koncar?

11 A. He's the chief of staff to the
12 commissioner.

13 Q. Okay. Kimberly Richey?

14 A. I don't know who she is.

15 Q. Amelia Johnson?

16 A. Amelia Johnson works in our legislative
17 affairs law office. I don't know what her title is.
18 I just know that's where she --

19 Q. And Ronnie Copa?

20 A. He's one of the deputy commissioners, I
21 think it's his title. And he's over statistics stuff
22 and data and research and things like that for the
23 department. I don't know his exact role, but I just
24 know who he is.

25 Q. I'm going to ask a question that I

1 expect you don't know the answer to: Do you know if
2 anybody instructed American Patriot 2022 to make an
3 official complaint?

4 A. Not that I know of.

5 Q. Okay.

6 A. Might be different if we know who
7 American Patriot 2022 was, but --

8 Q. Sure would be nice.

9 Okay. The other ironic thing here is
10 the American Patriot uses an anonymous email from the
11 dispenser. Yeah, 2026 America.

12 Okay. So we have gone through that, we
13 have gone through possibly the music guy or whatever.
14 And then the American Patriot email provided more
15 screenshots of Ms. McMath's posts, and then your file
16 goes into Page 13 where the investigation looks like
17 it's -- it's ongoing, right?

18 A. Right. So with this -- Mr. Tran, I
19 would have sat down with him when I was at the school
20 with the educators. I gave him my business card and
21 told him that if they would like to email me their
22 statement after we had discussed that I would be happy
23 to include it into my file, and we appreciate their
24 help. So then I would have received this sometime
25 later. I believe I was at the school on September

1 17th, according to my notes.

2 **Q. Okay.**

3 A. Or my records. So looks like in the
4 next morning, he sent me an email based on the time
5 and date there.

6 **Q. So that email from Mr. Tran was Thursday**
7 **September 18th. The Monday would have been September**
8 **15th. Do you know what you did that Monday?**

9 A. Can I look at my calendar?

10 **Q. Sure. You can refresh your**
11 **recollection, sure.**

12 A. Let's see. So that Monday, I was in the
13 office here in Tallahassee, and looks like I left
14 about 4:00 and went and got a rental car and drove
15 over to Clay County. And I worked some cases in Clay
16 County and Duval County on the 16th. And then the
17 17th, I was working on Ms. McMath's.

18 **Q. Okay. Is the Clay County case resolved?**
19 **No, right?**

20 A. Don't know off the top of my head.

21 **Q. Yeah. Okay. I know one of those made**
22 **the news. I think she actually called me. But that's**
23 **neither here nor there.**

24 **Okay. So what is your role and function**
25 **in this investigation as you are going to school to**

1 **school?**

2 A. So I collect facts. So I would ask
3 questions as I did interviews to kind of find out -- I
4 like to find out how the teacher is as a teacher in
5 general.

6 **Q. Right.**

7 A. And as -- as I would explain it, if we
8 were watching my video type thing, tell me how the
9 teacher is in general. I like to know how they are as
10 an educator in general, you know. In my mind, I don't
11 want somebody's entire career defined by a 30-second
12 comment type so to speak. So that's why I ask kind of
13 questions, how long have you worked with Ms. McMath;
14 how is she; how are her interactions with students,
15 things like that.

16 With the adults, because I know they got
17 to go back to a classroom, I will have them -- give
18 them an opportunity. They can write the statement for
19 them while I was there or if they want to go back,
20 type it up, and email it to me. This -- I typically
21 ask them to email it to me as an attachment. And then
22 this is what I can see, it's in the body of the email,
23 which is based on the screenshot. But with students,
24 I will have them handwrite things for me, and I think
25 if my assumption is correct, we will get to those

1 eventually, and you will see that.

2 Once I come back and I have all of the
3 information, say I came back and it's a week later,
4 and Mr. Tran hasn't -- I haven't heard from him, I
5 would reach back out and ask if he was still going to
6 provide a statement. If so, can you do so by the end
7 of the day or tomorrow or whatever it might be so I
8 can move forward because again, I don't want Ms.
9 McMath sitting there waiting on me as a bottleneck.
10 And then I take them, compile everything together, and
11 then I would do the informal conference opportunity,
12 and then I would send it to our general counsel going
13 forward.

14 **Q. And is that Timothy Feagins, the general**
15 **counsel?**

16 A. No, he's --

17 **Q. No, that's the principal.**

18 A. Yeah, that's the principal.

19 **Q. Okay. So Mr. Tran sent it to you and**
20 **then copied this principal. I don't know why my brain**
21 **misfired.**

22 **Mr. -- Mr. Tran represents -- makes a**
23 **reference to the answers to the questions that you**
24 **wrote down on the backside of the business card. Tell**
25 **me about that.**

1 A. I think he wrote down, but I typically
2 don't write the questions. But I think it's those
3 types, right?

4 **Q. Okay.**

5 A. How long have you worked with because
6 that was kind of the beginning. Have you heard any
7 negative comments? I don't recall negative comments.
8 I think I asked him has she ever shared any personal
9 viewpoints with him because that's what I was trying
10 to establish from my colleagues was is this an
11 individual that had stuff just on social media or does
12 she come and go to the teacher's lounge type area
13 every day and is like, oh, you believe this or that or
14 you should do this.

15 And again, I didn't get that because he
16 says I called her in positive remarks. And then any
17 personal interactions again I think goes with has he
18 heard any of her viewpoints.

19 **Q. Okay. And there's a lot to unpack in**
20 **the last couple of minutes, but you made a reference**
21 **to not wanting to fine -- to permanently define a**
22 **teacher by 30 seconds. What did you mean by that?**

23 A. If you've been a teacher for 25 years
24 and you had a bad day, and Mr. Randy gets upset and
25 tells a student to get the blank out, I like to know a

1 couple things about the teacher so I can present the
2 teacher to the commissioner, not just on this date,
3 Randy said this.

4 **Q. Is it ultimately the commissioner's**
5 **decision?**

6 A. The commissioner will make the
7 determination if there's probable cause or not.

8 **Q. Did you answer?**

9 A. The commissioner will make the decision
10 about probable cause or not.

11 **Q. Okay. What about legal sufficiency?**
12 **Who makes that decision?**

13 A. I think that would come when general
14 counsel does the review.

15 **Q. Okay. Was there anything about --**
16 **anything whatsoever during your investigation while at**
17 **Douglas Anderson that showed Ms. McMath, or despite**
18 **any evidence whatsoever that Ms. McMath was somebody**
19 **that brought politics and inappropriate commentary**
20 **into the school or classroom?**

21 A. No, sir.

22 **Q. Okay. Why isn't that the end of the**
23 **analysis?**

24 A. My -- being in my investigation, you
25 mean, or --

1 **Q. Yes.**

2 A. I don't make the determination. So I
3 collect all the information, and then I send it up to
4 the general counsel's office. They did draft the
5 administrative complaint. That again doesn't come
6 from me. So I take that their analysis did determine
7 that there was some type of misconduct.

8 **Q. As the lead investigator on Ms. McMath's**
9 **file, did you feel that there was misconduct?**

10 A. I don't make that determination. I'm
11 just the fact finder.

12 **Q. Okay. And you are right, we can go**
13 **through these. But let's skip to -- we got students**
14 **later.**

15 **In your file at Page 24, there was a**
16 **6.84 fraternization and communication with students**
17 **and parents section, which highlights -- it had a**
18 **highlighted portion. This is from DCPS's standards?**

19 A. Correct. And I believe it came
20 highlighted to me. I want to say Dr. Grant was
21 probably the one that sent me what they are saying is
22 a violation.

23 **Q. Okay. Do you know what they ultimately**
24 **sustained related to Ms. McMath?**

25 A. Look at my notes real quick.

1 So the last thing I had in my notes was
2 that they removed her from student contact on
3 September 12th, 2025, and then when I had finished my
4 investigation, I put as of October 4th, the district
5 investigation remains open. So I don't know what --
6 I'll be honest, I don't know if she's back in the
7 classroom today or not.

8 **Q. She's not.**

9 A. Okay.

10 **Q. Okay. The students -- in your meetings**
11 **with students, are parents informed that you are going**
12 **to be meeting with the students ahead of time?**

13 A. So what I typically do is I would ask
14 the principal, I give them a list of the students I
15 want to speak to, and I give them a sample
16 notification and ask if they would notify the parents
17 either through writing or telephone call to let the
18 parents know that their child has been selected to be
19 -- participate in the interview. If the parent
20 objects or wants to be present, whatever
21 accommodations, I always honor those.

22 **Q. Okay. Do you know if any of the**
23 **students had their parents there when you met with**
24 **them?**

25 A. I don't recall any of the parents being

1 there.

2 **Q. What did this -- what did this look**
3 **like? Like did you meet them in a conference room or**
4 **the school classroom that was empty, like how did**
5 **you -- how did this actually happen?**

6 A. It was an office within the front
7 office. It looked like it was a vacant office. I
8 remember there was a desk, and there was a computer,
9 but the monitor was like pushed up against the wall.
10 I sat behind the desk, and there were two chairs on
11 the front side. And I remember it took a little while
12 in between students, so when, you know, little Johnny
13 left, I went to notify the secretary I was ready for
14 the next person, and she would call. And it took
15 five, six minutes in between people, so I know they
16 were walking from somewhere away. They weren't all
17 sitting in the office waiting on me.

18 And I also know that they had the
19 assistant principal went to the different classrooms,
20 if I remember correctly or the dean, I forget his
21 title, he supervised why those other teachers came to
22 speak with me so that there was an adult in the room.

23 **Q. Okay. Was anybody in the room with you**
24 **other than the student during any of these meetings?**

25 A. No, sir.

1 **Q.** **Okay. So just you and the student. You**
2 **talked to them, they memorialized. Is this their**
3 **handwriting in these statements? Looks like it.**

4 **A.** **Yes, sir. If I wrote one, I put an**
5 **asterisk underneath and put that the statement was**
6 **written by Randy Kosec at so-and-so's request.**

7 **Q.** **Okay.**

8 **A.** **With the high schoolers, I usually don't**
9 **get that.**

10 **Q.** **Right.**

11 **A.** **Pre-K is a little different.**

12 **Q.** **You won't be able to read my third**
13 **grader.**

14 **Okay. And again, in any of the**
15 **interviews, did any of the students indicate any**
16 **misconduct or malfeasance whatsoever?**

17 **A.** **Not to my recollection.**

18 **Q.** **Okay. And earlier, we referred to the**
19 **September 11 memo to superintendents. It's actually**
20 **at Page 37 of your report.**

21 **Was -- was the commissioner in the same**
22 **hearings as you were in on September 11th and 12th?**

23 **A.** **He was not.**

24 **Q.** **Okay. And then you referenced in your**
25 **report the --**

1 A. The district report, yes.

2 **Q. Correct. Page 38, 39. When did this**
3 **incident occur? September 11th. Where -- when --**
4 **where did this incident occur? On campus.**

5 **Is there anything, any evidence**
6 **whatsoever that this post was made or any post that --**
7 **that -- that had been cited were made on campus or**
8 **during school?**

9 A. Not to my knowledge. And I think it
10 says of campus.

11 **Q. Okay.**

12 A. Just -- just to be clear, but --

13 **Q. No, it does say of campus.**

14 A. I don't know what that would mean.

15 **Q. I don't either.**

16 A. I think it's a typo but --

17 **Q. We will just ask Mr. Bennett.**

18 A. I never found anything that said, you
19 know, she told the kids, wait, I got to post this real
20 quick or --

21 **Q. And it says reported by, in their case,**
22 **Moms for Liberty Duval. What is Moms for Liberty**
23 **Duval?**

24 A. I'm not familiar with them. My
25 assumption is that's probably the Moms for Liberty

1 Duval County chapter, but --

2 Q. Okay. Do you know whether April Carney
3 is a member of Moms for Liberty Duval?

4 A. I do not know.

5 Q. Do you know whether she's endorsed for
6 Moms for Liberty Duval?

7 A. I honestly do not know.

8 Q. Do you know whether she's a member of
9 Turning Point?

10 A. I do not know.

11 Q. Okay.

12 A. I know she's a school board member.

13 Q. Do you know whether she wore a Turning
14 Point T-shirt during the school board meeting?

15 A. I do not know.

16 Q. Does your department -- does your
17 department have discretion to investigate school board
18 members?

19 A. Only if they have a certificate.

20 Q. Okay.

21 A. I will be honest, we got complaints in
22 the past from school board members that are not
23 certified. And we direct them to the Florida
24 Commission on Ethics because they oversee public
25 officials and elected officials.

1 **Q.** **Okay. The evidence -- and I summarize**
2 **this for a reason or add this for a reason. Page 41**
3 **of your report, notes from DCPS, options to identify**
4 **all evidence, victims interviews, witness interviews,**
5 **education -- educator interviews, forensic**
6 **evaluations, newspaper articles, video, photographs,**
7 **text messages, emails, lesson plans, performance**
8 **evaluations, fitness for duty evaluations, reasonable**
9 **suspicion checklist, social media posts and**
10 **communications, and class routine roster. And the**
11 **only thing checkmarked by DCPS during their**
12 **investigation was other allegation of misconduct**
13 **reporting form, correct?**

14 **A.** **Correct.**

15 **Q.** **So did you review any of the evidence**
16 **that DCPS gathered or found in their investigation?**

17 **A.** **Everything that they provided me, I**
18 **would have reviewed and looked at.**

19 **Q.** **Okay.**

20 **A.** **But I didn't, you know, instruct them on**
21 **what to collect or anything like that.**

22 **Q.** **Okay.**

23 **A.** **The investigations are independent of**
24 **one another.**

25 **Q.** **And as you note on Page 46 -- or**

1 included in page 46 of your complaint, their complaint
2 was directly to the superintendent and signed Moms for
3 Liberty Duval. Does that appear to be correct?

4 A. Yes, sir. I see that. And I see it's
5 to Dr. Bernier, so that's their superintendent.

6 Q. Correct. Would you accept a complaint
7 from Moms for Liberty Duval?

8 A. I typically would want a person's name,
9 you know, Randy Kosec, so I can go back and ask, "What
10 did you mean by this?"

11 Q. Why is that important?

12 A. In case there's questions I have on this
13 letter. And I will be honest, it's small, so I can't
14 read it, but, you know, if it said, you know, Randy
15 pushed somebody, well, who is somebody? So I could go
16 back, but I can't go to a specific person.

17 Q. Right. Let's see. Our members passed
18 along a concern regarding a Karma is a bitch post
19 McMath made following the assassination of Charlie
20 Kirk.

21 A. So like if this letter came in with no
22 attachments --

23 Q. Right.

24 A. -- then I would -- and it came from you,
25 for example, Mr. Phillips, can you tell me, do you

1 have a copy of Ms. McMath's post? Can you provide
2 that to me? So I get what they are even looking at
3 because I might not know what they are looking at or
4 where was this post made? Was it on her private page,
5 or was it made on the school website page? So I -- I
6 would want to be able to at least have the opportunity
7 to ask follow up questions.

8 Q. Well, let me -- let me go through this
9 just to be clear.

10 We believe this evidence shows McMath
11 bringing her -- we believe this evidence shows that
12 Ms. Math -- Ms. McMath -- we believe this evidence
13 shows that Ms. McMath bringing her own activism into
14 the hearts and minds of Douglas Anderson students.

15 You were the one that interviewed
16 Douglas Anderson students. Did you see any evidence,
17 hear any evidence that Ms. McMath was bringing her own
18 activism into the hearts and minds of Douglas Anderson
19 students?

20 A. No, sir.

21 Q. Okay. In fact, you saw, you heard the
22 opposite, correct?

23 A. Right. None -- none of the students
24 from my recollection even remembered seeing the post
25 or anything like that.

1 Q. Let me ask that question so it comes
2 from me: Did any of the people you interview -- did
3 any of the students you interview recall ever even
4 seeing any of the posts that you were investigating?

5 A. Not to my recollection.

6 Q. Very good. Thank you. We requested you
7 tour her classroom immediately and also review student
8 notebooks to determine what is being taught in a
9 supplemental way that goes well off by the lines of
10 state curriculum or AP standards. Did you tour Ms.
11 McMaths's classroom?

12 A. No, sir.

13 Q. Did you review any student notebooks?

14 A. No, sir.

15 Q. Why not?

16 A. I didn't see the relevancy. I spoke to
17 the students, and they told me their information.

18 Q. Very good. Any other students appear to
19 be lying or covering up for Ms. McMath?

20 A. I didn't -- I think the kids generally
21 like her.

22 Q. Okay. I see the letter is date of the
23 deposition to give him relevance, but there's a guy
24 named Seber Newsome, S-E-B-E-R N-E-W-S-O-M-E.

25 Have you ever heard of Mr. Newsome?

1 A. No, sir.

2 Q. Other than his report being in DCPS's
3 report that was in your file, did you interview
4 Mr. Newsome or did you review his -- his information?

5 A. Other than reading through the district
6 report, I did nothing else.

7 Q. Okay. He's not a DOE complainant that
8 you are aware? In other words, his -- his complaints
9 is not what triggered the DOE investigation of Ms.
10 McMath, correct?

11 A. Not -- not unless he's the American
12 Patriot 2022.

13 Q. Well -- and I think we've even predated
14 that now, that he would have to be --

15 A. I should say, I never heard of him,
16 spoke to him.

17 Q. Yeah. Okay. Fair. September 27th, a
18 reporter named Ben Becker messaged the commissioner,
19 "Hi, hope all is well. I understand that Duval County
20 School District and the state received a complaint
21 regarding additional posts by Hope McMath including
22 one about Charlie Kirk saying Karma is a bitch. Can
23 you please confirm these are being investigated as
24 well by the district and/or state and provide a
25 statement. Thanks, Ben."

1 **Do you know if you have ever spoken to**

2 **Ben Becker?**

3 A. I did not. I know I did not.

4 **Q. Okay.**

5 A. If anything comes in, it would go -- if
6 Ben emailed me directly, I would forward the email to
7 the communications department. I -- I don't talk to
8 the media.

9 **Q. Very good. And so it looks like the**
10 **senior chancellor --**

11 A. Dr. Burns --

12 **Q. -- Mr. Burns -- Dr. Burns or Mr. Burns?**

13 A. Doctor. They are all doctors basically.

14 **Q. Dr. Burns forwarded it to Ms. McDaniel**
15 **and noted for Monday. What does that mean?**

16 A. So it looks like it was on a weekend, so
17 maybe -- can you go back to Ben's --

18 **Q. Yes.**

19 A. -- for just a second.

20 Okay. So my -- my guess is the
21 commissioner probably forwarded that to Dr. Burns so
22 that was at 409. Now, if you go to the next one.
23 711, the same day so I imagine the commissioner asked
24 Dr. Burns that he's asking Dr. McDaniel, "Hey, on
25 Monday, can we find out what's going on?" And then

1 they probably called me to say, "Where is your
2 investigation?"

3 **Q. Okay.**

4 MR. WEAVER: Mr. Phillips?

5 MR. PHILLIPS: Yes.

6 MR. WEAVER: Do you have any idea what
7 time we're going to leave?

8 MR. PHILLIPS: Less than an hour.

9 MR. WEAVER: Okay.

10 BY MR. PHILLIPS:

11 **Q. This was in your file on Page 69, and**
12 **it's about 90s Fest. Did I -- is there some relevance**
13 **to this that I don't understand?**

14 A. Let me look here at mine real quick to
15 see.

16 **Q. Page 69.**

17 A. So over the next following September
18 11th, we've gotten various communications, whether
19 paper mailed or emails, I think it's up there, a
20 citizen complaint, and there are 44 pages of materials
21 that people sent in because they were complaints. I
22 included it into the case file, but I do not speak to
23 or go into any of these things.

24 **Q. Is Jenetta Cobolaro (phonetic) somebody**
25 **that was being investigated?**

1 A. I don't know who she is.

2 Q. I will just move on from that.

3 There's -- there's a series from Page 70

4 on --

5 A. It's got 44 pages.

6 Q. Yeah, exactly. There was like a report
7 with a bunch of screen grabs, and then there's like
8 textualization, textualization of it, like here on
9 Page 70 notes, "So much more than an art history class
10 is a response to a student discussion on racism."

11 Do you know where this report came from,
12 or complaint or whatever you want to call it?

13 A. So I'm opening my file.

14 All right. So this one -- let me -- on
15 September 27th -- no, that's the last email. I'm
16 sorry.

17 So the email that I have that went for
18 Monday --

19 Q. Right.

20 A. -- from Dr. Burns to Dr. McDaniel, it
21 shows that there were 14 attachments.

22 Q. Okay.

23 A. And these pages were all the
24 attachments, I believe.

25 Q. So this was part of the complaint --

1 A. Correct.

2 Q. Yeah.

3 A. So --

4 Q. On Page 77, they note, "note karma is a
5 bitch regarding the assassination of Charlie Kirk.
6 This post is now deleted. "Image was captured --
7 catpured, of course, sick, misspelled C-A-T-P-U-R-E-D-
8 "at 9:00 a.m. on September 11, 2025." That would
9 predate the complaint by American Patriot being
10 received by DOE, correct?

11 A. Correct.

12 Q. And -- okay. And this -- this capture,
13 not catpured, that is on Page 3 of your report was
14 screen captured around 9:00 a.m., right?

15 A. Correct.

16 Q. Okay.

17 A. And you can see, if I'm reading it
18 correctly, it looks like that was posted 10 hours
19 before that, so we are looking around 11:00 p.m., and
20 that one below I think says 21 hours maybe.

21 Q. Right.

22 A. It is a little blurry, but --

23 Q. It -- in your opinion, are these --
24 either one of these posts made on a private Facebook
25 page on private time a violation of any state statute?

1 A. Not that I'm aware of, but again, I'm
2 not the attorney.

3 **Q. Very good. Thank you.**

4 **Quickly, I'm trying to -- I'm trying to**
5 **move faster here. The -- the probable cause letter of**
6 **October 8, 2025, Page 101 in your file, was that**
7 **signed by the commissioner himself?**

8 A. Yes, sir, it looks like his.

9 **Q. Was that typical or did it come from**
10 **general counsel's office?**

11 A. So all of the letters that are signed by
12 the commissioner go to the commissioner.

13 **Q. Right. But -- but these probable cause**
14 **letters, are they typically -- you indicated that the**
15 **probable cause is often termed by general counsel's**
16 **office, am I correct?**

17 A. So once the commissioner finds probable
18 cause --

19 **Q. Okay.**

20 A. -- my office will print the letters
21 based on his determination from our case management
22 system, and then the letters are printed. If there's
23 probable cause, the administrative complaint is
24 attached to it, and they are provided to the
25 commissioner's office for signature.

1 **Q. Do you know what legal training the**
2 **commissioner had before -- on or before October 8th,**
3 **2025?**

4 A. I don't know technically. I know he was
5 one of our DOEPPS attorneys --

6 **Q. Okay.**

7 A. -- years ago. So I imagine he went to
8 law school, but I couldn't tell you where or --

9 **Q. Okay.**

10 A. -- anything like that.

11 **Q. But is he the one who made a**
12 **determination that there was probable cause in Hope**
13 **McMath's case?**

14 A. Yes, sir.

15 **Q. Okay. And then in the administrative**
16 **complaint --**

17 A. This would have been generated by the
18 general counsel's office.

19 **Q. Okay.**

20 A. And then it would have been attached to
21 that probable cause letter that I printed or my office
22 printed.

23 **Q. Right.**

24 A. And then it would be signed by the
25 commissioner, and I can tell you that 8 October, '25

1 hammered in there, that's my handwriting.

2 **Q. Okay.**

3 A. I wrote that before it was delivered
4 upstairs.

5 **Q. Okay. So you -- so you wrote the date**
6 **before he signed it?**

7 A. Right. We would write all -- we wrote
8 the date and delivered it all waiting for his
9 signatures.

10 **Q. Do you know, in fact, he signed it on**
11 **October 8th?**

12 A. I do not know for sure.

13 **Q. Your candor is to really being**
14 **commended. I really appreciate that. And Mr. --**
15 **Mr. Weaver's patience, I truly appreciate it.**

16 **So yes, I'm going to skip. I'm going to**
17 **scroll here. Let me do this: Have you ever been to a**
18 **Moms for Liberty meeting or rally or presentation?**

19 A. No, sir.

20 **Q. Okay. And I think you said you never**
21 **met April Carney?**

22 A. I have not. I have spoken to her on the
23 phone.

24 **Q. Do you have her cellphone --**

25 A. Are they related to this?

1 **Q. Okay.**

2 A. Probably two years ago, and that's the
3 only reason I know she's a school board member. And
4 if my recollection is correct, I directed her to Dr.
5 Grant because she had questions about an open case.

6 **Q. Cory Thayer, right?**

7 A. I believe that was actually it.

8 **Q. Yeah. My understanding is she called**
9 **you to tell you to -- to more aggressively research**
10 **Cory Thayer's case.**

11 A. And that could have been -- I remember
12 it was that, but I don't remember the specifics
13 because like I said, it was a while back.

14 THE STENOGRAPHIC REPORTER: That's
15 T-H-A --

16 THE WITNESS: Also at Douglas Anderson.
17 BY MR. PHILLIPS:

18 **Q. Correct. T-H-A-Y-E-R.**

19 **Let's see. There's a news article.**

20 **Okay. Well, I will come back to that.**

21 **My understanding is Carney messaged you**
22 **or wrote to you saying, "I am curious as to why this**
23 **educator has not had her teaching certificate revoked**
24 **in the State of Florida." Do you recall that?**

25 A. From Mr. Thayer?

1 **Q. Yes?**

2 A. Yes.

3 **Q. Okay. And what did you do in response?**

4 A. If I remember correctly, Mr. Thayer had
5 -- a case came to us, I don't know, 10 years ago or
6 something, and no action was taken at that time by
7 professional practices. It was before I was the chief
8 or anything like that. And she wanted to know why we
9 didn't take his certificate away. And I think I
10 looked at the case information and said that it was
11 found no probable cause or I even think maybe the
12 victim's parent signed a waiver of prosecution or
13 something, so -- and then we couldn't interview.

14 So I would have to look at that case
15 again, but it was something that we didn't have a
16 legally sufficient complaint or weren't able to
17 substantiate the allegation. So I told her the facts
18 of the case.

19 **Q. Do you know how -- in what format that**
20 **communication happened; text, phone, email?**

21 A. It would have been either my office
22 phone or email because I don't think she has my
23 cellphone number.

24 **Q. Okay.**

25 A. So that of course she couldn't text me.

1 **Q.** Do you recall -- I mean, is it -- is it
2 **common for a school board member to message you**
3 **directly to ask why a specific teacher hasn't been**
4 **disciplined more harshly?**

5 A. It's rare. I get it occasionally, but
6 not frequently.

7 **Q.** Was Ms. Carney actively sitting on the
8 **school board when that happened?**

9 A. I believe she was.

10 **Q.** Okay.

11 A. Because I think -- I will be honest,
12 I've always wondered who's in charge of the school
13 board or the superintendent.

14 **Q.** Right.

15 A. And I remember her saying she wasn't
16 getting information, and I said, "Well, you know, I
17 think you need to be speaking with Dr. Grant to find
18 out." And that I think that's when she said she
19 wasn't getting information, and it made me wonder
20 again who is in charge of the superintendent or the
21 school board because you think they would be
22 communicating.

23 **Q.** You would. And you would think that a
24 **school board member wouldn't be putting pressure on**
25 **the Department of Education, correct?**

1 A. I agree.

2 **Q. Okay. Particularly of a teacher who is**
3 **in her district. Is that a conflict of interest?**

4 A. Well, that's why I was directing her
5 back to her because they were doing their own
6 investigation so...

7 **Q. Okay. Was the Thayer investigation**
8 **ultimately reopened?**

9 A. I don't remember. I know we had an
10 investigation on him. I don't remember the timeline
11 of when I spoke to her, but there was probable cause
12 found on Mr. Thayer's case, and I think he ended up
13 surrendering his certificate. I know it was
14 permanently revoked.

15 **Q. Right.**

16 A. But I don't remember if it was a
17 surrender or if that went through the Education
18 Practices Commission's panel.

19 **Q. What role, if any, did April Carney**
20 **calling your office, calling you have on reopening**
21 **that case?**

22 A. I want to say we had it open prior, and
23 that's why I wouldn't talk to her, because it was an
24 active case. So Mr. Thayer, if I remember correctly,
25 like I said, I think it was like 10 years ago, he had

1 a case.

2 **Q. Right.**

3 A. And no, nothing's came from it then.

4 And then we got communication from -- I think it was
5 the district settled with the victim, and we -- I saw
6 a news article about they were doing a payout. And
7 that's when I believe I reopened the case. And then I
8 think Ms. Carney called while it was open, and I
9 wouldn't discuss it with her and directed her back to
10 the district. And then based on the new information,
11 Mr. Thayer was found with probable cause.

12 **Q. After Ms. Carney --**

13 A. Correct. Because I think when they were
14 doing the district -- DPS was doing their settlement
15 or payout or I don't know what the term was with the
16 victim, I want to say there were some depositions
17 taken. And when I was able to get those, that gave me
18 new information that we didn't have 10 years ago.

19 **Q. Okay. What happened with Rocky Hanna's**
20 **case?**

21 A. Rocky what?

22 **Q. Hanna, H-A-N-N-A.**

23 A. Which one? He's had a couple with our
24 office.

25 **Q. All right. The -- let's see. Which --**

1 **tell me which -- tell me which you remember about any**
2 **of them?**

3 A. I remember --

4 MR. WEAVER: Let me just go ahead and
5 put an objection on the record. I mean, we are
6 going way down this road of talking about
7 another folk's case that has nothing to do with
8 this particular case.

9 BY MR. PHILLIPS:

10 Q. **Were you aware that Rocky Hanna -- that**
11 **the complaint against Rocky Hanna was filed by a**
12 **parent who was serving on the executive board of Moms**
13 **for Liberty?**

14 A. Me or are you talking to Mr. Weaver?

15 Q. **You. You.**

16 A. No, sir.

17 Q. **Okay.**

18 A. Like I said, we had multiple cases on
19 him, too.

20 Q. **Okay. Have you communicated with anyone**
21 **at Liberty's office about McMath's case?**

22 A. No, sir.

23 Q. **Have you communicated with the**
24 **commissioner directly about Ms. McMath's case?**

25 A. I presented him the facts of the case to

1 him at the probable cause meeting.

2 **Q. Did he find probable cause on all of the**
3 **Charlie Kirk related matters?**

4 A. I know some of them were still pending,
5 I know we mentioned. I believe there were a few that
6 were closed, but I don't remember if they were no
7 probable caused or --

8 **Q. Okay.**

9 MR. WEAVER: Mr. Phillips?

10 MR. PHILLIPS: Yes.

11 MR. WEAVER: I really didn't think we
12 were going to be this long. I have another
13 obligation that I'm already 15 minutes late for
14 so we may now have to preclude this, and I mean
15 reschedule it for another day.

16 MR. PHILLIPS: I'm fine with it. I
17 won't take very long. In fact --

18 MR. WEAVER: Yeah, you told me if wasn't
19 going to be for more than --

20 MR. PHILLIPS: I know, but I did reserve
21 half-day. I did say I wasn't going to do two a
22 day, but --

23 MR. WEAVER: Yeah.

24 MR. PHILLIPS: But --

25 MR. WEAVER: I thought it might be two

1 hours, but, you know, we are over two hours
2 now. And I don't have a problem with bringing
3 Mr. Kosec back, but I've got another obligation
4 that I'm already 15 minutes late.

5 MR. PHILLIPS: Go -- go get your other
6 obligation, and I will -- I will have him less
7 than an hour next time if I --

8 MR. WEAVER: But I can't -- I can't
9 leave and not be here while he's --

10 MR. PHILLIPS: No, no, no. We will
11 adjourn. We will adjourn.

12 MR. WEAVER: Okay.

13 MR. PHILLIPS: Are we good with that?

14 MR. WEAVER: I'm good with that. Okay.
15 If you need to reschedule, we will reschedule.

16 MR. PHILLIPS: We will totally do it.
17 Mr. Kosec, sorry I didn't get to complete it,
18 but Mr. Weaver's schedule is more important
19 than -- than 30 minutes of questions we can ask
20 later.

21 MR. WEAVER: Okay.

22 THE STENOGRAPHIC REPORTER: Okay.
23 Before we go, transcript orders today?

24 MR. PHILLIPS: Yes.

25 THE STENOGRAPHIC REPORTER: Okay. And

1 would you like a copy, Mr. Weaver?

2 MR. WEAVER: No, I don't need a copy.

3 THE STENOGRAPHIC REPORTER: Okay. Read
4 and sign?

5 MR. WEAVER: Yes.

6 THE STENOGRAPHIC REPORTER: Okay. I
7 will send it to your office?

8 MR. WEAVER: Yes, you can send it to me.

9 (Whereupon, the remote deposition
10 adjourned at 2:47 p.m.)

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CERTIFICATE OF OATH

THE STATE OF FLORIDA)
COUNTY OF DUVAL)

I, the undersigned authority, certify that RANDY
KOSEC, JR. remotely appeared before me via Zoom
Videoconference and was duly sworn on the 24th day of
March, 2026.

Signed this 10th day of April, 2026.



KENNETH A. REGAN, CCR
Notary Public - State of Florida
My Commission No. HH 319250
My Commission Expires: 11/13/26

1 CERTIFICATE OF REPORTER

2 THE STATE OF FLORIDA)

3 COUNTY OF DUVAL)

4

5 I, KENNETH A. REGAN, CCR, certify that I was
6 authorized to and did stenographically report the
7 remote deposition of RANDY KOSEC, JR., pages 1 through
8 93; that a review of the transcript was requested; and
9 that the transcript is a true and complete record of
10 my stenographic notes.

11 I further certify that I am not a relative,
12 employee, attorney, or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorney or counsel connected with the action, nor am
15 I financially interested in the action.

16

17 DATED this 10th day of April, 2026.

18

19

20



21

KENNETH A. REGAN, CCR
Lexitas
20 North Orange Avenue
Suite 700
Orlando, Florida 32801

22

23

24

25

04/10/2026

RONALD L. WEAVER, ESQUIRE
2220 County Road 210 West; Suite 108
Jacksonville, Florida 32259

WITNESS: RANDY KOSEC, JR.

Re: ANASTASIOS KAMOUTSAS v. HOPE McMATH

Case No.: 25-5786PL

Type of Proceeding: Remote deposition on 03/24/2026

The transcript of the above proceeding is now available and requires signature by the witness.

Please e-mail fl.production@lexitaslegal.com for access to a read-only PDF transcript and PDF-fillable errata sheet via computer or use the errata sheet that is located at the back of the transcript.

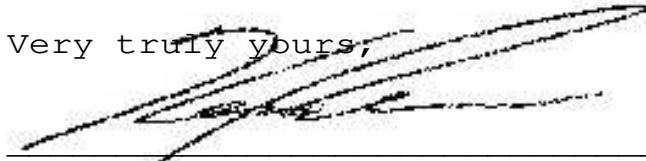
Once completed, please print, sign, and return to the email address listed below for distribution to all parties.

If you are in need of assistance, please contact Lexitas at 888-811-3408.

If the witness does not read and sign the transcript within a reasonable amount of time, the original transcript may be filed with the Clerk of the court.

If the witness wishes to waive his signature now, please have the witness sign in the blank at the bottom of this letter and return to the email address listed below.

Very truly yours,



KENNETH A. REGAN, Court Stenographer
Lexitas
fl.production@lexitaslegal.com
I do hereby waive my signature.

RANDY KOSEC, JR.
JOB NO. 444199

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EXHIBIT D

Deposition Transcript of Ronald Dean Bennett, Jr. (Vol. I)

Office of Professional Standards Investigator, Duval County Public Schools

March 30, 2026

1 APPEARANCES:

2 On behalf of DOAH:

3 Law Office of Ron Weaver, P.A.
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7 Jacksonville, Florida, 32222

8 BY: RON WEAVER, ESQ.
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11 On behalf of McMath:

12

13 Phillips, Hunt & Walker
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15 Jacksonville, Florida 32204

16

17 BY: JOHN PHILLIPS, ESQ.
18 jmp@floridajustice.com

19

20 Also Present:

21 Tameiko A. Grant, David R. Farcas, Bonnie A. Wilmot,
22 W. David Chappell, Hope McMath

23

24

25

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1 Proceedings began at 1:39 p.m.:

2 THE REPORTER: We are going on the record.
3 Today is March 30th, 2026. The time is 1:39 p.m.
4 eastern standard time. Good afternoon. My name is
5 Harper Hamilton. I'm the Florida notary and
6 reporter assigned by Lexitas. I request all parties
7 stipulate and agree that by videoconference
8 technology, this will be the remote deposition of
9 R.D. Bennett in the case of DOAH v. McMath.

10 Before going on the record, the witness
11 positively identified himself to me as Ronald
12 Bennett by Florida driver's license. And the
13 witness is presently located in Jacksonville,
14 Florida.

15 Counsel, will you please state your appearance
16 for the record, your firm, who you represent, and
17 that you agree to stipulate that I may place this
18 witness under oath and report this proceeding
19 remotely?

20 MR. WEAVER: Ron Weaver for the petitioner,
21 commissioner of education. So agreed.

22 MR. PHILLIPS: John Phillips with Phillips,
23 Hunt & walker for Hope McMath. I think that's it.
24 We agree.

25 THE REPORTER: I will now swear in the witness.

1 Mr. Bennett, can you please raise your right hand
2 for me? Do you swear or affirm that the testimony
3 you are going to give is the truth, the whole truth
4 and nothing but the truth?

5 THE WITNESS: I do.

6 Thereupon:

7 RONALD DEAN BENNETT JR.,
8 having been first duly sworn, was examined and testified
9 as follows:

10 THE REPORTER: Thank you. Counsel, you may
11 proceed.

12 MR. PHILLIPS: Thank you.

13 DIRECT EXAMINATION

14 BY MR. PHILLIPS:

15 Q. Good afternoon, Mr. Bennett.

16 A. Hey, sir. How are you?

17 Q. Good to see you again.

18 A. Yes, sir.

19 Q. Please state your full name for the record.

20 A. Ronald Dean Bennett Jr.

21 Q. How are you employed, Mr. Bennett?

22 A. I'm currently employed with the Duval County
23 School Boards Office of Professional Standards.

24 Q. And who is your --

25 MR. WEAVER: I'm sorry, Mr. Phillips. I

1 apologize. Of course, I know I came in late. But I
2 want to know who these other people are. I see a
3 904 number. Who is that? Do you have an idea?

4 MS. GRANT: That's Tameiko Grant, Mr. Weaver.
5 I don't have -- I'm having technical difficulties on
6 my computer, so I called -- and I have the video.

7 MR. WEAVER: And this TASCAM backup. What is
8 that?

9 THE REPORTER: That's my backup recorder.
10 Sorry.

11 MR. WEAVER: Thank you. I'm sorry. I
12 apologize.

13 BY MR. PHILLIPS:

14 **Q. You're good. Fair question. So what entity is**
15 **your employer?**

16 A. The Duval School District.

17 **Q. And how long have you been employed with Duval**
18 **County Public Schools?**

19 A. Since going on six years.

20 **Q. In what roles have you been employed with Duval**
21 **County Public Schools?**

22 A. So for the first four years, that would be 2020
23 through 2024, was with the School Board Police Department
24 as a school safety officer, and then a detective or
25 investigator.

1 **Q. How did you get into the role you're in now?**

2 A. Job opening came up and, and wanted to get out
3 of the law enforcement side of things and go to the
4 civilian side of things.

5 **Q. Very good. How would you describe your role
6 now?**

7 A. As an investigator in the Office of
8 Professional Standards.

9 **Q. And what do you do?**

10 A. Investigate misconducts against any of the
11 District's employees.

12 **Q. Does that include the School Board?**

13 A. Yes. If they're employed by the District, yes.

14 **Q. Very good. What's your educational background?**

15 A. I have graduated high school and I have about
16 half of my two-year college degree.

17 **Q. Very good. Where did you go to high school and
18 college?**

19 A. High school was First Coast High School, Class
20 '92, and then FSCJ is where I did have college.

21 **Q. Have you lived in Jacksonville all your life?**

22 A. Born and raised.

23 **Q. Very good. Ever attend any law school?**

24 A. No, sir.

25 **Q. What is the substance of your education in**

1 **First Amendment Law?**

2 A. I, I know of it.

3 **Q. How do you know of it?**

4 A. That it's referencing freedom of speech.

5 **Q. I have one over handy. Have you read the Bill**
6 **of Rights?**

7 A. At, at some point going through high school, I
8 believe, we may have read it. I could not speak it
9 word for-word at this point.

10 **Q. At any point in the last year, have you read**
11 **Amendment one?**

12 A. No, sir.

13 **Q. Do you know what Pickering v. Board of**
14 **Education is?**

15 A. It's a, a court case. I couldn't tell you what
16 it's about.

17 **Q. Do you know if you've ever read it?**

18 A. No, sir.

19 **Q. I asked kind of a bad question and we just**
20 **jumped back into it because I feel like I know you.**
21 **Normally, I give instructions that, if you don't**
22 **understand the question, let me know. All that's true.**
23 **Yes's or no's rather uh-uh's, uh-huh's or sometimes I'll**
24 **just ask a bad question. So the question I meant to ask**
25 **was, have you ever read Pickering v. Board of Education?**

1 A. Not that I can recall.

2 Q. Before or during your investigation of Hope
3 McMath, did anyone at Duval County Public Schools that
4 you're aware conduct a First Amendment analysis of Ms.
5 McMath's social media posts?

6 A. Not to my knowledge.

7 Q. Why not?

8 A. I couldn't answer that.

9 Q. We talked about this a little bit during our
10 first meeting, but what I kind of want to understand is
11 the hierarchy and breakdown of caseloads here, who runs
12 the Office of Professional Standards?

13 A. So our director would be Dr. Grant.

14 Q. And then is there anybody in the supervisory
15 line between you and Dr. Grant?

16 A. That would be Mr. Farcas.

17 Q. Is there a peer to Mr. Farcas?

18 A. Like, what do you mean? Somebody --

19 Q. Somebody on his line, so to speak. re there
20 two Mr. Farcas's in the scope of that supervisory
21 position?

22 A. No, sir.

23 Q. What is his title?

24 A. Supervisor of Office of Professional Standards.

25 Q. And you report to him?

1 A. That's correct.

2 **Q. And how many investigators are kind of at your**
3 **line?**

4 A. There are six of us.

5 **Q. How many cases do you have at any given point**
6 **around?**

7 A. Yeah, that varies -- yeah, that varies. It
8 could be in between 20 and 50 at any given time.

9 **Q. Fair enough. Before September of 2025, had you**
10 **been an investigator on any other political speech cases?**

11 A. I don't know that I've done any political
12 speech cases. We've only done policy violations.

13 **Q. Do you agree with me that Hope McMath's speech**
14 **here, the posts were politically attached -- politically**
15 **motivated?**

16 A. I think that the, the allegation that came into
17 our office was for the health, safety and welfare of
18 students, and that's what we investigated.

19 **Q. We'll come back to that. But I'll ask the**
20 **question now. Did you find that Ms. McMath in any way**
21 **specifically compromised the health, safety or welfare of**
22 **any particular student?**

23 A. There was not one particular student that was
24 named.

25 **Q. Have you been able to identify any student who**

1 saw these posts?

2 A. Not to my knowledge.

3 Q. Were you involved at all with the Thomas
4 Caggiano case?

5 A. No, sir.

6 Q. Let me see if I can go to a PowerPoint here,
7 kind of speed things up a little bit. And let me just
8 kind of clean this up. Do you see a screen that says,
9 "The Investigation?"

10 A. Yes, sir.

11 Q. I'm going to start from the end, with a
12 December 17, 2025 email. Did you send that email?

13 A. It appears that it has Dr. Grant's name on that
14 I forwarded -- that I forwarded, yes. I forwarded the
15 email from Dr. Grant, yes.

16 Q. So it came from you,
17 BennettjrR@duvalschools.org and was sent to Hope, me, Dr.
18 Grant, and Mr. Farcas, correct?

19 A. Yes, sir.

20 Q. Is it Mr. Farcas or Dr. Farcas?

21 A. Mr. Farcas.

22 Q. And then you just forwarded and use quotation
23 marks of something from Dr. Grant, correct?

24 A. Correct.

25 Q. How did she forward that to you?

1 A. Would have been through email.

2 Q. Do you know why Dr. Grant's email wasn't
3 attached to McMath's file?

4 A. I don't.

5 Q. Is it fair to say, as of December 17, 2025, at
6 7:58 p.m., that your Duval County Public Schools, the
7 Office of Professional Standards investigation of Hope
8 McMath is over as of that date?

9 A. Yes.

10 Q. Is there any investigation that remains of Ms.
11 McMath by you or DCPS?

12 A. No, sir.

13 Q. Is there any investigation even contemplated
14 that you're debating reopening, as we said here today,
15 for Ms. McMath?

16 A. No, sir.

17 Q. I want to ask you about a graphic. And
18 certainly there's the post you investigated, I believe,
19 "Karma's a bitch - and she heard all your speeches when
20 you proudly proclaimed that you didn't give shit about
21 other people's lives." Is that one of the post by
22 Ms. McMath that you were investigating?

23 A. Yes, sir.

24 Q. And then there's a artistic rendering of a
25 woman holding a head. Is that another one that you were

1 investigating?

2 A. That's one, yes sir, that I saw as well.

3 Q. Did you receive this particular screenshot in
4 your file?

5 A. Clarify that? I'm sorry.

6 Q. Yeah. So this is page 3. This is an exhibit
7 in the Department of Education's file. Page 3 of Case
8 File 256-0563. And it's a -- what appears to be a screen
9 grab of two posts by Ms. McMath. What I wonder is, did
10 you receive this particular graphic?

11 A. I don't recall that the second. I know that I
12 got it. You prefer to my -- the case. Bear with me.
13 Bear with me. My computer's acting slow. That's where
14 everything's at. And your specific question is --

15 Q. This particular -- not the posts, but this
16 particular screenshot, was this in your file?

17 A. Yes, I believe it's in the case file.

18 Q. Do you know who sent it or how you obtained it?

19 A. I just can't recall right this second.

20 Q. Do you know if this is something that was part
21 of DOE -- so, is the DOE file in your case file?

22 A. No, sir. I don't have anything. I don't know
23 what their investigation pertains to or how, how they do
24 that.

25 Q. It's really important that I try to identify

1 where this is in your file, if you can find.

2 A. Sure.

3 Q. Page 58 of 95.

4 A. Yeah. That wouldn't me. I don't think that --
5 I don't know that's --

6 Q. It doesn't match because one's 11 hours --

7 A. Yeah, I don't.

8 Q. -- this one's 10 hours, right?

9 A. Right.

10 Q. Let me pull that one over.

11 A. I apologize. I, I -- obviously, I know that
12 I've seen it because I referenced it in my final report.

13 Q. But what we're talking about here -- I'm not
14 trying to put words in your mouth.

15 A. No, sir I get it.

16 Q. But I've got two other examples on -- if my
17 page numbers are right. Actually, that's the same
18 example. So let me just put that back. Page 37 of 84 is
19 close and it might even be in color, in months black and
20 white. But it doesn't have this top part that has like a
21 iPhone box in it. And it doesn't have the Facebook
22 profile photo on the bottom right.

23 So my question is, do you know if you had the
24 image on the left as we're looking at it now with the
25 Facebook profile photo on the bottom right corner in your

1 file? While he's looking, we'll mark --

2 A. Yeah.

3 Q. -- the email is Plaintiff's 1 (sic). The color
4 graphic, which appears to be April Carney's screenshot is
5 Plaintiff's 2 (sic). And then the black and white
6 version of same on page 37 of 84 of his file is
7 Plaintiff's 3 (sic). And I'm just going to send this
8 over to you in a PowerPoint just like this. And you
9 finding it, Mr. Bennett?

10 (Respondent's Exhibit 1 to 3 marked for
11 identification.)

12 A. No, sir, not at the moment.

13 Q. On page 37 of 84, is your photo color or black
14 and white?

15 A. Let's see. Mine doesn't show up like that with
16 page --

17 Q. No, yours wouldn't. This was --

18 A. Yeah.

19 Q. -- I was going to say I don't. This was
20 generated by my office, so I know where things are.

21 A. Yeah. T, I don't -- I don't -- wouldn't have
22 that reference. I'm just going through all the images
23 that I have in the case file. So I can try and answer
24 you appropriately.

25 Q. Let's put a pin in that. Do you recognize that

1 as April Carney's picture or Facebook profile in
2 Plaintiff's (sic) Exhibit 2.

3 A. It's blurry on my side. I can't -- I don't
4 know who it is.

5 Q. Fair enough. Who is April Carney?

6 A. April Carney is one of these School Board
7 members.

8 Q. You ever spoken to her?

9 A. Not about -- I have said like hi or what-not, I
10 think whenever I as a school safety officer work in the
11 meetings.

12 Q. She ever talked to you about any case?

13 A. No, sir.

14 Q. Ever made a personal complaint to you?

15 A. No, sir.

16 Q. Going back to Dr. Grant's email, maybe these
17 are questions for Dr. Grant, but I'm starting these maybe
18 I don't have to depose her. The email that was forwarded
19 states, "As we discussed, line 2, your case was resolved
20 with the Office of Professional Standards as
21 "Substantiated," and you received coaching and counseling
22 regarding professionalism and specifically School Board
23 Policy 6.84D(1) regarding publicly accessible social
24 media." What do you mean by -- what in your office does
25 "Substantiated" mean?

1 A. That there's a preponderance of evidence that
2 the allegation occurred.

3 **Q. What do you mean that the allegation occurred?**

4 A. That the misconduct occurred. I'm sorry.

5 **Q. And who makes that determination?**

6 A. The facts that are given to me as the
7 investigator and the -- to substantiate it or not comes
8 from above me.

9 **Q. So you hand the fax over, you'll have a
10 meeting, and then who determines whether something
11 substantiated or not?**

12 A. If the preponderance of evidence that the
13 allegation of misconduct occurred, then it, it would be
14 substantiated.

15 **Q. By whom?**

16 A. It would be either above me with the facts that
17 I've found for the case -- for the investigation.

18 **Q. So did Mr. Farcas or Ms. Grant or somebody else
19 substantiate Ms. McMath's case?**

20 A. I think we discussed it, and it was determined
21 to -- that it was substantiated because there was enough
22 preponderance of evidence to substantiate that it did
23 occur.

24 **Q. Did anybody disagree that you're aware of?**

25 A. Not to my knowledge.

1 **Q. And what was substantiated? What was the**
2 **violation?**

3 A. Violation was the, the violation of policy
4 6.84D(1), poor judgment was because of the use of or the
5 violation of that policy.

6 **Q. In what way?**

7 A. By having a social media account publicly
8 accessible to students, parents, community, and posting
9 things that could negatively impact or not align with the
10 District's policies and views.

11 **Q. Have you reviewed April Carney's social media?**

12 A. No, sir.

13 **Q. Get that. September 13, 2025, "See you in 4**
14 **years Bitches! What a game." That appears to be a public**
15 **ex-post. Would that violate your understanding of**
16 **6.84D(1)?**

17 A. My understanding would be, yes, due to
18 profanity. However, that's -- that wouldn't my
19 investigation that I'm aware of. It's not an
20 investigation.

21 **Q. April Carney, October 7, 2024, "That's me on**
22 **the right. I don't think I have the crowd walking**
23 **scanned," and it says "Miami question mark, my ASS! GO**
24 **EERS." Would that violate your understanding of**
25 **6.84D(1)?**

1 A. It's in -- use profanity is in the -- in the
2 policies.

3 Q. Let's go to -- don't have a date. "Two goats
4 and a hologram. Thank you, GovGoneWild and RonDeSantis
5 for supporting common sense spending and tax relief for
6 Floridians, exclamation point, Gator signal, FAFO."

7 If fuck around and find out is an acronym.
8 FAFO -- as an acronym for FAFO with this -- gosh, if fuck
9 around and find out. I'm going to get -- I'm going to
10 get it right eventually. If FAFO is an acronym for fuck
11 around and find out, would that violate your
12 understanding of 6.84D(1)?

13 A. I think would be up to the individual person
14 who interpreted what FAFO stands for.

15 Q. "I don't give a damn what AngieNixon thinks."
16 Is that profanity within 6.84D(1)?

17 A. It would be profanity.

18 Q. What about a School Board member here, Melody
19 Bolduc, talking on social media about a woman having sex
20 with 2000 men in 43.2 seconds each. Would that be
21 something that would fall under the guise of 6.84D(1)?

22 A. Most likely, if it was a publicly accessible
23 social media platform.

24 Q. What about Tony Ricardo, a School Board member?
25 All of these, Moms for Liberty affiliated, by the way,

1 posting, "Remember, a prostitute will tell you whatever
2 you want to hear as long as you pay her." 6.84D(1)
3 violation?

4 A. It could -- it would have -- we'd have to look
5 into it.

6 Q. What about Mr. Ricardo's post, "Nobody got
7 canceled for pointing out how Kamala used sex to get
8 ahead in her career because even the left knows it's
9 true." Is that a violation or protected speech?

10 A. It would have to be investigated.

11 Q. Did I just trigger an investigation?

12 A. We're making a complaint. I suppose it's
13 possible.

14 Q. How did Ms. McMath's complaint get initiated?

15 A. We received a complaint from "Moms of Liberty
16 Duval" to our office.

17 Q. Who is "Moms for Liberty Duval?"

18 A. That I don't know.

19 Q. What is "Moms for Liberty Duval?"

20 A. That I don't know

21 Q. Who complained with, "Moms for Liberty Duval?"

22 A. There wasn't a sole individual named.

23 Q. Was it Ms. Carney? She's a member, I think, of
24 "Moms for Liberty Duval"?

25 A. That -- like I said, there wasn't a sole

1 individual that was named. It was just "Moms of Liberty
2 Duval."

3 **Q. Did you make an effort to determine who the**
4 **particular complainant was?**

5 A. The complainant that's listed on our
6 investigation is, "Moms of Liberty of Duval," and took it
7 as that.

8 **Q. What does it take for you to investigate a**
9 **teacher's social media? Educator's social media?**

10 A. A specific allegation -- I'll say specifically,
11 an allegation of -- that's reference to it.

12 **Q. In my federal lawsuit, I referenced some posts**
13 **by Christian Sinski (phonetic). Have you investigated**
14 **her?**

15 A. No, sir.

16 **Q. Do you know if your office has investigated**
17 **her?**

18 A. I'm not familiar with the name.

19 **Q. So we talked about that. Going back to**
20 **sentence to the last part, "Regarding publicly accessible**
21 **social media." Do you have any information whatsoever,**
22 **does your office that you're aware of have any**
23 **information whatsoever that a student accessed this**
24 **social media?**

25 A. I don't -- I think what the policy says

1 specifically is that the likelihood of being able to
2 access it, but I don't have a named student.

3 **Q. For cursing specifically?**

4 A. Just with the use of profanity.

5 **Q. Are there any other School Board policy rules**
6 **that discuss profanity?**

7 A. 6.80 would be our professional code of ethics.

8 **Q. What training, if any of you had with any**
9 **lawyers on 6.84D(1)?**

10 A. No training with any lawyers.

11 **Q. What training have you had with anybody about**
12 **6.84D(1), particularly pertaining to its scope, its**
13 **limits, its constitutional boundaries, anything like**
14 **that?**

15 A. Basically, what I can -- what I can see that
16 our policies read.

17 **Q. Next line. "Although the case with the Office**
18 **of Professional Standards has concluded, we have decided**
19 **that your case is -- we have decided that your case --**
20 **and that until your case is resolved with the Florida**
21 **Department of Education, you will remain on paid**
22 **administrative reassignment." Who made that decision?**
23 **It says, "We" but I was trying to understand --**

24 A. That was above me.

25 **Q. And what does that mean?**

1 A. Above me? Or the --

2 **Q. No. I'm sorry. "We have decided that your**
3 **case -- until your case resolved by the FDOE, you will**
4 **remain on paid administrative reassignment."**

5 A. What that means is that she remains temporarily
6 reassigned until, until investigation has been resolved
7 by Florida Department of Education.

8 **Q. When is she going to be able to go back into**
9 **the classroom according to Duval County Public Schools?**

10 A. It says here in the email, until the -- her
11 case is resolved with Florida Department of Education.

12 **Q. Do you have any information about the veracity**
13 **or truthfulness or integrity of the Department of**
14 **Education's case?**

15 A. That, I don't know anything about the
16 Department of Education's case. I don't -- I wasn't part
17 of that investigation.

18 **Q. One of Florida Statute 1012.796. Do you know**
19 **what that statute that's cited in the email is about?**
20 **What it says?**

21 A. I can't cite it right off. However, I can
22 reference it, right now --

23 **Q. Don't look at it. I don't want you to look at**
24 **it. I want you to go off memory for this. Do you know**
25 **as we sit here today, what 1012.796 is?**

1 A. Not right off the top of my head. I'd have to,
2 to look at it.

3 Q. Plaintiff's (sic) 4 is April Carney's post.
4 Plaintiff's (sic) 5 is April Carney's post. Plaintiff's
5 (sic) 6, April Carney. Plaintiff's (sic) 7, April
6 Carney. They're going to match the slide numbers. 8 is
7 Bolduc 1, 9 is Bolduc 2. 10 is Ricardo 1. Sorry, 9 is
8 Ricardo 1. 10 is Ricardo 2.

9 (Respondent's Exhibit 4 to 10 marked for
10 identification.)

11 Here you go. "1012.796, Complaints against
12 teachers and administrators; procedure and penalties."
13 The short of it is, we'll read the beginning.

14 "The Department of Education shall cause to be
15 investigated expeditiously any complaint filed before it
16 or otherwise called to its attention which, if legally
17 sufficient, contains grounds for the revocation or
18 suspension of a certificate or any other appropriate
19 penalty as set forth in subsection(7)."

20 Do you know whether it's determined or the
21 investigator -- sorry. Do you know whether Investigator
22 Kosec has determined whether Ms. McMath's complaint is
23 legally sufficient?

24 A. That would be their investigation. And I'm not
25 privy to their -- what their investigation process is or

1 this investigation.

2 Q. Do you know anything about their investigation?

3 A. No.

4 Q. Did you make a determination that, there's a
5 legally sufficient basis to continue an investigation or
6 to defer an investigation of Ms. McMath?

7 A. Not from our office.

8 Q. Yeah. That's Plaintiff's (sic) 11.
9 Plaintiff's (sic) 12 from the Department of Education.
10 They define, "Legally sufficient is the ultimate facts
11 which show a violation occurred as provided in 1012.795
12 and defined by rule of the State Board of Education."
13 Again, from your standpoint, what state law did, if any,
14 did Ms. McMath violate?

15 (Respondent's Exhibit 11 to 12 marked for
16 identification.)

17 A. What my investigation centered on was her
18 violation of District's policy.

19 Q. We're going to get into that. So this stuff
20 we're talking about 6.84 -- I pulled this up on the
21 website. This is Plaintiff's (sic) 13. It says,
22 "Chapter 6, Human Resource Services." What is this?
23 What is this book? What is this? What do these rules
24 come from?

25 (Respondent's Exhibit 13 marked for

1 identification.)

2 A. That's the Dual County School Board Policy
3 manual.

4 **Q. And 6.84, it's titled, "Fraternization and**
5 **Communication with Students and Parents," correct?**

6 A. Correct.

7 **Q. Who did Ms. McMath fraternize with related to**
8 **these posts?**

9 A. I don't think there has to be a specific
10 individual that she fraternized with. I think it's -- or
11 from what the policy reads is that she can't have a, a
12 publicly accessible social media platform, and if they
13 do, they should refrain from publishing material on
14 public accessible media that fails to align with the
15 Principles of Professional Conduct for the Education
16 Profession and the District.

17 **Q. Do you know the history of 6.84?**

18 A. Not right off the top of my head. No, sir.

19 **Q. You know, it came out of teachers flirting and,**
20 **and having relationships with students. Did you know**
21 **that?**

22 A. I, I do know.

23 **Q. And there's no allegations of that here,**
24 **correct?**

25 A. That's correct.

1 **Q. Quite the opposite. She didn't fraternize or**
2 **communicate these issues to her students, right?**

3 A. Not with any one particular or multiple named
4 individuals.

5 **Q. And you can't read Mr. Kosec's deposition**
6 **because it hasn't been transcribed yet. But would it**
7 **surprise you to learn that Mr. Kosec found that there was**
8 **not a single student that he could find that had even**
9 **seen one of Ms. McMath's offending posts?**

10 A. I'm sorry. Wwould you say, would it surprise
11 me?

12 **Q. Correct.**

13 A. Okay.

14 **Q. Let me move this up. So Plaintiff's (sic) 6.84**
15 **is as -- sorry, Respondent's. Anytime I say Plaintiff, I**
16 **mean Respondent. Respondent's 14, this is your checklist**
17 **as I understand it from your form. Let's get rid of my**
18 **little leading statement there. Did you take any photos**
19 **in your investigation? Other than screen grabbing posts?**

20 (Respondent's Exhibit 14 marked for
21 identification.)

22 A. That screen grabbing would be.

23 **Q. Is that it?**

24 A. Yes.

25 **Q. So you went through the social media and screen**

1 captured things that you thought were worth taking a look
2 at, fair?

3 A. Fair.

4 Q. Any videos?

5 A. I don't believe so.

6 Q. Any financial records or audits in this case?

7 A. No, sir.

8 Q. Any performance evaluations that you looked at?

9 A. No, sir.

10 Q. Fitness for duty evaluations?

11 A. No, sir.

12 Q. I noticed you have social media posts and
13 communications unchecked, why?

14 A. That, that could have been my error.

15 Q. Did you look at her classroom rosters?

16 A. No.

17 Q. Interview any students?

18 A. No, sir. I had multiple statements and emails,
19 but not face to face, no.

20 Q. Was there any student or administrator or
21 teacher from Douglas Anderson who said anything negative
22 or concerning about Ms. McMath?

23 A. No.

24 Q. Plaintiff's (sic) 15. I think we covered this.
25 Did you tour the classroom?

1 (Respondent's Exhibit 15 marked for
2 identification.)

3 A. No.

4 **Q. Did you review any student notebooks or lesson**
5 **plans?**

6 A. No.

7 **Q. Examine any metadata of screenshots?**

8 A. No, when you say metadata, I'm a little bit
9 ignorant on some things.

10 **Q. Fair. So like the item in Exhibit 2, if you**
11 **click on it in the right and you go like to -- it's not**
12 **going to happen here, but --**

13 A. Let's show like where it came from and whatnot?

14 **Q. Correct. Like you do the forensics of where it**
15 **came from, dates, geo tracking. Did you look at any of**
16 **that stuff?**

17 A. I didn't pull any of that up.

18 **Q. Very good. Interview anybody at "Moms for**
19 **Liberty" or "Moms for Liberty Duval?"**

20 A. No.

21 **Q. Consult general counsel on the First Amendment?**

22 A. No.

23 **Q. What is 6.83, Mr. Bennett?**

24 A. That's -- assuming you mean specifically II?

25 **Q. I'm just asking what 6.83 is?**

1 A. It's employee conduct.

2 Q. Now, 6.84 talks about is a title Fraternization
3 and communication with students. Not around students,
4 not where they can see it, but with students, correct?

5 A. Not solely.

6 Q. The title says, "With students."

7 A. The title says, "With students and parents."
8 Correct.

9 Q. 6.83, little more general. And it says,
10 "Employee Conduct," correct?

11 A. Correct.

12 Q. Roman number II, "Use of Profanity." "The use
13 of profanity or abusive language, whether written,
14 verbal, or reproduced, or other abusive behavior on
15 School Board property or in the presence of students by
16 School Board District employees shall be prohibited,"
17 correct?

18 A. That's correct.

19 Q. I read that correctly?

20 A. You read it correctly.

21 Q. So why is the Duval County Public Schools
22 punishing profanity that was not on School Board property
23 or in the presence of students?

24 A. Referencing "6.84 letter D, in direct
25 communications, I and II. "District employees are

1 expected to be professional -- do you want me to read the
2 whole thing?

3 **Q. Sure.**

4 A. Okay. "Direct -- District employees are
5 expected to be professional, civil, and appropriate in
6 all of their communications with students, parents,
7 fellow employees and the public, including in their
8 electronic and online communications. This expectation
9 applies to the posting of publicly accessible
10 communications and material (collectively referred to as
11 "Material") on the Internet, where it is available for
12 viewing by members of the public, including students and
13 parents.

14 For the purpose of this rule, websites, other
15 electronic media and online material are deemed to be
16 publicly accessible if they can or may be viewed by
17 District students, parents, or the general public.

18 The School Board finds that publication of
19 inappropriate or unbecoming material on publicly
20 accessible websites or electronic media by an employee
21 has potential -- has the potential to disrupt the
22 educational process, damage the reputation of the
23 District, its teachers and staff, damage the District's
24 reputation and stature and subject the District, its
25 teachers and employees to ridicule.

1 Accordingly, employees shall refrain from
2 publishing Material on publicly accessible media that
3 fails to align with Principles of Professional Conduct
4 for the Education Profession in Florida, as outlined in
5 Florida Administrative Code 6A-10.081."

6 II. States Private Publication. "These rules
7 do not apply to a private communications and publication
8 of Material on private secure websites where they cannot
9 be viewed by District students, parents or the general
10 public. However, an employee who privately publishes
11 Material on private websites or media is responsible for
12 ensuring that it remains private and does not become
13 publicly accessible."

14 **Q. Let me just pop that in here as Respondent's**
15 **15? No. What number am I on? Did I do 16? So 15**
16 **should be the check boxes. 16 will be 6.83. Yeah,**
17 **that's fine. And then 17 will be 6.84, Paragraphs D I**
18 **and II. So statutory construction question. When you**
19 **have two rules that conflict, what do you do?**

20 (Respondent's Exhibit 16 to 17 marked for
21 identification.)

22 A. Like, I don't understand what you're -- what do
23 you mean? Explain?

24 **Q. Is there anything unclear about 6.83 Employee**
25 **Conduct rule about the use of profanity?**

1 A. No confusion on what that says.

2 **Q. So it's your understanding -- is it your**
3 **understanding under 6.84 you can still regulate use of**
4 **profanity under the catch all of DI?**

5 A. Yes.

6 **Q. Did anybody but Mr. Bennett weigh in on that or**
7 **come up with that?**

8 A. No, I did.

9 **Q. Was 6.83 and its definition of swear -- use of**
10 **profanity come up at all in drafting this final decision**
11 **on Ms. McMath's case?**

12 A. So I'm seeing now that it should have
13 specifically. However, I think I was more geared toward
14 6.84D(1) based on the Principles of Professional Conduct
15 for the Education Profession of Florida with a Florida
16 administrative code.

17 **Q. Do you have an opinion whether D(1) would**
18 **surpass constitutional scrutiny under the First**
19 **Amendment?**

20 A. I don't know that my opinion would have any.
21 Relevance to what it --

22 **Q. Who found that Ms. McMath's posts were**
23 **inappropriate or unbecoming?**

24 A. That would have been the District.

25 **Q. Who at the District?**

1 A. It would be above me.

2 Q. **What about her post -- did anything about her**
3 **post disrupt the educational process?**

4 A. I think it specifically says the potential to
5 disrupt the educational process.

6 Q. **I'm just asking if it did? Did it disrupt the**
7 **educational process?**

8 A. I think it had the potential to.

9 Q. **How?**

10 A. Just per policy, it had the potential to.

11 Q. **Give me your basis for that opinion, please?**

12 A. It's just that it's an opinion.

13 Q. **Wouldn't somebody have to see it? Somebody in**
14 **the school?**

15 A. Have the potential to.

16 Q. **That's a lot of potentials. How did her post**
17 **damage the reputation of the District?**

18 A. Has the potential to.

19 Q. **How so?**

20 A. It doesn't specifically align with, with the
21 Principles of Professional Conduct or the views of the
22 District.

23 Q. **So you're going to institute a investigation on**
24 **Ms. Carney when we're done for her post?**

25 A. If a allegation of misconduct comes into our

1 office, we'll, we'll investigate it.

2 Q. Consider this that. "oms for Liberty," this
3 appears to be your kind of summation. Complainant: Moms
4 for Liberty Duval. Victim: Students of DCPS, Duval
5 County Public School District. Subject: Hope McMath.
6 We'll skip the rest. Witnesses: Public. So just to be
7 clear, is there any identified victim in this case?

8 A. There are no identified victims.

9 Q. There any witnesses to Ms. McMath doing
10 anything on school property that related to these posts?

11 A. And if I may go back. I said there are no
12 identified victims. There are no specific identified
13 named students.

14 Q. Are there any unspecified, unnamed students
15 that have been -- that have said that they -- the
16 students themselves?

17 A. No students themselves have said.

18 Q. Has anybody else besides the 501(c)(4) "Moms
19 for Liberty Duval," assuming it's even registered,
20 complainant?

21 A. There were emails that are in the -- my case
22 file, for and against.

23 Q. So going back to the nonprogressive discipline,
24 what does that mean?

25 A. That means that -- so we have a progressive

1 discipline scale and then -- which is step 1 -- step 1
2 through step 4. The nonprogressive discipline would be
3 this -- a step right before step -- what's called step 1.
4 And that would be a verbal warning, kind of an informal
5 put you all notice. But it doesn't -- I'm sorry. Go
6 ahead.

7 **Q. Sorry I interrupted. I apologize. Does that**
8 **go in her file?**

9 A. It goes in our case file.

10 **Q. But if somebody did a public records request,**
11 **would it come up that Ms. McMath was indeed disciplined?**

12 A. If they did a public records request for her
13 professional standard -- standards file, it obviously
14 would be in the, the case file.

15 **Q. Was Ms. McMath cooperative in all of her**
16 **interviews with you?**

17 A. Yes.

18 **Q. Do you doubt her veracity and truthfulness at**
19 **any point?**

20 A. No.

21 **Q. Does discipline go into the HR file? Human**
22 **Resources?**

23 A. Discipline does, yes. As well as our
24 professional standards file.

25 **Q. That is Respondent's 18. I did that as a**

1 placeholder. Respondent's 19 is the letter from the
2 Department of Education on page 4 of 117 of their file.
3 Have you ever seen this before today that you're aware?

4 (Respondent's Exhibit 18 to 19 marked for
5 identification.)

6 A. We have received it. It would get which we do
7 receive those from the Department of Education. When we
8 receive it, we put it in the file. I would have to look
9 to see if it's in the file. If that's where -- if we've
10 got it and it's in there.

11 Q. That indicates an investigation -- sorry, a
12 complaint that -- it was a letter that a complaint had
13 been received on or before September 11, 2025, correct?

14 A. That's what it states, yes.

15 Q. Going back to page 2, I believe of your report
16 68 of 84 of your file. You discuss the, "Karma is a
17 bitch," post in the aftermath of Charlie Kirk. What does
18 that have to do with anything?

19 A. All of this was the --

20 Q. Of a quote?

21 A. I'm sorry?

22 Q. I'm sorry. Go ahead.

23 A. No, no, no. I, I didn't hear what you said.
24 Sorry.

25 Q. I just asked why it's notable that -- why you

1 have Charlie Kirk's name in there?

2 A. Because that's what her -- what she -- Ms.
3 McMath stated that it was in reference to in one of her
4 posts.

**5 Q. If I go back through that first transcript of
6 our conversation or Ms. McMath conversation with you,
7 interview with you and Dr. Grant and Mr. Farcas. Is it
8 going to be about Charlie Kirk or is it going to be about
9 profanity that the investigation was begun?**

10 A. It's going to be about the poor judgment to use
11 her social media platform and -- or accessible by
12 students, parents, and community. So it was totality.

**13 Q. That's why I have that up there. So that page
14 will be Respondent's 20. Respondent's 21 is the next
15 page. Analysis of Policies Violated, Duval County School
16 Board Policy 6.80. How did Ms. McMath violate 6.80?**

17 (Respondent's Exhibit 20 to 21 marked for
18 identification.)

19 A. That would be under 6.80, "I. All District
20 employees shall conduct themselves at all times in an
21 ethical manner and shall maintain and promote integrity,
22 both while on and off duty."

23 Q. What was unethical about her post?

24 A. The profanity used.

25 Q. Even though District policy specifically states

1 that you can use profanity just not around use of
2 profanity and or abusive language whether written, verbal
3 or reproduced or other abusive behavior on School Board
4 property or in the presence of students shall be
5 prohibited. That the School Board policy only prohibits
6 use of profanity around students or on School Board
7 property, correct?

8 A. That's what that particular 6.83 states.

9 Q. And that's very specific, right? That's you're
10 quoting in 6.84 and 6.80 is general, right?

11 A. Correct.

12 Q. Going to Respondent's 22. "Conclusion: Ms.
13 McMath maintains personal accounts that contain profane
14 language and obscene gestures that are not appropriate
15 for students in the K-12 environment, that can be
16 publicly accessed by those students. Ms. McMath
17 acknowledges that students may view her posts and
18 demonstrates awareness of district and state policies
19 while continuing to post publicly accessible material
20 that is perceived as unprofessional." What did you mean
21 by that?

22 (Respondent's Exhibit 22 marked for
23 identification.)

24 A. That the District perceived as unprofessional.

25 Q. And who with the District is being the arbiter

1 of professionalism in social media posts that are not
2 done in school?

3 A. The District.

4 Q. Dr. Grant?

5 A. Just the District.

6 Q. Mr. Farcas?

7 A. The District.

8 Q. Who? The District says very clearly, "Use of
9 profanity or abusive language, whether written, verbal or
10 reproduced or other behavior on School Board property or
11 in the presence of students by School District employees
12 shall be prohibited." The District is very clear. What
13 I want to know is who with the District is changing that
14 to now say that this is unprofessional to do this?

15 A. So the District Policy 6.84D I and II state
16 that district employees are expected to be professional,
17 civil and appropriate in all their knowledge of
18 communication with students, parents, fellow employees
19 public. So School Board finds that publication of
20 inappropriate or unbecoming material on publicly
21 accessible websites or electronic media by an employee
22 has potential to disrupt the educational process, damage
23 reputation of the District. It's teachers staff and the
24 District reputation statute subject to the District's
25 teachers employees to ridicule. That's -- that would be

1 the District.

2 **Q. I just want to know who with the District made**
3 **that decision in this instance?**

4 A. I think just -- it's a District policy.

5 MR. WEAVER: Mr. Phillips?

6 MR. PHILLIPS: Yes.

7 MR. WEAVER: Apologize for interrupting but you
8 know we've been going a little bit more than an
9 hour. If you're going to be much longer, I think we
10 might need to take a break.

11 MR. PHILLIPS: Let's take our first break and I
12 can clean up big time.

13 MR. WEAVER: When to come back? It's now 2:41.
14 Come back at 2:50?

15 MR. PHILLIPS: Yes. Perfect.

16 MR. WEAVER: Thank you.

17 MR. PHILLIPS: Thanks.

18 THE REPORTER: We are going off the record.
19 The time is 2:41 p.m. eastern standard time.

20 (Off the record.)

21 THE REPORTER: We are back on the record. The
22 time is 2:51 p.m. eastern standard time.

23 BY MR. PHILLIPS:

24 **Q. Mr. Bennett, as of today, how long has Ms.**
25 **McMath been out of the classroom?**

1 A. It's been my initial meeting with her and
2 reassignment would have been September. I don't know the
3 exact number of days, but it's been mid September.

4 **Q. And have you had any conversations with**
5 **Investigator Kosec whatsoever?**

6 A. No.

7 **Q. How long does DCPS intend to keep Ms. McMath**
8 **out of her class -- out outside of her classroom while at**
9 **this time?**

10 A. Until the issue with the DOE was resolved.

11 **Q. What do you mean by that?**

12 A. As we stated earlier, when you're asking me
13 the, the email that was sent -- that I forwarded to you
14 from Dr. Grant stated that she'll be -- she'll stay
15 reassigned until the issue with DOE was resolved -- the
16 case with DOE is resolved.

17 **Q. Does DCPS have a process where it intends to**
18 **follow-up with Investigator Kosec to determine his**
19 **findings?**

20 A. They will -- generally, they let us know what
21 their findings were.

22 **Q. Have you had any conversations with anybody at**
23 **the Department of Education about this matter?**

24 A. Not sure.

25 **Q. In your report, and I can pull it up if we need**

1 to, there's a statement the post included profane
2 language and obscene gestures. Let's talk about the word
3 obscene. What does it mean?

4 A. Something that a reasonable individual would
5 deem inappropriate and, and everyday norms and values, I
6 guess.

7 Q. Have you reviewed any of the First Amendment or
8 Supreme Court case -- sorry, First Amendment Supreme
9 Court cases that define obscene or give it context under
10 the First Amendment?

11 A. I have not.

12 Q. Who chose to use the word obscene in your
13 report?

14 A. I did.

15 Q. Did you find Ms. Hope's posts obscene?

16 A. Are you asking my opinion or the what --

17 Q. Your opinion?

18 A. Yeah. It would be a sensitive to accepted
19 standards and decency. It would be -- was referring to.

20 Q. Does it matter whether something's couched in a
21 matter of public discussion or politics?

22 A. Clarify that for me.

23 Q. Yeah, if --

24 A. I know what you're saying but --

25 Q. -- if a teacher is posting about politics or

1 public issues, does that matter to you as an investigator
2 as to whether something is obscene or in or outside of
3 the Duval County rules that you're intending to enforce?

4 A. So that wouldn't be a personal observation. I
5 mean, as far as it would be based on policies that the,
6 the district has. Does that answer your question? Or
7 can you restate it?

8 Q. Yeah. Does Duval County Public Schools have
9 policies when reviewing teacher's social media regarding
10 political posts or non political posts? Like is there a
11 difference in how you treat those posts?

12 A. So the -- this -- her case didn't have. My
13 focus wasn't on political or not. It was based off of
14 code of ethics -- professional code of ethics and the
15 policy 6.84 with her having a social media account that
16 was or could have been accessible by students, parents,
17 and, and community. And in seeing the post that she had
18 that was publicly accessible could have been deemed
19 obscene or indecent and doesn't align with the District's
20 view.

21 Q. Does Ms. McMath political opinion, "FUCK ICE"
22 depict sexual conduct in a patently offensive way?

23 A. It doesn't depict sexual conduct.

24 Q. What about, "Karma's a bitch." Does that do
25 that?

1 A. Depict sexual conduct? Is that --

2 Q. Yes.

3 A. No.

4 Q. Did you find whether the "FUCK ICE" post lacked
5 serious literacy, artistic, political, or scientific
6 value? Did you make that determination?

7 A. The -- it has the potential to incite violence.
8 That would what -- is what a reasonable individual with
9 that same information could think?

10 Q. Did you think the "FUCK ICE" post would incite
11 violence?

12 A. It could.

13 Q. Did it?

14 A. That's -- I can't prove or disprove that it did
15 or didn't.

16 Q. We can definitely prove that there was no
17 violence in Duval County Schools as a result of the "FUCK
18 ICE" post, correct?

19 A. Yes.

20 Q. Yes, I'm correct, right?

21 A. Yes.

22 Q. What about the "Karma's a bitch?" Was there
23 any violence that was attributed to, "I wasn't going to
24 do this, but then I saw Hope McMath's Karma's a bitch
25 post and so now violence and DCPS." Anything like that?

1 A. No, not with that.

2 Q. Any of her posts lead to any, even discord,
3 much less violence?

4 A. Any provable, no.

5 Q. Any unprovable? Any of record whatsoever?

6 A. I think just the potential, but no.

7 Q. Is a middle finger -- is a middle finger --
8 sorry, wasn't flipping you off, an obscene gesture to
9 you?

10 A. It could be deemed as obscene.

11 Q. Is it obscene to you?

12 A. My opinion is my opinion, it wouldn't be --

13 Q. Is it obscene to the District -- is the middle
14 finger obscene to the District that you're aware?

15 A. It's definitely falls into line of
16 unprofessional -- professional conduct of --

17 Q. Are you aware that an investigator with the
18 Department of Education conducted one-on-one interviews
19 with Ms. McMath's students?

20 A. I am now.

21 Q. And we talked about that during the meeting,
22 correct?

23 A. Correct.

24 Q. And did you determine whether or not that was
25 Mr. Kosec?

1 A. I don't know who, who that was.

2 **Q. Have you seen any reports from any**
3 **investigation from the Department of Education, meaning**
4 **the Florida Department of Education, that showed that a**
5 **student could even say they saw one of Ms. McMath's**
6 **offending posts?**

7 A. I haven't seen any Department of Education's
8 investigative reports.

9 **Q. And you're not aware that Mr. Kosec in fact**
10 **testified that he couldn't identify a single student who**
11 **saw them?**

12 A. What you're telling me now.

13 **Q. And you would defer to Mr. Kosec because you**
14 **didn't do. And nobody at the District did their own**
15 **investigation involving Ms. McMath's students, correct?**

16 A. Say it one more time? Sorry.

17 **Q. You would have to defer to Mr. Kosec on that**
18 **because the District, including you, did no investigation**
19 **or meetings with Ms. McMath's students?**

20 A. Correct.

21 **Q. At any point did you find any evidence of at**
22 **all that Ms. McMath brought her activism into the**
23 **classroom?**

24 A. I did not.

25 **Q. Does Duval County Public Schools Office of**

1 **Professional Standards investigate students based upon**
2 **anonymous reports?**

3 A. We only investigate employees of the District.
4 Students would be done by the deans.

5 Q. **Yeah, I blew that question to pieces. Does**
6 **Duval County Public Schools Office of Professional**
7 **Standards investigate teachers based upon anonymous**
8 **reports of misconduct?**

9 A. We get anonymous reports daily. All, all
10 reports of allegations of misconduct, we, we investigate.

11 Q. **Does it matter whether it comes from anonymous**
12 **emails or anything like that?**

13 A. It doesn't matter. If there's an allegation of
14 misconduct by an employee of the District, we, we have to
15 investigate.

16 Q. **Do you have to suspend a teacher from**
17 **classroom?**

18 A. If there is a possibility that it could affect
19 the health, safety and welfare of a student, then for the
20 duration of the -- yes.

21 Q. **Section IV, indeed says, "When it's determined**
22 **that the health, safety and welfare of a student is**
23 **possibly jeopardized when an investigation of misconduct**
24 **is being conducted, the employee shall be removed from**
25 **student contact." Did I read that correctly?**

1 A. Yes, sir.

2 **Q. Who specifically determined that the health,**
3 **safety and welfare of a student was possibly being**
4 **jeopardized by Ms. McMath?**

5 A. The allegation of misconduct, the overtone was
6 referencing that these students were -- their health,
7 safety and welfare could be in jeopardy.

8 **Q. So if somebody puts it in a letter, you got to**
9 **take it as true?**

10 A. It has to investigate it.

11 **Q. I didn't ask if you have to investigate it. Do**
12 **you have to assume when a 501(c)(4) is making a political**
13 **based complaint, you can't make a determination that this**
14 **is going too far. And let me, actually see what the**
15 **facts are?**

16 A. Yeah. I understand what you're saying, but
17 seeing what the facts are investigating. And if we're
18 going to investigate it and they're making the
19 allegation, then we have to make that decision.

20 **Q. How many teachers were investigated related to**
21 **Charlie Kirk related posts at DCPS?**

22 A. I think we discussed in our meeting that there
23 were five, possibly. I don't know that it was
24 specifically related to Charlie Kirk. I think it was
25 related to social media allegations.

1 **Q. Do you know how many were -- do you know how**
2 **many were sustained?**

3 A. I don't, right off the top of my head. I'd
4 have to look.

5 **Q. Is that something that you would have in front**
6 **of you or would you have to do research?**

7 A. I wouldn't, because those aren't my -- those
8 weren't my cases. Ms. McMath was, was mine alone.

9 **Q. Did you have any of the others?**

10 A. I'm sorry?

11 **Q. Did you have any others?**

12 A. No, sir.

13 **Q. Your report notes, "Ms. McMath has several**
14 **posts where the words, Fuck, Shitty, and Bitch are used."**
15 **You also characterize these as profane. Who made the**
16 **determination that these posts were profane?**

17 A. The District outlines in policy that aligns
18 with the professional code of -- I went blank. Sorry.
19 Give me just a second.

20 **Q. You're good.**

21 A. With the Florida Administrative Code, Rule
22 6A 10.081.

23 **Q. And 6.83 use of profanity talks about, "The use**
24 **of profanity or abusive language." So would something**
25 **that's profane be the use of profanity? Is that the same**

1 in your opinion?

2 A. It could be, yes.

3 Q. In that first interview, we talked a while
4 about a series of posts with language on the top of them.
5 Remember, we're kind of talking about it coming from Ben
6 Becker (phonetic) that's how we got it?

7 A. Right, I remember you stating that.

8 Q. Was that a part of your file?

9 A. I didn't -- I don't have anything from Ben
10 Becker in my file.

11 Q. Everything you had in your file was either
12 something you grabbed or from "Moms for Liberty Duval?"

13 A. That's correct.

14 Q. Do you know the affiliation between "Moms for
15 Liberty Duval" and "Moms for Liberty?"

16 A. I don't.

17 Q. Do you know anybody or are you -- is anybody in
18 your family a member of "Moms for Liberty?"

19 A. No.

20 Q. "Moms for Liberty Duval?"

21 A. No.

22 Q. Any chapter, "Moms for Liberty?"

23 A. No.

24 Q. Do you know if anybody at the Office of
25 Professional Standards is a "Moms for Liberty" parent?

1 A. No.

2 Q. Do you know anything about Dr. Bernier's
3 (phonetic) relationship with "Moms for Liberty" or "Moms
4 for Liberty Duval?"

5 A. No.

6 Q. What about the School Board, do you know about
7 any of them?

8 A. No.

9 Q. Yeah, that's right. What would have happened
10 procedurally, if Ms. McMath had appealed the discipline?

11 A. The appeal would have been heard and then a
12 decision would have been made from --

13 Q. Who would hear that appeal?

14 A. Would have been above me. I'm not sure the
15 individual specifically that it would have -- that would
16 have heard it. That may have been what we put in -- what
17 we discussed in our interview or at the disposition
18 meeting with you and Ms. McMath.

19 Q. What role does the Duval County School Board
20 have in that process?

21 A. To uphold with the appeal, I mean I don't --

22 Q. Yeah, what role does the Duval County School
23 Board have in the -- as in a role of teacher discipline?

24 A. I'm not sure I know how to answer that. I hear
25 what you're saying. To -- I think their role would be to

1 have the, the policy manual adhered to.

2 Q. Did you consult with any School Board member or
3 their representatives or agents about this case?

4 A. No.

5 Q. Do you know if Mr. Farcas or Dr. Grant did?

6 A. I don't know.

7 Q. The good news about my silence, that means I'm
8 getting rid of stuff, so. Was Sebring Newsom a part of
9 your file or not?

10 A. No, sir. I'm not sure who that is.

11 Q. Yeah. Let me take about a five-minute break
12 and I'm going to try to finish in the five minutes after
13 that. Okay?

14 A. Yes, sir.

15 THE REPORTER: We are going off the record.

16 The time is 3:11 p.m. eastern standard time.

17 (Off the record.)

18 THE REPORTER: We are going back on the record.

19 The time is 3:15 p.m. eastern standard time.

20 BY MR. PHILLIPS:

21 Q. Mr. Bennett, I appreciate your time today.
22 We've gone about an hour and 45 minutes minus breaks. Is
23 there anything that you've learned today that makes you
24 or gives you a plan to want to revisit Ms. McMath's file
25 or potentially amend it?

1 A. No.

2 **Q. That's all I have.**

3 MR. WEAVER: I guess you can ask him about
4 reading and waiving, if that --

5 MR. PHILLIPS: Yeah. You can read this
6 transcript for any accuracies and potentially make
7 changes. If you change yes to no, I'm going to come
8 back and depose you on it. But certainly there can
9 be stenographical errors or just reasons that a
10 witness wants to review their transcript and sign
11 it. It is entirely your right to determine whether
12 to read or waive.

13 THE WITNESS: I'd like read, please.

14 MR. PHILLIPS: Very good. Witness will read.
15 And I truly, as much as, as this is my job, I just
16 want to say from all of our meetings, I appreciate
17 you. I appreciate your role. I didn't like doing,
18 you know, deposing you.

19 THE WITNESS: Yes, sir. I understand.

20 MR. PHILLIPS: I've got a job to do. Thank you
21 for your time. Understood?

22 THE WITNESS: Yes, sir. Thank you.

23 MR. WEAVER: Have a good evening.

24 THE REPORTER: Excuse me. Before we hop off,
25 is anybody going to order?

1 MR. PHILLIPS: I'll order. I just want the --
2 I just need the transcript. None of the magic dust.

3 THE REPORTER: Totally fine. And then I just
4 need to know if Mr. Bennett would like me to send it
5 via email or send it through his attorney?

6 THE WITNESS: Email will be fine, if that's
7 okay with you Mr. Weaver?

8 THE REPORTER: Yeah. Can you please drop your
9 email in the chat for me, if that's all right with
10 him?

11 MR. PHILLIPS: And if you need it again, it'll
12 be in the exhibits.

13 THE REPORTER: Perfect. Thank you.

14 THE WITNESS: All right, sir.

15 MR. PHILLIPS: Send me an email asking for him
16 and I'll just send it right back.

17 THE REPORTER: Sounds good. Thank you. We are
18 going off the record. The time is 3:17 p.m. eastern
19 standard time.

20 (Deposition concluded at 3:17 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF DUVAL

I, the undersigned authority, Harper Hamilton,
Notary Public, certify that RONALD DEAN BENNETT JR.,
remotely appeared before me and was duly sworn on
March 30, 2026.

WITNESS my hand and official seal this 2nd day of
April 2026.

Harper Hamilton

Harper Hamilton
Notary Commission FL HH 757961
Commission Expires: January 19, 2030

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CERTIFICATE OF DIGITAL REPORTER

I, HARPER HAMILTON, a Digital Reporter and Notary Public within and for the State of Florida, do hereby certify:

That the foregoing proceeding hereinbefore set forth was accurately captured with annotations by me during the proceeding.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my hand this 30th day of March, 2026.

Harper Hamilton

Harper Hamilton, Notary
Notary Commission FL HH 757961
Commission Expires: January 19, 2030

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CERTIFICATE OF TRANSCRIPTIONIST

I, ANGELA BIST, do hereby certify:

That said audio transcription is a true record
as reported by me, a disinterested person.

I further certify that I am not interested in
the outcome of said action, nor connected with, nor
related to any of the parties in said action, nor to
their respective counsel.

IN WITNESS THEREOF, I have hereunto set my hand
this 7th day of April, 2026.

Angela Bist

Angela Bist

1 APRIL 2ND, 2026

2 RONALD DEAN BENNETT JR. c/o RON WEAVER
3 9526 ARGYLE FOREST BOULEVARD, SUITE B2, BOX 127,
4 JACKSONVILLE, FLORIDA 32222
5 IN RE: DOAH v. MCMATH
6 CASE NO.: 255786

7 Please take notice that on the 30th day of MARCH 2026,
8 you gave your deposition in the above cause. At that
9 time you did not waive your signature.

10 The above-addressed attorney has ordered a copy of
11 this transcript and will make arrangements with you to
12 read their copy. Please execute the Errata Sheet,
13 which can be found at the back of the transcript, and
14 have it returned to us for distribution to all parties.

15 If you do not read and sign the deposition within 30
16 days, the original, which has already been forwarded to
17 the ordering attorney, may be filed with the Clerk of
18 the Court.

19 If you wish to waive your signature now, please sign
20 your name in the blank at the bottom of this letter and
21 return it to the address listed below.

22 Very truly yours,

23 Harper Hamilton
24 Lexitas Legal
25 fl.production@lexitaslegal.com
26 I do hereby waive my signature.

27 _____
28 RONALD DEAN BENNETT JR.
29 Job No.: 444200

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EXHIBIT E

Original Administrative Complaint

Kamoutsas v. McMath, DOAH Case No. 25-5786PL

Filed November 6, 2025

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**ANASTASIOS KAMOITSAS, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 256-0563

HOPE MCMATH,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Anastasios Kamoutsas, as Commissioner of Education, files this Administrative Complaint against HOPE MCMATH. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to sections 1012.315, 1012.795, and 1012.796, Florida Statutes, and pursuant to Rule 6A-10.081, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 1484487, covering the area of Art, which is valid through June 30, 2027.
2. At all times pertinent hereto, the Respondent was employed as an Art Teacher at Douglas Anderson School of the Arts in the Duval County School District.

MATERIAL ALLEGATIONS

3. Respondent has a history of imposing her personal and controversial views on students even before she became a teacher certified in Florida. In or around November of 2021, Respondent welcomed students into Yellow House Art where Respondent served as curator. There Respondent provided students with a book entitled *God is Trans*.
4. On or about September 11, 2025, Respondent posted unprofessional comments on her personal and open to the public social media account that were grossly immoral in the wake of the murder of public figure Charlie Kirk. Respondent's message stated, "Karma's a bitch and she heard all your speeches when you proudly proclaimed that you didn't give a shit about other people's lives".

5. Additionally, Respondent posted or reposted an artist rendition of an individual holding the screaming severed head of what clearly is intended to represent the President of the United States, Donald Trump.

The Petitioner charges:

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of section 1012.795(1)(d), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

COUNT 2: The Respondent is in violation of section 1012.795(1)(g), Florida Statutes, in that Respondent, upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the district school board.

COUNT 3: The Respondent is in violation of section 1012.795(1)(j), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

RULE VIOLATIONS

COUNT 4: The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(a)1, Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

COUNT 5: The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(b)1, Florida Administrative Code, in that Respondent has failed to take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.

(SIGNATURE ON FOLLOWING PAGE)

WHEREFORE, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; determining the Respondent to be ineligible for certification; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this

8

day of

October, 2025

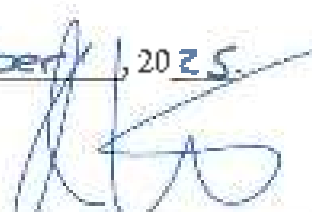
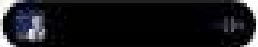

ANASTASIOS KAMOUTSAS, as
Commissioner of Education
State of Florida

EXHIBIT F

FDOE Case File 256-0563, page 3

Social Media Posting screenshot

9:28



50% 5G



Hope McMath



Hope McMath

10h · 🌐

Karma's a bitch - and she heard all your speeches when you proudly proclaimed that you didn't give a shit about other people's lives.

👍❤️ 44

3 comments 2 shares



Hope McMath

Stories · Fugazi · Suggestion · 21h · 🌐



masterjessadualette



➕ Add friend

💬 Message



Home



Friends



Multiplayer



Groups



Notifications



Me

EXHIBIT G

Liberty Counsel Faith and Freedom Broadcast Transcript

Episode: Teacher's Lawsuit Against Moms for Liberty Should Be Dismissed

Hosts: Mathew D. Staver and Holly Meade. Aired May 5, 2026.

TRANSCRIPT — Faith and Freedom Podcast Episode: “Teacher’s Lawsuit Against Moms for Liberty Should Be Dismissed” Published: May 5, 2026 by Liberty Counsel Host: Mathew D. Staver, Founder and Chairman, Liberty Counsel (Florida Bar No. 701092) Co-host: Holly Mead Source: <https://libertycounsel.blubrri.com/2026/05/05/teachers-lawsuit-against-moms-for-liberty-should-be-dismissed-3/> Audio: https://media.blubrri.com/libertycounsel/content.blubrri.com/libertycounsel/LIBC_FAF5_05-05-26.mp3

Note: This transcript is a reflowed reading version of the publisher’s published .srt subtitle file for the episode listed above. Punctuation, capitalization, and paragraph breaks have been adjusted for readability; verbatim wording is as published in the .srt file. Speaker attribution is offered only where clearly identifiable from context (most of the broadcast is Mathew D. Staver speaking, with occasional interjections from co-host Holly Mead).

=====

Welcome to Faith and Freedom. We hope to inform, inspire, and encourage you to stand up for faith and freedom as we discuss victories and challenges in the courts, in public policy, and in the culture. Faith and Freedom is brought to you by Liberty Counsel, a litigation, education, and policy organization. Join us now as we address the latest cultural issues across America and around the world. Liberty Council just filed a motion to dismiss a lawsuit brought by a teacher against Moms for Liberty. We’re going to be talking about this on Faith and Freedom.

I’m Matt Staver, founder and chairman of Liberty Council. Joining me is Holly Mead. Well, as you know, Moms for Liberty is a nonprofit organization that’s very involved in schools and making sure that good people are elected to school boards. and teaching and helping moms get involved in school boards and having a voice in those. So it’s a very good organization. However, this particular teacher is not real fond of Moms for Liberty. No, obviously not. And there’s a reason why this teacher in Duval County, which is Jacksonville, it’s a contiguous county and city. Very unusual in most cases because you usually have cities within a county, but the city, parameter is also the county, Duval County, which is Jacksonville. So this is where the teacher taught.

And after Charlie Kirk was assassinated last year, this teacher then posted some social media post regarding that celebrating, amazingly, the assassination of Charlie Kirk. Let me just stop. I mean, that is a horrendous thing to do, especially in a position as a teacher who is a model for students. And then you do these kind of celebrating death posts, that is unbelievable. It doesn’t matter who the person is. It doesn’t matter how much you disagree. To celebrate, you know, like in this situation. An assassination. Especially as a teacher, you’re teaching And this person was assassinated, Charlie Kirk was assassinated on a college campus. Yeah, and I think social media has gotten so, that when President Trump, there’s attempts there and people on the other side, you know, would celebrate, it’s gotten so liberal with their voices. But even a teacher, you know, this is a believer. For a teacher to celebrate the assassination of anyone, in this case, Charlie Kirk, of course, on a school campus and she is a teacher on a public school campus. And Charlie Kirk, who was well-loved by kids and a great example and model for kids. So anyway, she posted this

celebration of Charlie Kirk's assassination. And so Moms for the Liberty of Duval, the Duval chapter, they emailed Duval County Public Schools and the Florida Department of Education with screenshots of this teacher's public social media post that again celebrated the assassination of Charlie Kirk. Moms for Liberty simply requested officials review whether the post aligned with the professional standards of public school employees. Officials later opened an investigation and subsequently placed the teacher on administrative leave.

So the teacher is Hope McMath. claims now in the lawsuit against Moms for Liberty that the communication from Moms for Liberty to school officials caused her professional and reputational harm. Let's just pause it. I think her actions caused her professional harm. She just got caught. She just got caught doing what she did. And she posted on public social media. Right. So it's not something she privately said. It's not something that she privately posted somewhere. She posted it publicly on social media. So let's deflect those who caught her and blame it on them. So you told me to be harmed because you then informed the officials of what I said publicly.

Now I think Hope McMath, you ruined your own professional and reputational situation when you did this.

So McMath actually dropped an initial claim. She had a defamation claim. But she dropped that. Now she's continuing her claim for wrongful interference and malicious prosecution.

Wait a minute. Who caused a malicious? Let's talk about Charlie Kirk's family. Let's talk about the people that worked with Charlie Kirk. Let's talk about his followers. Who got the damage? Moms for Liberty's not prosecuting anything. Who got the damage? Moms for Liberty hasn't filed a lawsuit. So how is Moms for Liberty prosecuting anything?

Moms for Liberty just is a constitutionally protected First Amendment speaker that informed government officials about something that this teacher posted on a public social media platform.

Well, what about going to Charlie Cook's family and his employees and all that and apologizing, you know, and just get that right and go on with it? It's crazy nonsense. It's just Nonsense.

So Liberty Council, we filed a motion to dismiss because the emails to school officials were truthful, legally protected, calling attention to the teachers' public social media posts, which are the screenshots. And they were part of emails to school officials that Moms for Liberty has a right to petition the government. So Moms for Liberty has a right, just like anyone, to petition and inform the government. So the teacher sued Moms for Liberty for revealing what the teacher did. Yeah.

So McMath is claiming there's interference. I don't know what, interference with her professional contract, teaching.

It's untenable as a matter of law. Since Moms for Liberty did as a citizen organization, all they did was report a public employee's own public statements to the officials charged with

supervising the public school teacher. And that's what they do. One of their motivation is to protect students.

Yeah, it's the school officials that have control and they have authority and they make independent decisions to review the post and to put this teacher on administrative leave. That has nothing to do with Moms for Liberty.

So we are arguing in this case, there's a state law and many states have this and they're called SLAPP laws. And the SLAPP laws are an abbreviation for strategic lawsuit against public participation.

Yeah, we've had that come up. We've had that in other situations, like with our sidewalk counselors and whatnot. So these laws are actually called anti-SLAPP laws. So strategic lawsuit against public participation, those arose from people, for example, in the commercial zoning context.

Someone wants to create some kind of business or building in a particular area. And citizens show up and they make comments to the city zoning officials about why that particular contractor, developer should not have that particular building.

So what happened historically is these contractors to try to intimidate citizens into silence began suing these people, saying, oh, you're defaming us, you're doing this, you're doing that. And these people, these individuals that just showed up for maybe a two-minute speech, now they become a defendant in a lawsuit and they have to hire an attorney and spend thousands and thousands of dollars to defend themselves over a frivolous thing. Well, that became a trend where these big developers wanted to sign on citizens. So what happened is those kinds of lawsuits were called SLAPP lawsuits, strategic lawsuit against public participation. They wanted to stop the public from participating in the debate.

Intending to silence people. Yeah, and so governments, states, and in this case Florida is one of many, they created laws that are called anti-SLAPP laws.

Now, anti-SLAPP laws say if someone like this, and here's a classic example of it, Moms for Liberty is a public entity commenting on a matter of public concern. It's protected by the Constitution.

In this case, they're making information available to the officials in charge with supervising this teacher that the teacher posted on public social media. That's clearly protected by the First Amendment. There's no defamation here. In fact, she, this teacher even dropped the original defamation claim.

So Moms for Liberty has the right to be able to do that as a citizen. But now Moms for Liberty gets sued. So we have notified this teacher and given a warning, you better drop your lawsuit, because if not, we're going to file an anti-SLAPP motion against you.

Now, why is that significant? Because if, in this case, as McMath has done, she does not drop the lawsuit, which she did not, now we file our motion, which we did, we can get attorney's fees when we win.

Moms for Liberty that we represent, we will win this case because Hope McMath does not have a basis for the claim. The only reason Hope McMath, this teacher, filed this against Moms for Liberty is to silence them. And you know what? I think she's underestimated her opponent. She's underestimated Moms for Liberty and their resolve to defend their constitutional rights.

And I pray she comes to Jesus and has a reconciliation with Charlie Kirk's family and all that, because that was just, that's just unbelievable. You can't go out and do that and say that about people.

Yeah, so you know what? We are not only just asking for this case to be dismissed, but now with this anti-SLAPP motion that we are pursuing, winning that would mean that Hope McMath will be responsible for attorney's fees and time that we are investing into this case to defend Moms for Liberty.

Moms for Liberty is a great organization. We're pleased to represent Moms for Liberty and certainly their constitutional rights to free speech. For more information, go to Liberty Counsel's website, lc.org. That's lc.org.

You've been listening to Faith and Freedom, brought to you by Liberty Counsel. We hope that we have motivated you to stand up for your faith, family, and freedom. Get informed and get involved today. Visit Liberty Council's website at lc.org, where you can obtain e-mail alerts and other information to keep you informed and involved. The website again, lc.org.

EXHIBIT H

Email from AmericanPatriot2022@protonmail.com

*To the Florida Department of Education, Office of Professional Practices
Services*

September 11, 2025

From: [AmericanPatrol2022](#)
To: [Burns, Paul](#); [Commissioner](#); [Koncar, Steven](#); [Richey, Kimberly](#); [Johnson, Amelia](#); [Copa, Juan](#)
Subject: Charley Kirk disgusting post by Duval county school teacher
Date: Thursday, September 11, 2025 11:15:54 PM

Hello, these posts were made by a teacher, Hope McMath, at Douglas Anderson School of the Arts in Jacksonville. She made a post about Charlie Kirk's assassination being karma, that karma heard his speeches. This is absolutely disgusting. I've also included screenshots of posts that she's made about the Jacksonville city council where she states that it is filled with racists, references Jim Crowe and posts artwork that she's created and states Jim Crowe 2.0 is in Jacksonville. She also refers to a member of the board, whom she mentions by name, as the Grand Wizard of the KKK.

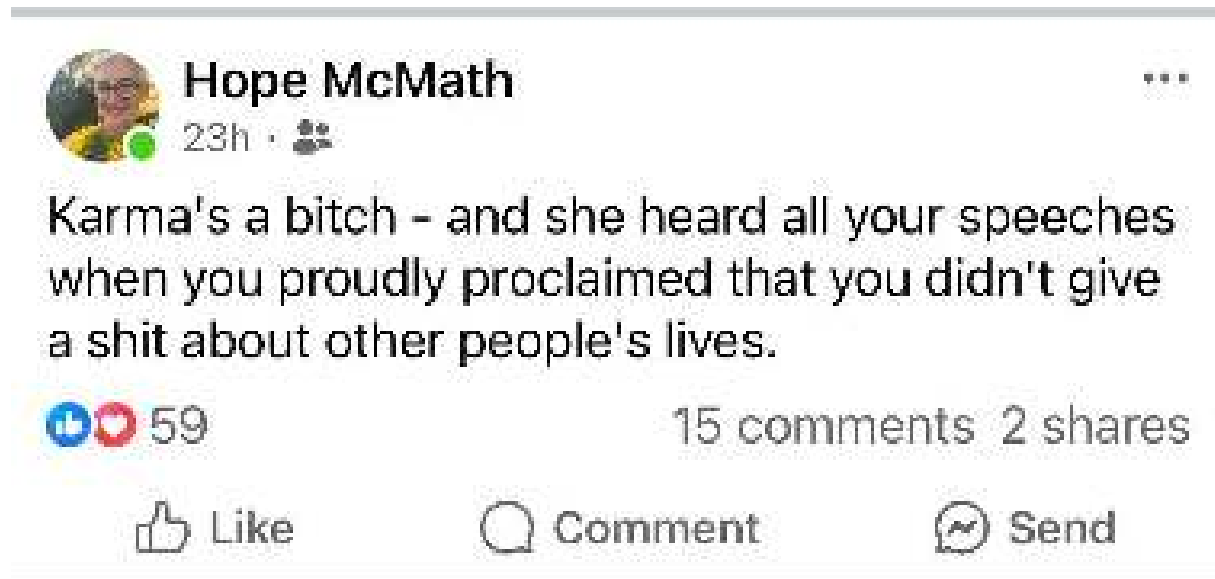
These posts are absolutely disgusting, especially considering that they're coming from a public educator that wields power and influence over young adults. I would not trust my child or other parents' children being instructed by this teacher. I'm sure that there are thousands of parents across the state that would feel the exact same way if they were to see her posts and hateful speech on a public platform.

These types of posts are a big part of the problem that our society is facing and an educator of the future leaders of tomorrow should absolutely know better and exemplify better judgement. I hope that you investigate this teacher, find her hateful speech as disgusting as I do and remove her from the classroom immediately. I debated on posting this on social media so that other parents can see what one of our children's educators, whom is trusted to set an example for kids, is posting on Facebook, but I decided not to take that route and give you the opportunity to address this issue.

Thank you for your time and in advance for your diligence in resolving this issue swiftly and appropriately.

Sincerely,

A concerned and disgusted parent



A screenshot of a Facebook post by Hope McMath. The post features a profile picture of a woman with glasses and a yellow top. The text of the post reads: "Karma's a bitch - and she heard all your speeches when you proudly proclaimed that you didn't give a shit about other people's lives." Below the text, there are 59 reactions (likes and hearts), 15 comments, and 2 shares. At the bottom of the post, there are three icons: a thumbs up for "Like", a speech bubble for "Comment", and a paper plane for "Send".



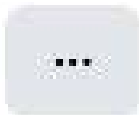


Hope McMath

3.3K followers • 575 following

 Follow

 Message



Posts

About

Reels

More ▾

Details

 Profile · Digital creator

 Joined December 2008

... See Hope's About Info

Hope's posts



Hope McMath



5h · 

I am giving activists, educators, cultural workers and truth telling friends a head's up. There are people in power in our city trying to take folks





Home



Reels



Friends



Marketplace



Notifications



Profile

10:21



Hope McMath



Posts

About

Reels


More ▾

Jim Crow 2.0 in Jax ain't no lie.

Art by me - which I wish I could stop pulling back out.





 Follow

 Message

...

-  Home
-  Reels
-  Friends
-  Marketplace
-  Notifications
-  Profile



Hope McMath

...

1d · 

Racist dog whistles abound on Jacksonville's City Council. It was on full display last night as the grand wizard who calls himself Rory Diamond attempted to attack every group of people - his constituents - that do not look like him. His MAGA maneuvers are gross and dangerous. Gratitude for the Council people who stood up against this foolishness and walked out. Because if you aren't standing up against this shitty treatment of our

neighbors then get out of the way. We are ALL harmed by this grandstanding and misuse of power.

Jim Crow 2.0 in Jax ain't no lie.

Art by me - which I wish I could stop pulling back out.



Sent from [Proton Mail](#) for iOS

EXHIBIT I

Petitioner's Response to Respondent's First Set of Interrogatories

Kamoutsas v. McMath, DOAH Case No. 25-5786PL

Dated March 18, 2026

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANASTASIOS KAMOITSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

DOAH Case No. 25-5786PL
Agency Case No. 256-0563

HOPE MCMATH,

Respondent.

PETITIONER'S RESPONSE TO RESPONDENT'S FIRST SET OF INTERROGATORIES

1. Ron Weaver, attorney for the Petitioner.

2. Petitioner does not have an answer to this interrogatory. Decisions regarding "Respondent's suspension, formal warning and failure to return Respondent to the classroom" would have been made at the school district level.

3. The Commissioner of Education is the person who made the decision to file the Administrative Complaint against Respondent.

4. Petitioner does not have an answer to this interrogatory. The Department of Education did not play "any role in the decision to suspend, formally warn and failure to return Respondent to the classroom."

5. See the Administrative Complaint. Respondent violated the statutes (Counts 1 through 3) and rules (Counts 4 and 5) by engaging in the conduct alleged in the Material Allegations (paragraphs 3 through 5) of the Administrative Complaint.

6. All information regarding Respondent in possession of Petitioner, including investigations, inquiries, or reviews, are in the Department of Education (DOE) investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

7. All complaints, reports, or concerns received by DOE are in the DOE investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

8. Petitioner does not have an answer to this interrogatory. The interrogatory is vague in that it requests information regarding "other employees" and "similar speech or conduct."

9. All communications among the Duval County School System, the Duval County School Board, or the DOE regarding Respondent's conduct alleged in the Administrative Complaint are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

10. All documents, emails, text messages, or records, if any, regarding Respondent's conduct alleged in the Administrative Complaint are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent. No decision has been made by Petitioner regarding disciplinary action to be imposed on Respondent.

11. Objection – relevance. Training and guidance given to DOE staff regarding First Amendment rights, academic freedom, or employee speech are not relevant to the issues in this case.

12. DOE does not have any concerns regarding public reaction, media attention, or political pressure related to Respondent's conduct.

13. Any communications with board members, parents, donors, or outside individuals and DOE would be in DOE's investigation report.

14. The requested documents are not in possession of Petitioner.

15. Objection – Vagueness regarding “alternative measures.” Petitioner did not take any action in suspending Respondent, therefore no “alternative measures” were taken.

/s/ Ron Weaver
RON WEAVER
Florida Bar No. 486396
2220 County Road 210 West
Suite 108, PMB 334
Jacksonville, Florida 32259
Telephone: 850.980.0254
Email: ron@ronweaverlaw.com
Attorney for Petitioner

EXHIBIT J

Recommended Order, Duval County School Board v. Caggiano

DOAH Case No. 20-5259TTS

ALJ Robert J. Telfer III. Filed November 15, 2021.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DUVAL COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 20-5259TTS

THOMAS CAGGIANO,

Respondent.

RECOMMENDED ORDER

On May 27, July 13, August 11 and 18, 2021, Administrative Law Judge Robert J. Telfer III, of the Florida Division of Administrative Hearings (DOAH), conducted a final hearing pursuant to section 120.57(1), Florida Statutes (2020), by the Zoom conference.

APPEARANCES

For Petitioner: Derrel Q. Chatmon, Esquire
Office of General Counsel
City of Jacksonville
Suite 480
117 West Duval Street,
Jacksonville, Florida 32202

For Respondent: Kelly B. Mathis, Esquire
Mathis Law Firm
3577 Cardinal Point Drive
Jacksonville, Florida 32257

STATEMENT OF THE ISSUE

Whether just cause exists to reprimand and suspend Respondent, Thomas Caggiano, for five days without pay from his position as a teacher with

Petitioner, the School Board of Duval County (School Board),¹ for the reasons set forth in the March 26, 2021, correspondence from the School Board, which contained an April 6, 2021, Amended Step III Progressive Discipline Petition.

PRELIMINARY STATEMENT

On November 19, 2020, Victoria N. Schultz, the Assistant Superintendent of Duval County Public Schools, Human Resources Services, sent to Mr. Caggiano, correspondence entitled “Step III Progressive Discipline – Written Reprimand and Suspension Without Pay Pending School Board Approval,” which notified Mr. Caggiano of the Duval County School District’s intention to issue a written reprimand and suspend Mr. Caggiano for five working days from employment, without pay, and to require him to complete a course in Culture Diversity, pending the School Board’s approval, for posts, reports, or comments to posts made on Mr. Caggiano’s Facebook account which Ms. Schultz characterized as containing “inappropriate, derogatory, demeaning and inflammatory material and comments referencing sexual orientation, national origin and domestic abuse”

On March 17, 2021, the School Board filed a Motion for Leave to Amend the November 19, 2020, Step III Progressive Discipline. Having received no response in opposition, the undersigned entered, on March 31, an Order Granting Petitioner’s Motion for Leave to Amend the November 19, 2020, Step III Progressive Discipline. In correspondence dated March 26, 2021, Ms. Schultz provided Mr. Caggiano with an “Amended Step III Progressive Discipline – Written Reprimand and Suspension Without Pay Pending School Board Approval,” which authorized the issuance of Amended Step III Progressive Discipline on April 6, 2021 (Amended Step III Progressive Discipline). The Amended Step III Progressive Discipline correspondence is

¹ The School Board’s official name is “The School Board of Duval County.” § 1001.40, Fla. Stat. (2021) (providing that “[t]he governing body of each school district shall be a district school board. Each district school board is constituted a body corporate by the name of “The School Board of County, Florida.”). The case style has been amended accordingly.

similar to the November 19, 2020, correspondence, but adds an additional post and comment that Mr. Caggiano made on his Facebook account.

The undersigned originally noticed this matter for a final hearing on March 25, 2021. On March 15, 2021, the School Board filed an Unopposed Motion to Continue the Scheduled Hearing Due to the Impact of COVID-19 and New Material Evidence. On that same date, the undersigned entered an Order Granting Continuance and Rescheduling Hearing by Zoom Conference, for May 27, 2021.

The undersigned conducted a final hearing on May 27, July 13, August 11 and 18, 2021. The School Board presented the testimony of: J.N.S., a student at Sandalwood High School (SHS); C.C, a student at SHS; Brannon Lutz, faculty at SHS; Cassie Solliday, faculty at SHS; Randal Allen Lessen, faculty at SHS; Rhonda Shene Motley, administrator at SHS; JC, a student at SHS; Alyson Marie Porak, a parent of students at SHS; Kevin Lee Stika, administrator for Duval County Public Schools; Reginald Lafranc Johnson, supervisor for Duval County Public Schools; Dr. Saryn Hatcher; principal at SHS; Jamie Brennan, school psychologist supervisor for Duval County Public Schools; and Ms. Schultz. The undersigned entered into evidence Petitioner's Exhibits P1 through 12, 14, 15, 21, 24, 25, 27, 29, 30, 32, 36, 38, 39, 42 through 47, 50, 55 through 57, 62 through 64, 66, 67, and 69 through 71. Mr. Caggiano testified on his own behalf, and presented the testimony of his daughter, Arielle Caggiano. Mr. Caggiano did not offer any exhibits into evidence. On rebuttal, the School Board presented the testimony of: Christina Gentzkow, a parent of a student at SHS; Sandra Rocquin, a former administrator at SHS; and Dr. Tiffany Wells, an administrator at SHS. The undersigned entered into evidence Petitioner's Rebuttal Exhibit PR 1.

At the conclusion of the final hearing, the parties jointly requested a 30-day time period after the filing of the transcript to submit their proposed recommended orders. The four-volume Transcript was filed with DOAH on September 9, 2021. The School Board timely filed a Proposed Recommended Order; however, Mr. Caggiano filed his Proposed Recommended Order late. The School Board thereafter, on October 6, 2021, filed a Motion to Strike Respondent's Untimely Proposed Recommended Order or Alternatively Grant Petitioner Leave to supplement (Amend) its Proposed Recommended Order, which indicated that Respondent opposed the striking of his Proposed Recommended Order, but did not oppose leave for the School Board to file a Supplement to its Proposed Recommended Order, and thereafter filed a Response on October 6, 2021, restating that position. On October 8, 2021, the undersigned entered an Order Denying Petitioner's Motion to Strike Respondent's Proposed Recommended Order and Granting Petitioner Leave to File a Supplemental Proposed Recommended Order. The School Board thereafter timely filed a Supplemental Proposed Recommended Order on October 15, 2021.

This proceeding is governed by the law in effect at the time of the commission of the acts alleged to warrant discipline. *See McCloskey v. Dep't of Fin. Servs.*, 115 So. 3d 441, 444 (Fla. 5th DCA 2013). Accordingly, all statutory references are to the 2020 codification of the Florida Statutes unless otherwise indicated.

FINDINGS OF FACT

1. The School Board is charged with the duty to operate, control, and supervise free public schools within Duval County Public Schools. *See* Art. IX, § 4(b), Fla. Const.; § 1012.33(1)(a), Fla. Stat.

2. The School Board and Mr. Caggiano executed a professional service contract, as defined in section 1012.33, Florida Statutes, and he has been employed by the School Board since 1994.

3. The School Board has renewed this professional services contract on an annual basis.

4. The parties' employment relationship is governed by School Board policies, Florida laws, Department of Education rules, and the Collective Bargaining Agreement (CBA) between Duval Teachers United and the School Board. The CBA relevant to this matter was effective from 2017 through 2020.²

Mr. Caggiano's Employment at SHS

5. Mr. Caggiano had been a math teacher at SHS for numerous years, including the time period relevant to the allegations of the Amended Step III Progressive Discipline correspondence. He currently remains employed by the School Board, but is currently not a math teacher at SHS.

6. During his career with the School Board, Mr. Caggiano received positive employment evaluations. Prior to the allegations at issue, the School Board had never disciplined Mr. Caggiano.

7. During the 2019/2020 school year, Mr. Caggiano taught Algebra II. During his career at SHS, he also taught geometry, trigonometry, analytic geometry, calculus, and statistics. He also taught college-level classes for Embry-Riddle Aeronautical University during this time.

8. As a teacher at SHS and an employee of the School Board, Mr. Caggiano received numerous and various training materials and updates concerning governing policies and procedures, electronically (via email).

² The CBA entered into evidence, without objection, and which was unexecuted, states on its cover page that it is effective from 2017 through 2020. However, the same document, in Article XV, section C, states that it is effective from July 1, 2014, through June 30, 2017. As the Amended Step III Progressive Discipline letter references the 2017-2020 CBA, and as no party objected to the CBA that the undersigned accepted into evidence, the undersigned has treated the CBA entered into evidence as the CBA that was in effect during the allegations concerning Mr. Caggiano.

Many of these materials were provided to Mr. Caggiano prior to faculty and staff training, which occurred in the weeks leading up to the start of the school year. Among the various materials provided to Mr. Caggiano (and other faculty) was a handout entitled “Ethics and Professionalism,” provided by Duval County Public Schools’ Office of Equity and Inclusion/Professional Standards. SHS also provided Mr. Caggiano (and other faculty) a link to its handbook, which contained policies, laws, and rules that govern Mr. Caggiano.

9. The “Ethics and Professionalism” training materials contained a section on social media, and stated:

Please ensure that personal social media accounts are set to private. Do not accept friend requests from students or their parents, and use discretion when inviting colleagues to your pages. Please ensure that your social media posts are respectful and do not possess profane, insensitive, or offensive language or images. As a reminder, you may not post photographs or identifying language about your students. It is a violation of FERPA.

In the Acceptable Use Policy (2.1.11), it states “Employees must maintain professional boundaries between themselves and students. Employees will not solicit or engage in inappropriate communications with students verbally, in writing, or electronically regardless of the age of the student. Employees will not engage in any direct electronic communications with students, parents, supervisors, or co-workers whether by e-mail, instant messaging, or other digital media that will adversely affect the employee’s ability to perform his or her job.”

Here are some best practices to follow:

- You are the adult, the teacher, the professional. You are not their friend.

- You are in violation of the Code of Ethics if you post disparaging comments about your colleagues, administration, and/or the Superintendent.
- Do not post material that is illegal, sexually explicit, obscene, derogatory, related to alcohol or drug use, or in violation of copyright laws.
- Do not access social networking sites from your school computer or during work time.
- Be cautious about photos posted online. Students and parents could view them!
- Any information posted to, or communicated through, a social networking site shall not bring disfavor, embarrassment or condemnation to the student, employee or school district.

10. Mr. Caggiano (and other faculty) further received materials and training related to the School Board's Non-Discrimination Policy (Board Policy 10.10), which states:

Duval County Public Schools (DCPS) believes that education should be provided in an atmosphere where differences are understood and appreciated, and where all persons are treated fairly and with respect, and where all persons are free from discrimination, harassment and threats of violence or abuse. School board policy explicitly states, "No person shall, on the basis of a person's actual or perceived identity with regard to race, color, religion, gender or gender identity, age, marital status, disability, sexual orientation, political or religious beliefs, national or ethnic origin, veteran status, or any other distinguishing physical or personality characteristics, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity on in any employment conditions or practices conducted by this School District, except as provided by law."

Previous Incident Involving Transgender Student J.N.S.

11. J.N.S., a student at SHS, is a female transgender student and has identified as female at least since the 2018-2019 school year, her freshman year.

12. In the summer before her sophomore year, after receiving her class assignments for the new academic year, J.N.S. sent an email to all of her new teachers, including Mr. Caggiano. The August 5, 2019, email, sent at 9:21 p.m., stated:

I will be in your class during the 2019-2020 school year, and I would like to let you know that I am a Male-to-Female Transgender student who would like to go by the name [J.N.S.] as well as female pronouns in your class. I am sending this email before the actual school year starts so that there is plenty of time to change it on the roll before then if possible. Thank you very much for carrying out my request, I can't wait to attend your class this year.

13. That same evening, Mr. Caggiano responded to J.N.S.'s email:

I will call you by any reasonable name you like, but the pronouns are not a negotiable thing for me. I will NOT refer to you with female pronouns. If this is not acceptable for you change classes.

J.N.S. testified that most of her remaining teachers responded to this email in a positive fashion, agreeing to her request. J.N.S. also testified that she posted her email interaction with Mr. Caggiano on one of her social media platforms.

14. On August 6, 2019, during the faculty pre-planning period before classes started, SHS held a mandatory training session presented by Dr. Wells as part of the Duval County Public Schools' "All In: Ally for All" program. As part of this training, Dr. Wells presented various Duval County Public Schools policies that included the treatment of transgender students, including that transgender students had a right to be called by names that they chose. Principal Hatcher also attended this training, and stated that all

students had a right to be called by their requested names, including pronouns. A sign-in sheet reflected that Mr. Caggiano attended this training session, although Mr. Caggiano testified that he did not recall attending.

15. On August 7, 2019, J.N.S. contacted the SHS school counselor, Ms. Solliday, to request a transfer out of Mr. Caggiano's class. After conferring with SHS Assistant Principal Motley, Ms. Solliday transferred J.N.S. to a different class with a different teacher.

16. J.N.S. never attended Mr. Caggiano's class, was never his student during the 2019-2020 school year, and has never been a student in Mr. Caggiano's class.

17. On August 12, 2019, Principal Hatcher met with Mr. Caggiano regarding his email response to J.N.S. and to counsel him regarding Duval County Public Schools' policies for addressing students. Principal Hatcher informed Mr. Caggiano that he should use whatever name or pronoun a student asks to be called. Mr. Caggiano testified that he told Principal Hatcher he would stop using all pronouns, and refer to a student by the name requested.

18. Although the School Board devoted a significant amount of time and effort at the final hearing to this incident involving Mr. Caggiano's response to J.N.S.'s email request, this incident is not part of the Amended Step III Progressive Discipline correspondence that is the subject of the instant action. Dr. Hatcher counselled Mr. Caggiano on this issue. The undersigned heard testimony of various students, faculty, administrators, and even a school psychologist concerning this incident, which the undersigned finds provides background to the issues included in the Amended Step III Progressive Discipline correspondence; however, this particular incident does not form the basis for the proposed discipline in the instant proceeding.

Mr. Caggiano's Use of Facebook

19. Mr. Caggiano testified that he decided to set up a Facebook account sometime in 2008, to catch up with old friends. He testified that his daughter,

Arielle, actually set up the account, and told him that his account's settings were "private."

20. Thereafter, Mr. Caggiano stated that he posted and commented on posts of his Facebook "friends," and because he believed his settings were "private," he believed that only those "friends" could see those posts and comments. He testified that "[a]ll my posts were either political commentary, social commentary, or adult humor."

21. Mr. Caggiano did not accept any of his students as Facebook "friends," but did have a few fellow SHS teachers as Facebook "friends." He testified that he did not think anybody from SHS would be able to see his Facebook posts, aside from the fellow SHS teacher "friends."

22. Additionally, at some point in the past, Mr. Caggiano set up a separate Facebook account, called "AP Caggiano," for students in an advanced placement class to post questions or comments concerning a class. Mr. Caggiano testified that he had not used that particular Facebook account in some time.

23. Mr. Caggiano also testified that he never accessed his Facebook account at SHS or during his normal work hours. Mr. Stika, who was a forensic examiner in the Information Technologies department of Duval County Public Schools, testified that Mr. Caggiano did not use his school-issued laptop to access Facebook during the time period relevant to the instant matter.

Amended Step III Progressive Discipline

24. On May 19, 2020, the Duval County Public Schools Office of Equity and Inclusion/Professional Standards received an email concerning Mr. Caggiano's Facebook postings.

25. On May 21, 2020, the Florida Times Union published a story concerning Mr. Caggiano's Facebook postings and comments. The May 19, 2021, email, and the May 21, 2020, newspaper article, caused an

investigation into Mr. Caggiano’s Facebook posts and comments, conducted primarily by Mr. Johnson.

26. Mr. Johnson interviewed parents, students, former students, Principal Hatcher, Mr. Stika, and Mr. Caggiano, as part of this investigation. His findings form the basis for the Amended Step III Progressive Discipline correspondence.

27. As alleged in the Amended Step III Progressive Discipline correspondence, the complainant provided screenshots of Mr. Caggiano’s Facebook postings. Mr. Johnson’s investigation discovered a Facebook account in the name of “Thomas Caggiano,” who was listed as a Duval County Public School teacher. Mr. Caggiano admitted that the Facebook account referenced in the Amended Step III Progressive Discipline correspondence was his personal Facebook account, which his daughter initially set up.

28. As reflected in the Amended Step III Progressive Discipline correspondence, the investigation revealed Mr. Caggiano, commencing on or about January 2020, admitted to 27 various Facebook posts, reposts, or comments. The Amended Step III Progressive Discipline correspondence specifically alleges that “some of your posts and/or comments were as follows[,]” and then lists seven specific posts, reposts, or comments from Mr. Caggiano’s personal Facebook account.³

29. At the final hearing, the undersigned heard testimony and considered evidence of Mr. Caggiano’s Facebook posts, reposts, or comments, including Mr. Caggiano’s testimony, and finds that Mr. Caggiano’s Facebook account reflects the following posts and reposts—which could be considered “memes,” which can be defined as amusing or interesting pictures, videos, etc., that are

³ The School Board introduced into evidence other Facebook posts, reposts, or comments attributed to Mr. Caggiano, and questioned numerous witnesses about this “other” Facebook activity. The undersigned has only considered the allegations contained in the Amended Step III Progressive Discipline correspondence in determining whether the School Board has just cause to discipline Mr. Caggiano.

spread widely through the internet or social media—or comments to memes or articles, that were made, or reposted, by Mr. Caggiano. These seven posts, reposts, or comments, which are the only posts, reports, or comments alleged in the Amended Step III Progressive Discipline, are:

(a) A repost from a Facebook entity called “Messenger of Liberty,” which states: “My son is taking part in a social experiment. He has to wear a Bernie 2020 t-shirt for 2 weeks and see how people react. So far he’s been spit on, punched and had a bottle thrown at him! I’m curious to see what happens when he goes outside.”;

(b) A repost from an individual and an entity called “LIFT – LONG ISLANDERS FOR TRUMP,” which states: “Crazy but TRUE, If this girl sees a penis at a party it’s a crime ... [with an accompanying photograph of a young woman], but if this girl sees a penis in the woman’s bathroom ... it’s tolerance [with an accompanying photograph of a girl in a bathroom]. Vote Republican and put an end to the madness.”

(c) A post authored by Mr. Caggiano which states: “Dumb ass liberals are now organizing protest against the killing of the Iranian general (terrorist) who was responsible for many attacks against the USA. Amazing how TRUMP derangement syndrome can cause democrap, and the main stream media, to support our enemies.”;

(d) A repost from another individual, which appears to be a “screen grab” from a Fox News segment, which states, at the top, “MAN AND WOMAN,” and which then states: “A man goes home and masturbates his typical fantasy. A woman on her knees, a woman tied up, a woman abused. A woman enjoys intercourse with her man—she fantasizes being raped by 3 men simultaneously...” The “screen grab” attributes this quote to Bernie Sanders, currently a United States Senator from Vermont, sometime in the 1970’s (the exhibit copy is unclear), and Mr. Caggiano’s handwritten notes next to this exhibit states “Bernie said this!”;

(e) A repost from a Facebook entity called “Maine Bikers,” which states: “Meanwhile at the ‘Bikers for Bernie’ rally...[,]” and which contains a picture of two nude men on a motorcycle;

(f) What appears to be an attempted repost by Mr. Caggiano, which Facebook apparently removed with the message “False information, Checked by independent fact-checkers,” but which also contains the following comments from Mr. Caggiano: “Teach this childish nasty bitch a lesson. Have her treasonous ass removed from office and put in jail.”; and

(g) A repost, dated August 19, 2020, from Mr. Caggiano, of an article from an entity called “Lifesitenews.com,” with a headline that states, “Teen girls stage school walkout to protest boys in their bathroom who claim to be ‘girls’”; and to which Mr. Caggiano commented, “Love it! About time people stood up to this insanity.”

30. The Amended Step III Progressive Discipline correspondence further alleges:

Resulting from our Facebook postings, your school and district leadership were both impacted as they received several complaints and/or concerns from students, parents and constituents expressing their displeasure with your conduct as a Duval county teacher and the comments displayed within your Facebook account. Many parents also contacted the school and informed the principal that they would not want their children in your class for the 2021-2021 school year. If this administrative action had not occurred, the public consequences would cause an equity issue for other teachers by redistributing your assigned students or assignment of replacement teachers.

While you are certainly entitled to your First Amendment right to free speech, your actions are in direct contradiction to the District’s mission to “Provide educational excellence in every school, in every classroom, for every student, every day.” This is without regard to a student’s ethnicity, race, religious beliefs, gender orientation, political

persuasion, or any other qualifier. In addition, the Principals of Professional Conduct of the Education Profession in Florida (Florida Administrative Code 6A-10.081), requires that an individual, “Take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.”

As an educator you have a duty and/or a responsibility to maintain the respect of the community and your colleagues. You posted and/or shared inappropriate, derogatory, demeaning and inflammatory material and comments referencing sexual orientation, national origin, and domestic abuse on your public social media (Facebook) account. Your conduct was unethical, lacked integrity and violated Duval County School Board policy, as such, warrants corrective discipline.

31. The Amended Step III Progressive Discipline correspondence alleges that Mr. Caggiano’s Facebook posts, reposts, and comments violated section 1006.147, Florida Statutes; Florida Administrative Code Rules; rules 6A-5.053 and 6A-10.081, and Duval County School Board Policies 6.80 and 10.10. It further alleges that, pursuant to article V, section 9, of the CBA, which concerns “potential harm to the physical or mental wellbeing of a student, or students, constitutes more severe acts of misconduct which warrant circumventing progressive disciplinary steps,” and imposed discipline of a written reprimand, five consecutive working days of suspension without pay, and a requirement that Mr. Caggiano complete a course in “Culture Diversity” by a certain date.⁴

Additional Facts Concerning Mr. Caggiano’s Facebook Account

32. J.N.S. testified that at some point after her email interaction with Mr. Caggiano, she was “curious” and decided to access his Facebook account,

⁴ A review of the CBA in evidence shows that the provision of the CBA that addresses progressive discipline may be found in article V, section C, subsections 9 and 10.

and saw numerous posts, including some of the posts that form the basis of the School Board's proposed discipline. She stated that she was "appalled, but not surprised." She also testified that the Florida Times Union reporter who authored the May 21, 2020, article about Mr. Caggiano reached out to her through social media concerning Mr. Caggiano.

33. Ms. Schultz previously served as SHS Principal during the time period that Mr. Caggiano taught at SHS. She recalled seeing Mr. Caggiano's posts that were "forwarded" to her, and she thereafter communicated directly with Mr. Caggiano. She stated that she asked Mr. Caggiano to remove his Facebook posts. In an email exchange between them, after Ms. Schultz informed Mr. Caggiano that she was able to access his Facebook account numerous times after he stated that he had changed his account settings to private, Mr. Caggiano wrote:

Thank you for your email. I have had my daughter assist me in making my Facebook account settings "private," and I have changed my account password. I am going through and removing a number of posts that were made by people that I do not know. I do not want to shut the entire account down, because I have a number of personal photos of my grandkids and me. Please confirm whether you are still able to see the Facebook "wall" for my account. I want to make sure the settings are properly adjusted so that only people whom I accept as "friends" can see what I post at this time.

As you are aware, I have also received inquiries from the Duval County Public Schools Equity & Inclusion/Professional Standards supervisor In the emails, [he] provided me with a link to a Times-Union article by reporter Emily Bloch. [He] inquired whether I posted the items in question, on my Facebook account, as attributed by the writer of the article.

I have reviewed the article. The article indicates that I am not obligated to respond to [his] inquiry. The article states that a "note from the Office of

Equity and Inclusion and Professional Standards added that an inquiry ‘could take some time, as the office cannot compel anyone to meet or speak with us,’ and that I “did not directly reference a student of direct [my] posts at a student in [my] posts,” nor identify myself as a Duval County Public Schools teacher in my posts. Please confirm whether the article’s statement is accurate, as I prefer to only respond on this issue as I am obligated and as is otherwise necessary.

For the record, I view Emily Bloch’s article as a well-timed political hit piece, full of inaccuracies, targeting me for my political views on issues of sexuality, to promote the latest version of the “need” for the City of Jacksonville Human Rights Ordinance (“HRO”), which was illegally passed back in 2017, and recently struck down by a Florida court. It is a transparent attempt to torpedo a good teacher’s career, to score political points. I hope the Duval County Schools will not countenance this reporter’s efforts to manufacture an issue to promote her political causes, especially where the public cannot come out to oppose the latest ordinance, because of Coronavirus.

I treat all of my students with dignity and respect, and my classroom record speaks for itself. I will not lie to my students. I treat all of them with honesty and fairness.

On the other hand, I make no secrets that when I am not acting in my official capacity as a Duval County Schools teacher, I do engage in robust political debate on political issues. I deny making any kind of “phobic” remarks or posts. A “phobia” is an irrational fear. Holding traditional views about the biological nature of sex (and need for sex-based privacy in bathrooms and lockers) is not a “phobia.” Disagreement with the political orthodoxy of the Left on matters of sexuality is not a “phobia.” Sharing my belief on my personal Facebook that there are only two genders that correspond with

biological sex is not a “phobia.” Ms. Bloch may not like the way I make those points, and that is fine. Since I have been active on Facebook, I know I have shared various political memes on my personal Facebook wall, or commented in response to others’ postings. I do not instantly recall them all. Memes are often a good way of making pithy political statements, with a touch of humor. Sometimes “humor” is in the eye of the beholder, or is funny at the time. I’m sure I found certain memes funny or punchy at the time, and I have friends who did as well. I’m sure others may not find them funny, or may disagree with me, as is their right.

I have not gone back through the last year’s worth of Facebook postings, and I am unable to verify some of Ms. Bloch’s attributed quotes. I can confirm that the account settings are now “private.”

I stand by a number of statements Ms. Bloch attributes to me (or at least, I agree with the sentiments expressed, where they may have been posted by me or others). Others I do not.

I will also note that at least one of the specifically quoted references in Ms. Bloch’s article was taken out of context, and she uses that out-of-context quote to suggest my remarks are “racist” or “xenophobic.” I’m neither. In fact, some of my beautiful grandchildren are “biracial” (for lack of a better term – there is only one “race” – the human race). But even having to make that note is offensive, and suggests bigotry and prejudice on the part of Ms. Bloch in leveling that charge against me. For the record, the “corona” or “covid” food reference was a political jab at President Trump’s references to the “CHINA” virus. Nothing more, nothing less.

I trust that the Duval County Schools will continue to respect the rights of teachers to engage in robust political debate on Facebook, on matters of public concern (such as the political “transgenderism” movement – “Exhibit A” of which is the novel “lexicon” Ms. Bloch placed in her article, purporting

to tell the public which terms are acceptable in the debate, and which are not).

The First Amendment surrounds political speech with the highest level of protection, whether some people find the speech of others “offensive,” or wish to silence speakers with whom they disagree.

34. Mr. Caggiano and his daughter, Arielle, testified that it was, and has been, Mr. Caggiano’s intention that his Facebook account settings be “private” so that only his “friends” could see them, and that after the May 21, 2020, Florida Times Union article, they both checked and saw that it was not set to private. Arielle then set Mr. Caggiano’s settings back to private.

35. The School Board called numerous witnesses, including students and parents, who testified about accessing Mr. Caggiano’s Facebook account. None of the student witnesses (including J.N.S.) were students of Mr. Caggiano. Ms. Porak, a parent of students at SHS, testified that neither of her children had Mr. Caggiano for a teacher. The various student and teacher witnesses discussed a number of Mr. Caggiano’s Facebook posts, reposts, and comments, only some of which were contained in the Amended Step III Progressive Discipline correspondence.

Impact of Mr. Caggiano’s Facebook Posts

36. After the publishing of the May 21, 2020, Florida Times Union article, school officials, including Ms. Schultz and Dr. Hatcher, testified to receiving numerous complaints. The undersigned received into evidence numerous complaints from parents concerning Mr. Caggiano’s Facebook posts, some of which were included with Mr. Johnson’s investigative report. Some of these parents also testified at the final hearing concerning their complaints and feelings concerning Mr. Caggiano’s Facebook activity. These parents testified that they felt Mr. Caggiano’s Facebook posts were inappropriate for a teacher.

37. Assistant Principal Motley testified that a total of four students (not including J.N.S.) requested and were transferred out of Mr. Caggiano’s classes during the Spring 2020 semester.

38. Dr. Hatcher testified that after the Duval County Public Schools removed Mr. Caggiano from SHS, it took part of the Fall 2020/2021 semester to hire a full-time replacement teacher. During that semester, several substitute teachers taught what would have been Mr. Caggiano’s math classes before SHS hired a full time teacher.

39. Ms. Brennan testified that Mr. Caggiano’s Facebook posts impacted J.N.S. negatively. Ms. Brennan did not perform a psychological assessment of J.N.S.; the School Board requested that Ms. Brennan provide emotional support to J.N.S. during her preparation as a witness in this matter in March 2021—more than a year after J.N.S. testified that she read Mr. Caggiano’s Facebook posts. Ms. Brennan testified that J.N.S. has experienced symptoms of depression. She also testified that J.N.S.—previously an A-B student her freshman year, and who had few absences her sophomore year—had approximately 345 separate class absences from school her junior year and was retained.

Mr. Caggiano’s Explanation

40. Mr. Caggiano admitted to having authored the Facebook posts, reposts, and comments that are contained in the Amended Step III Progressive Discipline correspondence and detailed in paragraph 29 above.

41. Mr. Caggiano testified that his daughter Arielle “did everything” in setting up his Facebook account, to ensure that his settings were private so that only people he accepted as “friends” could see his posts, reposts, and comments. He further stated that, for the approximately 10 years after establishing his Facebook account, he believed his settings were private. After learning in 2019/2020 that members of the public could view his Facebook account, he again asked Arielle to ensure that it was private.

42. Mr. Caggiano believes his Facebook account was “hacked.” He testified that he believed it to be set to private, and after learning otherwise, “fixed” it. Then, he found it was “public” again. As there was no additional testimony or evidence concerning whether Mr. Caggiano’s Facebook account was hacked, the undersigned does not credit this explanation.

43. Mr. Caggiano testified about the seven posts, reposts, or comments that are the subject of the Amended Step III Progressive Discipline correspondence and detailed in paragraph 29 above. Mr. Caggiano did not express any regret in making any of these Facebook posts, reposts, or comments.

44. With respect to Mr. Caggiano’s repost from a Facebook entity called “Messenger of Liberty,” which states, in part, “My son is taking part in a social experiment[,]” Mr. Caggiano testified that “it’s funny. All my posts were either political commentary, social commentary, or adult humor. And that’s funny. Okay. So for somebody to look at that and not giggle at least, you know, I don’t think you know what funny is. That’s funny.”

45. This particular repost states that, after his son wears a “Bernie” t-shirt, “[s]o far he’s been spit on, punched and had a bottle thrown at him.” Although Mr. Caggiano testified that he believed this to be “funny,” the undersigned finds that it also could be logically read to encourage violence against a child.

46. With respect to Mr. Caggiano’s repost from another individual, which appears to be a “screen grab” from a Fox News segment, which states, at the top, “MAN AND WOMAN,” and which then states: “A man goes home and masturbates his typical fantasy. A woman on her knees, a woman tied up, a woman abused. A woman enjoys intercourse with her man—she fantasizes being raped by 3 men simultaneously...[,]” and which attributes this quote to Bernie Sanders, sometime in the 1970’s (the exhibit copy is unclear), Mr. Caggiano testified that it was not his opinion, but that he was quoting Bernie Sanders, and that “people should know somebody who’s a sitting

senator, twice presidential candidate, former mayor of New York City, has this sort of mentality.”

47. On cross-examination, when asked if “women, teenage girls, could be offended by this post[,]” Mr. Caggiano testified, “I think everybody should be offended by this.” The undersigned finds that despite Mr. Caggiano’s belief that his post makes an important point about Bernie Sanders, the undersigned finds that it can be logically read to be patently offensive, discriminatory, and degrading to women. Mr. Caggiano’s own testimony confirms this.

48. The undersigned finds that the remaining posts, reposts, or comments, can be fairly characterized as political memes that, depending on the viewpoint of the reader, could be characterized as crude political commentary, passionate advocacy, or humor. While these postings, which are generally consistent with a conservative ideology, might not originate from more traditionally respected sources like the *National Review* or the opinion page of the *Wall Street Journal*, they are the type of abrasive political speech that one regularly finds in social media.

49. In particular, with respect to Mr. Caggiano’s repost of the meme entitled “Crazy but TRUE,” and the article from an entity called “Lifesitenews.com,” with a headline that states, “Teen girls stage school walkout to protest boys in their bathroom who claim to be ‘girls’”; and to which Mr. Caggiano commented, “Love it! About time people stood up to this insanity[,]” the undersigned cannot find that these reposts, or Mr. Caggiano’s comments, are related to, or in retaliation to, his email interaction with J.N.S. concerning the use of pronouns, or his subsequent counselling on the subject. Mr. Caggiano testified of his concern about men using a women’s restroom which, while counter to the policy of the Duval County Public

Schools, does not on its face appear to be the type of bullying, harassing, or retaliating prohibited in applicable laws, rules, and policies.

Ultimate Findings of Fact

50. Mr. Caggiano created seven posts, reposts, and comments to posts on his personal Facebook account, which are more fully described in paragraph 29 above.

51. Mr. Caggiano contends that he never intended to share these posts, reposts, and comments publicly, and more specifically, to the SHS community. Mr. Caggiano contends that his Facebook account was hacked, which caused all of his Facebook activity to become public. The undersigned finds that Mr. Caggiano's explanation is not credible, as he testified that he had several SHS teachers as "friends," and as he did not check his Facebook settings for approximately 10 years, before the Duval County Public Schools, and the SHS community, became aware of the seven posts, reposts, and comments. The undersigned finds that Mr. Caggiano posted, reposted, and commented on Facebook on his personal account, and shared them in a manner that did not ensure that they remain private.

52. Ultimately, Mr. Caggiano's Facebook posts, reposts, and comments described in paragraph 29 made their way into the public sphere, and students, parents, Duval County Public Schools personnel, and the media viewed and became aware of them.

53. The undersigned finds that two of the alleged posts, reposts, and comments—entitled "My son is taking part in an experiment," and "MAN AND WOMAN"—warrant further findings that include violations of statutes, rules, and policies enunciated in the Amended Step III Progressive Discipline correspondence. The undersigned does not make such findings with respect to the remaining five posts, reposts, and comments contained in the Amended Step III Progressive discipline correspondence. Accordingly, the following ultimate findings of fact below apply only to the two posts previously mentioned.

54. The two posts at issue concern violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped.

Mr. Caggiano candidly admitted that the post concerning women was offensive. The undersigned finds that these particular posts violate some of the governing laws, rules, and policies alleged in the Amended Step III Progressive Discipline correspondence.

55. Mr. Caggiano violated rule 6A-10.081(1)(b), because the School Board established, by a preponderance of the evidence, that he failed to exercise best professional judgment and integrity. As a result, the School Board has also established, by a preponderance of the evidence, a violation of rule 6A-5.056(2)(b).

56. Mr. Caggiano violated rule 6A-10.081(1)(c), because the School Board established, by a preponderance of the evidence, that he failed to maintain the respect and confidence of his colleagues, students, and parents, and failed to sustain the highest degree of ethical conduct. As a result, the School Board has also established, by a preponderance of the evidence, a violation of rule 6A-5.056(2)(b), which concerns “misconduct in office.”

57. Mr. Caggiano violated rule 6A-10.081(2)(a)1., because the School Board established, by a preponderance of the evidence, that he failed to make reasonable effort to protect students from conditions harmful to learning and/or to the students’ mental and/or physical health and/or safety. As a result, the School Board has also established, by a preponderance of the evidence, a violation of rules 6A-5.056(2)(b), which concerns “misconduct in office.”

58. Mr. Caggiano violated rule 6A-10.081(2)(a)5., because the School Board established, by a preponderance of the evidence, that he intentionally exposed students to unnecessary embarrassment or disparagement. As a result, the School Board has also established, by a preponderance of the evidence, a violation of rule 6A-5.056(2)(b), which concerns “misconduct in office.”

59. Mr. Caggiano violated rule 6A-10.081(2)(b)1., because the School Board established, by a preponderance of the evidence, that he failed to take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which he is affiliated. As a result, the School Board has also established, by a preponderance of the evidence, a violation of rule 6A-5.056(2)(b), which concerns “misconduct in office.”

60. Mr. Caggiano violated rule 6A-5.056(1), which concerns “immorality,” because the School Board established, by a preponderance of the evidence, that his actions constituted immorality, which is “conduct that brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual’s service in the community.”

61. Mr. Caggiano violated Duval County School Board Policy 10.10(IV)(A), because the School Board established, by a preponderance of the evidence, that he engaged in conduct that denigrates or shows hostility or aversion toward an individual because of his/her actual or perceived identity with regard to gender.

62. The undersigned finds that the School Board did not establish, by a preponderance of the evidence, that Mr. Caggiano violated section 1006.147(2), which prohibits bullying and harassment.

63. The undersigned finds that the School Board did not establish, by a preponderance of the evidence, that Mr. Caggiano violated rule 6A-10.081(2)(a)6. (“Shall not intentionally violate or deny a student’s legal rights.”), or rule 6A-10.081(2)(c)1. (“Shall maintain honestly in all professional dealings.”).

64. The undersigned finds that the School Board did not establish other alleged violations of Duval County School Board Policy, including bullying or retaliation.

65. The School Board established, with respect to the two aforementioned Facebook posts, that Mr. Caggiano’s conduct constituted “potential harm to

the physical and mental wellbeing of a student, or students[,]” and “behavior that impairs the employee’s effectiveness in performing her/his duties, professionalism, and confidence in the eyes of the students and parents/guardians[,]” and thus, under article V, section C, subsections 9 and 10 of the CBA, it was not required to follow the steps of progressive discipline, and had just cause to reprimand (Step II) and suspend without pay (Step III) Mr. Caggiano, and require him to complete a course in Culture Diversity. However, because the undersigned finds that the School Board did not establish that the remaining Facebook posts violated governing laws, statutes, rules or polices, and because the undersigned further finds that the School Board did not establish that the posts constituted bullying or retaliation, the undersigned finds that a reduction in the proposed discipline is warranted.

CONCLUSIONS OF LAW

66. The Division has jurisdiction over the subject matter and the parties to this proceeding in accordance with sections 120.569, 120.57(1), and 1012.33(6)(a)2., Florida Statutes.

67. This is a disciplinary proceeding in which the Petitioner seeks to reprimand and suspend Mr. Caggiano as a teacher with the Duval County Public Schools, and require him to complete a course in Culture Diversity.

68. The School Board is a duly constituted school board charged with the duty to operate, control, and supervise all free public schools within the school district of Duval County, Florida, under section 1012.22.

69. This is a *de novo* proceeding designed to formulate agency action, not review agency action taken earlier and preliminarily. *See Dep’t of Transp. v. J.W.C. Co.*, 396 So. 2d 778, 785 (Fla. 1st DCA 1981); *Capeletti Bros., Inc. v. Dep’t of Transp.*, 362 So. 2d 346, 348 (Fla. 1st DCA 1978); *McDonald v. Dep’t of Banking & Fin.*, 346 So. 2d 569, 584 (Fla. 1st DCA 1977). Accordingly, the undersigned is charged in this proceeding with determining anew, based on

the competent substantial evidence in the record, whether just cause exists to reprimand, suspend, and require Mr. Caggiano to complete a course in Culture Diversity.

70. Section 1012.01(2), classifies Mr. Caggiano as “instructional personnel.”

71. Section 1012.33(6)(a) states that, “[a]ny member of the instructional staff ... may be suspended or dismissed at any time during the term of the contract for just cause as provided in paragraph (1)(a).”

72. Section 1012.33(1)(a) defines “just cause” as including, but not limited to,

[T]he following instances, as defined by the State Board of Education: immorality, misconduct in office, incompetency, two consecutive annual performance evaluation ratings of unsatisfactory under s. 1012.34, two annual performance ratings of unsatisfactory within a 3-year period under s. 1012.34, three consecutive annual performance ratings of needs improvement or a combination of needs improvement and unsatisfactory under s. 1012.34, gross insubordination, willful neglect of duty, or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.

73. Similarly, section 1012.335(5) provides:

JUST CAUSE.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to define the term “just caus.” Just cause includes, but is not limited to:

- (a) Immorality.
- (b) Misconduct in office.
- (c) Incompetency.
- (d) Gross insubordination.

(e) Willful neglect of duty.

(f) Being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilty, any crime involving moral turpitude.

74. Rule 6A-5.056(1) defines immorality as “conduct that is inconsistent with the standards of public conscience and good morals. It is conduct that brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual’s service in the community.”

75. Rule 6A-5.056(2) defines misconduct in office as,

(a) A violation of the Code of Ethics of the Education Profession in Florida as adopted in Rule 6A-10.080, F.A.C.;

(b) A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6A-10.081, F.A.C.;

(c) A violation of the adopted school board rules;

(d) Behavior that disrupts the student’s learning environment; or

(e) Behavior that reduces the teacher’s ability or his or her colleague’s ability to perform duties.

76. The School Board seeks to reprimand, suspend, and require Mr. Caggiano to complete a Culture Diversity course, and has the burden of proving the allegations of the Amended Step III Progressive Discipline correspondence by a preponderance of the evidence, as opposed to the more stringent standard of clear and convincing evidence applicable to the loss of a license or certification. *Cropsey v. Sch. Bd. of Manatee Cty.*, 19 So. 3d 351 (Fla. 2d DCA 2009), *rev. denied*, 29 So. 3d 1118 (Fla. 2010); *Cisneros v. Sch. Bd. of Miami-Dade Cty.*, 990 So. 2d 1179 (Fla. 3d DCA 2008).

77. The preponderance of the evidence standard requires proof by “the greater weight of the evidence,” *Black’s Law Dictionary* 1201 (7th ed. 1999),

or evidence that “more likely than not” tends to prove a certain proposition. *See Gross v. Lyons*, 763 So. 2d 276, 281 n.1 (Fla. 2000).

78. It is well established under Florida law that determining whether alleged misconduct violates a statute or rule is a question of ultimate fact to be decided by the trier-of-fact, based on the weight of the evidence. *See Holmes v. Turlington*, 480 So. 2d 150, 153 (Fla. 1st DCA 1985); *McKinney v. Castor*, 667 So. 2d 387, 389 (Fla. 1st DCA 1995). Thus, determining whether alleged misconduct violates the law is a factual, rather than a legal, inquiry.

79. The allegations of fact set forth in the charging document are the facts upon which this proceeding is predicated. Once the School Board has delineated the offense alleged to justify reprimand, suspension, and requirement of a Culture Diversity class, that is the only ground upon which the discipline may be predicated. *Trevisani v. Dep’t of Health*, 908 So. 2d 1108, 1109 (Fla. 1st DCA 2005). *See also Klein v. Dep’t of Bus. & Prof’l Reg.*, 625 So. 2d 1237, 1238-39 (Fla. 2d DCA 1993); *Cottrill v. Dep’t of Ins.*, 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996). Due process prohibits the School Board from disciplining a teacher based on matters not specifically alleged in the charging document. *See Pilla v. Sch. Bd. of Dade Cty.*, 655 So. 2d 1312, 1314 (Fla. 3d DCA 1995); *Texton v. Hancock*, 359 So. 2d 895, 897 n.2 (Fla. 1st DCA 1978); *see also Sternberg v. Dep’t of Prof’l Reg.*, Bd of Med. Examiners, 465 So. 2d 1324, 1325 (Fla. 1st DCA 1985) (“For the hearing officer and the Board to have found Dr. Sternberg guilty of an offense with which he was not charged was to deny him due process.”).

80. An instructional personnel’s guilt or innocence is a question of ultimate fact to be decided in the context of each alleged violation. *McKinney*, 667 So. 2d at 389; *Langston v. Jamerson*, 653 So. 2d 489, 491 (Fla. 1st DCA 1005).

81. The School Board proved, by a preponderance of the evidence, that Mr. Caggiano violated rule 6A-5.056(1) and (2)(b); rule 6A-10.081(1)(b), (c),

(2)(a)1., (2)(a)5., and (2)(b)1.; and Duval County School Board Policy 10.10(IV)(A), by establishing that:

(a) Mr. Caggiano made two posts or reposts on his Facebook account, that are more fully described in paragraph 29(a) and (d) above;

(b) Mr. Caggiano's Facebook account identified that he was an employee of Duval County Public Schools;

(c) While Mr. Caggiano purportedly attempted to maintain his Facebook account settings as "private," he had several Facebook "friends" who were SHS teachers, and ultimately, the public, including students, parents, other teachers, and the local media, had access to Mr. Caggiano's Facebook wall, including the two posts or reposts;

(d) The two aforementioned Facebook posts or reposts concern violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped.

82. Based on the above, the School Board has demonstrated, by a preponderance of the evidence, just cause in this matter to reprimand, suspend, and require Mr. Caggiano to complete a course in Culture Diversity.

83. The undersigned has considered Mr. Caggiano's contention that his intention was for his Facebook account to remain "private" so that only his friends could see his posts, reposts, or comments. Florida courts have held that generally, content posted on a social media site is neither privileged nor protected by any right of privacy, regardless of any privacy settings that the user may have established. *Nucci v. Target Corp.*, 162 So. 3d 146, 154 (Fla. 4th DCA 2015). The *Nucci* court, reviewing cases from other jurisdictions, noted that the sharing of information with others on a social media network "is the very nature and purpose of these social networking sites else they would cease to exist." *Id.* (quoting *Romano v. Steelcase, Inc.*, 30 Misc.3d 426, 907 N.Y.S.2d 650, 656 (N.Y.Sup.Ct. 2010)). The undersigned rejects Mr. Caggiano's contentions based on the lack of competent, substantial evidence in the record to support such a contention, and pursuant to *Nucci*.

84. Although the CBA provides for progressive discipline, the School Board has established that Mr. Caggiano's two posts and reposts fall within the definition of "more severe acts of misconduct" found in the CBA and thus, under article V, section C, subsections 9 and 10 of the CBA, the School Board has just cause to reprimand and suspend Mr. Caggiano, and to require him to complete a course in Culture Diversity. *See Costin v. Fla. A&M Univ. Bd. of Trs.*, 972 So. 2d 1084, 1086-87 (Fla. 5th DCA 2008) (holding whether employee's misconduct justified dismissal based on terms of the university's progressive discipline rule was "an 'ultimate fact' best left to" the ALJ). However, because the School Board did not establish that the remaining Facebook posts violated governing laws, statutes, rules, or policies, and because the School Board did not establish that the posts constituted bullying or retaliation, the undersigned recommends a reduction in the proposed suspension to the three days.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby RECOMMENDS that the School Board of Duval County enter a final order that: (1) finds that Mr. Caggiano violated rule 6A-5.056(1) and (2)(b); rule 6A-10.081(1)(b), (c), (2)(a)1., (2)(a)5., and (2)(b)1.; and Duval County School Board Policy 10.10(IV)(A) for two public Facebook posts or reposts associated with his Facebook account; (2) finds that Mr. Caggiano did not violate section 1006.147(2), rules 6A-10.081(2)(a)6. or 6A-10.081(2)(c)1., or any remaining portions of Duval County School Board Policy 10.10(IV); (3) issues a written reprimand; (4) suspends Mr. Caggiano, without pay, for three days; and (5) requires Mr. Caggiano to complete a course in Culture Diversity.

DONE AND ENTERED this 15th day of November, 2021, in Tallahassee,
Leon County, Florida.



ROBERT J. TELFER III
Administrative Law Judge
1230 Apalachee Parkway
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Filed with the Clerk of the
Division of Administrative Hearings
this 15th day of November, 2021.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

EXHIBIT K

Caggiano v. Duval Cnty. Sch. Bd.

403 So. 3d 1081 (Fla. 5th DCA 2025)

Makar, J. Decided February 21, 2025. Reversing three-day suspension on First Amendment grounds.

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2023-2081
LT Case No. 20-5259 TTS

THOMAS CAGGIANO,

Appellant,

v.

DUVAL COUNTY SCHOOL BOARD,

Appellee.

Administrative appeal from the
School Board of Duval County.

Jason E. Bloch, Miami, and Kelly B. Mathis, of Law Office of Kelly
B. Mathis, Jacksonville, for Appellant.

Craig D. Feiser, Assistant General Counsel, City of Jacksonville
Office of the General Counsel, Jacksonville, for Appellee.

February 21, 2025

MAKAR, J.

Thomas Caggiano taught mathematics in the public school system of Duval County, Florida, for over twenty-five years with positive employment evaluations and no prior discipline. That was until he made politically tinged Facebook posts that led the Duval County School Board to initiate disciplinary charges against him. Caggiano contests the School Board's ruling that two of his posts violated the teacher code of conduct thereby justifying a three-day

suspension, a reprimand, and diversity training. He asserts that the School Board violated his right of free speech under the First Amendment to the United States Constitution.

I.

Around 2008, Caggiano’s daughter helped him set up a personal Facebook account, which laid dormant for over a decade, both believing it was on a private rather than public setting. Around the time of the 2020 election, Caggiano made several posts to his account. For reasons not entirely clear, the posts could be publicly viewed. Caggiano claimed that his account was hacked and made public, but no credible evidence supports that view. Caggiano did not use the account for school-related purposes though some teachers had “friended” him and were thereby recipients of his posts.

The School Board asserted that seven of Caggiano’s posts violated the teacher code of conduct. The hearing officer characterized the posts/reposts as “memes,” describing them as “amusing or interesting pictures, videos, etc., that are spread widely through the internet or social media—or comments to memes or articles.” The School Board received a complaint about Caggiano’s posts and, after inquiry, claimed that the following seven posts/reposts/comments were sanctionable violations of the teacher code of conduct:

(a) A repost from a Facebook entity called “Messenger of Liberty,” which states: “My son is taking part in a social experiment. He has to wear a Bernie 2020 t-shirt for 2 weeks and see how people react. So far he’s been spit on, punched and had a bottle thrown at him! I’m curious to see what happens when he goes outside.”;

(b) A repost from an individual and an entity called “LIFT — LONG ISLANDERS FOR TRUMP,” which states: “Crazy but TRUE, If this girl sees a penis at a party it’s a crime . . . [with an accompanying photograph of a young woman], but if this girl sees a penis in the woman’s bathroom . . . it’s tolerance [with an

accompanying photograph of a girl in a bathroom]. Vote Republican and put an end to the madness.”;

(c) A post authored by Mr. Caggiano which states: “Dumb ass liberals are now organizing protest against the killing of the Iranian general (terrorist) who was responsible for many attacks against the USA. Amazing how TRUMP derangement syndrome can cause democraps, and the main stream media, to support our enemies.”;

(d) A repost from another individual, which appears to be a “screen grab” from a Fox News segment, which states, at the top, “MAN AND WOMAN,” and which then states: “A man goes home and masturbates his typical fantasy. A woman on her knees, a woman tied up, a woman abused. A woman enjoys intercourse with her man—she fantasizes being raped by 3 men simultaneously. . .” The “screen grab” attributes this quote to Bernie Sanders, currently a United States Senator from Vermont, sometime in the 1970’s (the exhibit copy is unclear), and Mr. Caggiano’s handwritten notes next to this exhibit states: “Bernie said this!”;

(e) A repost from a Facebook entity called “Maine Bikers,” which states: “Meanwhile at the ‘Bikers for Bernie’ rally. . .[.]” and which contains a picture of two nude men on a motorcycle;

(f) What appears to be an attempted repost by Mr. Caggiano, which Facebook apparently removed with the message “False information, Checked by independent fact-checkers,” but which also contains the following comments from Mr. Caggiano: “Teach this childish nasty bitch a lesson. Have her treasonous ass removed from office and put in jail.”; and

(g) A repost, dated August 19, 2020, from Mr. Caggiano, of an article from an entity called “Lifesitenews.com,” with a headline that states: “Teen girls stage school walkout to protest boys in their

bathroom who claim to be ‘girls’; and to which Mr. Caggiano commented, “Love it! About time people stood up to this insanity.”

After a full evidentiary hearing involving sixteen witnesses, including Caggiano, and documentary evidence, the administrative law judge found that only two posts/reposts—items (a) and (d)—warranted further judicial inquiry.* The School Board has not claimed it was error for the hearing officer to do so; it filed no exceptions to the administrative law judge’s findings and conclusions, nor did it file a cross-appeal claiming error. In short, only the two posts/reposts are at issue in this appellate proceeding.

The administrative law judge concluded that the two “Facebook posts or reposts concern violence and abuse of a child, as well as discriminatory and degrading views of women being abused and raped.” On that basis, the administrative law judge concluded that Caggiano violated the teacher code of conduct because he:

- Failed to exercise best professional judgment and integrity. Fla. Admin. Code. R. 6A-10.081(1)(b).
- Failed to maintain the respect and confidence of his colleagues, students, and parents, as well as failed to sustain the highest degree of ethical conduct. Fla. Admin. Code. R. 6A-10.081(1)(c).
- Failed to make reasonable effort to protect students from conditions harmful to learning and/or to the students’ mental and/or physical health and/or safety. Fla. Admin. Code. R. 6A-10.081(2)(a)1.
- Intentionally exposed students to unnecessary embarrassment or disparagement. Fla. Admin. Code. R. 6A-10.081(2)(a)5.
- Failed to take reasonable precautions to distinguish between personal views and those of any educational

* Screenshots of items (a) and (d) are in the Appendix to this opinion.

institution or organization with which he is affiliated.
Fla. Admin. Code. R. 6A-10.081(2)(b)1.

- Engaged in “immorality,” which is “conduct that brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual’s service in the community.” Fla. Admin. Code. R. 6A-5.056(1).
- Engaged in conduct that denigrates or shows hostility or aversion toward an individual because of his/her actual or perceived identity with regard to gender. Duval County School Board Policy 10.10(IV)(A).

The administrative law judge concluded that just cause existed for a written reprimand from the School Board and recommended that Caggiano be suspended for three days without pay. The School Board subsequently adopted the administrative law judge’s recommendations.

II.

On appeal, Caggiano argues that his suspension and reprimand violate his free speech rights, a claim the administrative law judge lacked authority to rule upon, but which can be asserted for the first time in a Florida appellate court, provided the record is sufficient to adjudicate the claim. *See Key Haven Associated Enters., Inc. v. Bd. of Trs. of Int. Imp. Tr. Fund*, 427 So. 2d 153, 158 (Fla. 1982) (holding that appellate courts “provide a proper forum to resolve” constitutional challenges to an agency’s application of a statute or rule “because those courts have the power to declare the agency action improper and to require any modifications in the administrative decision-making process necessary to render the final agency order constitutional”); *Great House of Wine, Inc. v. Dep’t of Bus. & Prof’l Reg.*, 752 So. 2d 728, 729–30 (Fla. 3d DCA 2000) (recognizing “that it is permissible for a district court of appeal to consider constitutional issues in such appeals where the record from the agency is sufficient for complete determination of the issues raised”). The record in this case—consisting of testimony and evidence presented in a four-day evidentiary hearing before the administrative law judge—is more than adequate to allow for judicial review of Caggiano’s constitutional claim.

At the outset, it is important to emphasize that the charges against Caggiano involve no use of school resources, no communications or contact with students, and no improper conduct on or with school property; they do not involve false or defamatory statements about the school district, administrators, teachers or students; they do not involve matters of school administration. The swirl of controversy about Caggiano's treatment of a transgender student formed no basis for the charges against him; the School Board chose not to pursue sanctions for the incident, which plays no role in this appellate proceeding. Instead, the disciplinary charges involve only Caggiano's two Facebook posts made from his own personal computer, which were both reposts of third-party content that was derogatory of a candidate in the 2020 Presidential election, Senator Bernie Sanders.

Turning to the law, the contours of teacher free speech are governed by the principles of *Pickering v. Board of Education*, 391 U.S. 563 (1968), and its progeny whose framework created a balance between the constitutional rights of a teacher who comments upon matters of public interest as a citizen and the government's interest in the efficient delivery of the public educational services it provides through its teachers, administrators, and staff.

In *Pickering*, a teacher sent a letter that was critical of the school board's operations and budgetary decisions, which was published in the local newspaper. *Id.* at 564. *Pickering* was fired and a hearing was held, resulting in the board concluding that sufficient evidence existed to support his termination. *Id.* at 566–67. The Illinois state courts concluded that *Pickering's* letter was “detrimental to the best interests of the schools” and rejected the claim that his dismissal infringed upon his First Amendment rights to speak on a matter of public concern. *Id.* at 567.

In a carefully drawn opinion, the Supreme Court held that the facts presented did not establish a sufficient basis for the school board to dismiss *Pickering* for his letter. *Id.* at 574. The Court did not establish a definitive standard for evaluating whether a public employee's statement is constitutionally

protected, but it did provide guidance in “evaluating the conflicting claims of First Amendment protection and the need for orderly school administration” in the context of a teacher free speech claim. *Id.* at 569. It noted that the “problem in any case is to arrive at a balance between the interests of the teacher, as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Id.* at 568.

The two-part test that has evolved is whether (a) the employee spoke on a matter of public concern (i.e., one of significance or importance in society at large), and, if so, (b) whether the employee’s right to free speech outweighs the employer’s interest in an efficient workplace without disruption. *Id.*

Pickering and the cases decided in its wake identify two inquiries to guide interpretation of the constitutional protections accorded to public employee speech. The first requires determining whether the employee spoke as a citizen on a matter of public concern. If the answer is no, the employee has no First Amendment cause of action based on his or her employer’s reaction to the speech. If the answer is yes, then the possibility of a First Amendment claim arises. The question becomes whether the relevant government entity had an adequate justification for treating the employee differently from any other member of the general public. This consideration reflects the importance of the relationship between the speaker’s expressions and employment. A government entity has broader discretion to restrict speech when it acts in its role as employer, but the restrictions it imposes must be directed at speech that has some potential to affect the entity’s operations.

Garcetti v. Ceballos, 547 U.S. 410, 418 (2006) (citations omitted). This two-part judicial analysis is known as the *Pickering-Connick* test, due to the subsequent case of *Connick v. Myers*, 461 U.S. 138 (1983), in which the Supreme Court further refined the public employee free speech doctrine. *See Garcetti*, 547 U.S. at 418.

Applying the first part of the *Pickering-Connick* test makes obvious that Caggiano's two reposts and his accompanying commentary address a matter of public concern: a Presidential candidate. The Fox News screenshot from the Jesse Watters show depicted a vulgar statement made by Senator Bernie Sanders at a time when he was a college student. The statement was newsworthy because it reflected poorly on the candidate and his judgment. Caggiano's comment that "Bernie said this!" merely expressed his surprise at the statement. Likewise, the repost of the Bernie 2020 T-Shirt schtick is clearly political humor that is derisive of the candidate; its purpose is to commentate in a humorous (to some) manner that Senator Sanders was lacking support, perhaps even within his own ranks. It is hard to imagine, as the School Board did, that this type of attempt at humor was anything more than an innocuous political joke fallen flat.

Because the two reposts involved a matter of public concern, the next question is whether they presented a risk to the School Board's interest in running an efficient workplace that is free of disruption. On this point, no evidence was presented that the two reposts had any meaningful impact on the School Board's operations or that they created any disruption. Indeed, the bulk of the evidentiary focus was on Caggiano's other posts (that were deemed non-actionable) and the uncharged incident involving a transgender student. Next to no evidence exists that anyone had ever seen the two posts, let alone been offended to the point that the school workplace was potentially disrupted in any way. The notion that Caggiano was himself encouraging violence by reposting the Bernie 2020 T-Shirt joke or was degrading women by reposting the Fox News screenshot is wholly insupportable and wildly off-the-mark. At best, the reposts demonstrated that Caggiano disliked Senator Sanders (for his use of sexist language) and was amused by sophomoric humor (that in no way promoted violence). The posts occurred outside of the school, on Caggiano's own time and computer, and amounted to little more than harmless political chitchat; they collectively amounted to the proverbial hill of beans.

Because Caggiano's two reposts involved a matter of public concern, and the School Board entirely failed to show any risk or actual disruption of its operations due to the reposts, the

Pickering-Connick balance tips entirely in Caggiano's favor. His suspension, reprimand, and diversity training were insupportable; his free speech rights were violated. Because Caggiano has retired from the school district, it is ordered that the suspension and reprimand be stricken from his employment records and that he be given full pay and related benefits for the time he was suspended.

REVERSED with instructions to strike suspension and reprimand from employment records and to reinstate pay and related benefits from time of suspension.

JAY and SOUD, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

APPENDIX

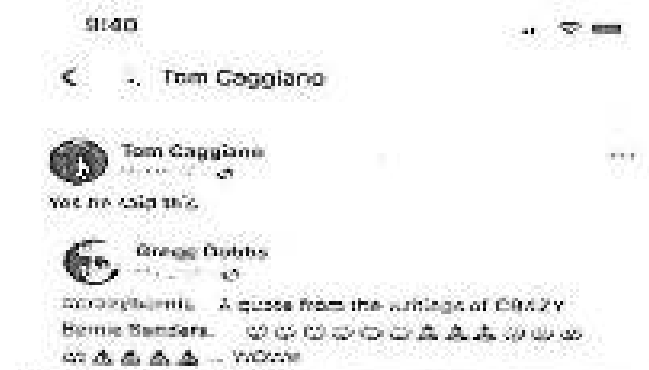


EXHIBIT L

Petitioner's Response to Respondent's Request for Production of Documents

Kamoutsas v. McMath, DOAH Case No. 25-5786PL

Dated March 18, 2026

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANASTASIOS KAMOUTSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

DOAH Case No. 25-5786PL

Agency Case No. 256-0563

HOPE MCMATH,

Respondent.

PETITIONER'S RESPONSE TO RESPONDENT'S REQUEST FOR PRODUCTION

1. All Complaint, Grievances, Communications or Referrals received by DOE are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

2. All correspondence sent to Respondent by DOE is in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

3. All correspondence sent by Respondent to DOE is in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

4. DOE does not maintain a personnel file for Respondent.

5. All social media posts, etc., in DOE's possession are included in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

6. Any notes, etc., of any conversation with Respondent in possession of DOE are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

7. Any notes, etc., of any conversation with any other person which references or discusses Respondent in possession of DOE are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

8. through 14. See DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

15. See Petitioner's exhibit list and the exhibits filed in this matter.

16. through 17. None.

18. See Petitioner's exhibit #6 – School district rule 6.84.

19. Any such communications in possession of DOE are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

20. None.

21. All documents related to any "alleged wrong" committed by Respondent are in DOE's investigation report.

22. Any such communications in possession of DOE are in DOE's investigation report. A complete copy of the DOE investigation report has been previously provided to the attorney for Respondent.

23. DOE is not in possession of a file related to Thomas Caggiano vs. Duval County Schools.

/s/ Ron Weaver
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EXHIBIT M

Duval County Public Schools, Office of Professional Standards

Interview of Hope McMath, Transcript

Conducted October 1, 2025

Hope McMath Interview 2025-10-01_13_58_56

Thu, May 07, 2026 9:16PM 1:30:37

SUMMARY KEYWORDS

AP Art History, social media posts, professional standards, misconduct allegation, Yellow House, community space, volunteer management, student engagement, political expression, district policy, health and safety, student feedback, classroom curriculum, state investigation, free speech., Investigation, complaints, disciplinary action, state certification, timeline, Duval County, reassignment, Moms for Liberty, media influence, investigative process, progressive discipline, student harm, investigators, curriculum, classroom impact.

SPEAKERS

Hope McMath, John Phillips, Tameico Grant, Speaker 7, Speaker 12, Speaker 5, Speaker 1, David Farcas, Speaker 4, Speaker 6, Speaker 3, Speaker 11, Speaker 8, Speaker 15, Speaker 10, Speaker 14, Speaker 2, Speaker 13, Speaker 9, Ronald Bennett, Speaker 17, Speaker 18, Speaker 16

- D** David Farcas 00:01
So the recording has started. Today's date is October 1, 2025 which will be time stamped on the device itself and provided to all parties involved in this case. I'll introduce myself, David Farkas, Supervisor for the Office of Professional Standards.
- R** Ronald Bennett 00:20
I'm investigator. Ronald Bennett with professional standards,
- T** Tameico Grant 00:23
and I'm the executive director to Tameico Grant.

R Ronald Bennett 00:32

Awesome. All right, go ahead and get started. Miss McMath, how long have you been with the district? I

H Hope McMath 00:42

district? I have been teaching in the classroom since August of 24 but I've been working for the district since 23 i

S Speaker 1 01:00

you.

R Ronald Bennett 01:03

And what schools have you been

H Hope McMath 01:06

at? Only Douglas Anderson's just

R Ronald Bennett 01:07

yesterday, okay, and the obvious one, what subject do you teach?

H Hope McMath 01:12

I teach AP art history, and my additional hours are in managing the Visual Art Gallery at Douglas and Johnson School of the Art. So it's it's three classes, it's just only two are actual teaching, gotcha, and the other one you curate just I'm responsible for matting, framing student artwork, putting up exhibitions we do, like six a year. And so that's, that's another component of the work that I do. There

R

Ronald Bennett 01:46

Gotcha. And then what particular types of art you teach?

H

Hope McMath 01:53

So the AP Art History curriculum covers 25,000 years worth of art across the entire globe. So it is from antiquity through the indigenous Americas, through European art, through ancient Greece and Rome, through the arts of Africa through 19th century art, through American art, through contemporary art, like it's it's literally all world art from 25,000 BCE to 2010

R

Ronald Bennett 02:28

so a picture or a vase or two,

H

Hope McMath 02:34

it's monument, it's sculptures, it's papers, it's drawings, it's anything that has been shaped into art. We touch on it.

R

Ronald Bennett 02:42

Okay, now I know whenever we spoke previously, you mentioned that you have an organization. It's called the yellow house. You're the founder, yep, and that, can you tell me a little bit about what the organization and you do with that organization.

H

Hope McMath 02:58

So yellow house, we opened jell o house about eight years ago, eight years ago, in August. It is set up as a private business, an LLC, but working in conjunction with a fiscal partner, which basically means it kind of functions from a mission based stance, the way a nonprofit typically would. But it's set up as a business instead, it is a arts and community space. It has a strong focus on socially conscious artists and poets. IT services the neighborhood, through food program and through programs for kids and families, community conversations and it centers the work of diverse artists, so women, black and brown artists, immigrant artists, youth artists, LGBTQ artists, their work sort of sits at the center. It's not exclusively that, but it is the majority that, sure.

R

Ronald Bennett 04:08

And then you also had mentioned that you the most everybody's volunteer under you. How many volunteers in total, do you think approximately,

H

Hope McMath 04:20

like right now, if I were to take a snapshot of right now, we probably have 45 people who volunteer in a wide variety of capacities. Sure, some of them work events, some of them are there during our open hours. Some work strictly behind the scenes. Some mow the lawn, right? Like where? Because I don't have staff, I have one paid fellowship position that is always a college student or a post graduate student, but everybody else is volunteer, okay,

R

Ronald Bennett 04:56

in approximately how many of those students are passed? Students, or I'm sorry, how many of those volunteers are past students,

H

Hope McMath 05:03

past da students? So I probably have maybe four right now that are past students, and we probably have six that are current students. The

R

Ronald Bennett 05:24

students that are current, I think you kind of explain it to me, but we're reentering. They get community service hours towards their graduation.

H

Hope McMath 05:35

Yeah, I think they use it just like to do any other volunteer service where they keep up with the number of hours that they're working that gets logged into their system, you know, bright future scholarships and other kinds of scholarships and so, so, yeah, yeah,

R

Ronald Bennett 05:51

good. That's cool. Okay, while we're here, the biggest part while we're here the allegation, which I explained to you when you first came into office was for judgment, in reference to some some posts that were made, and I gave you the correct me, if I'm wrong, I did give you the the district policy and then the principles of professional educator, so that's why the interview is was is being conducted because of the allegation of misconduct. At this time, it's only an allegation. We have to go through the investigation process, process, and then we'll decide whether or not, above us will decide whether or not it's substantiated, not substantiated, any discipline, anything like that. So moving forward, can you confirm what social media platform platforms you're currently

H

Hope McMath 06:57

on? I am on Instagram and Facebook. I have a LinkedIn account through Yellow House, but I probably haven't touched it in a year and a half. Would be my guess. I don't really know. I'd have to look at it. I don't tip talk or tweet.

R

Ronald Bennett 07:14

Are the profiles under your name with Instagram and Facebook, are they publicly accessible and maintained by solely you?

H

Hope McMath 07:27

Yes,

S

Speaker 2 07:28

okay,

R

Ronald Bennett 07:28

so you're the only one that can post anything, respond to anything, anything on your page, on your Instagram.

H

Hope McMath 07:38

Yes. So, and also, just to be clear, so I have pages on both of those platforms for Hope Mac and I have pages on both of those platforms for Yellow House. Yellow House platforms. It's a team of people sure that work those accounts, though, a lot of that is me, but, yeah, but if we're talking about the hope Mac account, I'm the only one here. Yeah,

R

Ronald Bennett 08:02

okay, good. And then you're aware that it's that it's publicly accessible on that they can be viewed by students, parents and members of the public.

H

Hope McMath 08:14

Yes, though I do regularly, sort of scour, especially like with with a new school year starting all of a sudden, you have like kids names that are like new names. It's like, wait a minute, are any of these kids following me? And of course, sometimes it's Facebook. It's easy, sure.

S

Speaker 3 08:32

Plus, kids are never on Facebook, right?

H

Hope McMath 08:34

Instagram, it's trickier because you don't see their real names. So, right? But, but, yes,

R

Ronald Bennett 08:39

so do you do you try to, when you say, you kind of scour, to look to see, what if they're kids or whatever? Do you back and forth with? I'm assuming you have some followers that are students, is what

S

Speaker 1 08:54

I'm

H

Hope McMath 08:54

so I unfollow and block anybody who I realize is a student, a current student, I block, and I actually explained that at the beginning of the school year, that if anybody is following me like they're not going to they're not going to follow me because they're going to get blocked. Of course, Yellow House is a different deal, because that's its own entity and its own and so I know there are students that follow yellow house, because they engage in yellow house, but, but it's imperfect, because sometimes there's something that pops up and I'm like, Oh, I didn't know that's who that was, you know, because they, like, they've got, like, a name that's like, you know, fly Gator girl. And, like, I have no idea that

J

John Phillips 09:39

is my right.

S

Speaker 4 09:40

It

R

Ronald Bennett 09:41

was Mr. Phillips,

H

Hope McMath 09:41

well, and, and obviously, like with Instagram, the thing that makes it tricky is you don't have to confirm somebody following you. Now on Facebook, you do, but Instagram, they just follow you. So sometimes you have no idea you know, until all of a sudden, maybe somebody likes something or they. Make a comment, and you're like, Who is that? You know? Yeah, so I know, like in August of this year, I did a little bit of scouring, just to like, Okay, I've got, I probably have some students on here. I need to block, so

R

Ronald Bennett 10:15

Gotcha, okay, have some pictures that I will show you and ask you if you post to them or and some of them are probably reposts that you can confirm that you did or did not. First one is, is this one? Yes, okay, as far as the this top one, because I think there are two separate posts, if I'm correct, as far as the top one goes, where Karma is a bitch, and she heard all that. Are you speaking about any one person in particular when you post that, or when you wrote that?

H Hope McMath 11:01

So so. And I just also want to be clear, like these, this was not an intro into this post,

R Ronald Bennett 11:08

right? No, that they were Yes.

H Hope McMath 11:10

This was me sharing a

D David Farcas 11:12

artist, a

S Speaker 2 11:12

recent

H Hope McMath 11:13

political cartoon, sure, which was not done when this was done. Right

R Ronald Bennett 11:18

in for transparency, I put them together so I could put it on

S Speaker 5 11:24

one piece, alright?

R Ronald Bennett 11:25

So, yeah, no, I'm not saying that they were there in any way, shape or form. Your post here in the character picture or one is one post?

H Hope McMath 11:33

Yeah, yeah. So this post was made in the aftermath of the shooting of Charlie Kirk,

R Ronald Bennett 11:41

sure.

H Hope McMath 11:42

And so, you know, I didn't name his name, because karma visits me regularly, too, guy, so, but yeah, I mean, I didn't name him specifically, but it was in the aftermath of that and that conversation,

S Speaker 6 11:54

okay?

J John Phillips 12:01

Just forget my clients going to a certain second, the First Amendment privilege, all of these I understand

R Ronald Bennett 12:10

The First Amendment is not what the what the allegation is.

J John Phillips 12:15

understand, but it's political. Sure, yeah, I get I get it. I got

R Ronald Bennett 12:19
you. So this post, Yes, that's me in Chicago. Okay, that was the finger to Trump to Trump Towers. I got you. It was you. So you do a bunch of art? Obviously, yes. Do you do typesetting?

S Speaker 1 12:35
I

H Hope McMath 12:36
am a letterpress artist

R Ronald Bennett 12:37
letterpress.

H Hope McMath 12:38
I'm a printmaker, and I also do letterpress. So, yes, I have a whole letterpress studio.

R Ronald Bennett 12:44
Sure is that, is that at yellow house or at home?

S Speaker 1 12:47
I

H Hope McMath 12:48
both. So I have a large studio, larger studio at home. I have a very, very tiny studio at yellow house. And so the studio, my personal work, is made at home.

R Ronald Bennett 13:00
Gotcha,

H Hope McMath 13:01
the letterpress studio at Yellow House is where we are making art with community. So it's it's more. We sort of print journals there. We print postcards there. We sometimes print things that are being used in our mutual aid work that we do out front. But my personal work is made at

S Speaker 2 13:22
home, okay?

S Speaker 7 13:22
Would this be a personal work? Yes,

H Hope McMath 13:26
as a personal work, and that was made at home,

R Ronald Bennett 13:28
okay? And that one's Trump. And then this one as well, it's kind of in reverse, because, yes, he reversed whenever you print

H Hope McMath 13:38
it, that's right, that's

R Ronald Bennett 13:39
right, to be legend.

H Hope McMath 13:40
That's right.

R Ronald Bennett 13:41
Also made it home. Also made it home. That one is, is fuck ice. This one, I guess, is the post underneath. I guess it was underneath this picture, possibly,

H Hope McMath 14:00
I think I wouldn't even be able to answer that, but it could be, because I think I did two posts, yeah, with this artwork, I did one of when I set the type, and I think I did another One when I actually printed the artwork,

R Ronald Bennett 14:13
which is,

H Hope McMath 14:22
yes, so that does clarify. I just wanted to make sure. I wasn't sure that Yeah. And

R Ronald Bennett 14:26
I was wanting to make sure that I put them at the right picture, okay. And then so I guess the picture, the post of the picture, and the the writings underneath is you. Yes, you. And this was personal work at home, personal

H Hope McMath 14:45
work at home. That photo is also in my home studio with my bookshelves in the background. Yeah, both of these are at home, okay?

D David Farcas 14:51

And just for clarification to the platform that they're posted on, these

H Hope McMath 14:59

these. So these would have been, I'd have to live there. They may be both Facebook and Instagram. A lot of my art posts, it's like a double post. You know, you post it on one and you say you want to post it on the other. But looking at these, I can't tell, sure.

S Speaker 5 15:20

I

H Hope McMath 15:21

mean, I'd have to look, I can't tell.

R Ronald Bennett 15:22

And then the clarify. One more thing at the very first one, this one here, these. You've removed

H Hope McMath 15:31

these. I have not. I never remove a post. Okay, that is that popped up with somebody yesterday. That post still lives on my Facebook page. It has not been removed. It

J John Phillips 15:44

posted what we assume is something he got for moms from Liberty, attributed to them that has a falsehood that that's been deleted,

H Hope McMath 15:53

that's still on. And this because this is only text would only be on Facebook.

S Speaker 2 15:58
Okay?

H Hope McMath 16:00
What text only posts would only be on Facebook. But I actually looking at these, I think these are all Facebook like they, but it's hard to tell because, you know, not seeing them like on the on the device, yeah, but this one would have definitely been only Facebook because there was no image

R Ronald Bennett 16:16
attached. And I think See, I think the ones with those follow Instagram, yeah, with the oh, they

S Speaker 1 16:24
do

H Hope McMath 16:24
because you know why it's got this little share. These would be Instagram. This would be Facebook. This would be face,

S Speaker 3 16:34
yeah, it's

H Hope McMath 16:35
a mix, okay,

R Ronald Bennett 16:37
and then the character, but that, I'm assuming is still on your I'm not real. I think it's

H Hope McMath 16:45
Oh yeah. I mean, oh no, no. So this would have been a story.

R Ronald Bennett 16:48
Okay, so there's kind of

S Speaker 5 16:49
so this

H Hope McMath 16:50
would have been a story, so it would have been shared. And what I think stories are up for 24 hours, so that would have been up for 24 hours, and then gone. Okay, so it wasn't something that you would since, in your words, you when you post something, you're definitive with it. You leave it there, and that's,

T Tameico Grant 17:08
yeah,

S Speaker 8 17:09
yeah, yeah,

S Speaker 1 17:10
yeah,

S Speaker 2 17:10
okay,

H Hope McMath 17:11
yeah,

R Ronald Bennett 17:12
okay. And then this is the one that's being thrown all over the news, which

H Hope McMath 17:21
exactly in fact, that poster, that Jim Crow 2.0 poster that I printed, I actually printed, I don't know, year and a half ago, and I've pulled it out occasionally for different reasons. Sure, I originally created it when we were in the middle of taking down the Confederate monuments, right? Yeah, yeah. So that's mine,

R Ronald Bennett 17:43
and then this one will be our teacher,

H Hope McMath 17:47
yes. So this was first day of school,

S Speaker 2 17:50
okay, no,

H Hope McMath 17:50
it wasn't first day of school, September 19. So yeah, we were already in school, yeah. So

R Ronald Bennett 18:01
I mean, that would be Instagram. I think,

H Hope McMath 18:04

yes, I'm looking at, I'm looking at what's on the screen behind me. Sure, yeah, that's the face ring, gold. Oh, this may have been, this may have been open house. I'd have to look at my calendar. This may have been as we were setting up for open house.

S Speaker 2 18:19

Okay, yeah,

H Hope McMath 18:19

I'm just looking at the collection of art images on the wall by Johnny. And I think that may have been an open house

R Ronald Bennett 18:27

presentation, your class presentation for the open

J John Phillips 18:31

house, yeah, we

H Hope McMath 18:32

just sort of did a little, like, intro. Here's the kind of stuff we're doing in this class. And like, you know, open house, you have, like, nine and a half minutes, you know. But I think that's what that is. I'd have to look at the calendar.

R

Ronald Bennett 18:42

Okay, good enough. Little bit of a OCD, you don't like the clutter too much. I know that you posted one with all your letters everywhere, and you made a comment that that it was your, that's how you that's how you roll. But hey, when you have a mind like that, it's constantly going, I get it so with the the posts, the few posts that what was your purpose in sharing the post containing the explicit language, the click, the politically charged imagery, examples quote, like Fuck Ice, Fuck Trump with middle finger. What was your purpose for sharing those posts?

J

John Phillips 19:34

I'm gonna object to, and I know no judge, but I don't I'd prefer the question not to have a conclusion that there's politically charged imagery. Okay,

R

Ronald Bennett 19:48

what was the purpose?

H

Hope McMath 19:50

I mean, I think the best way I know how to answer that is that it's i I'm an artist who's always done political work. Or, I mean, you could go back through my life for 15 years, 20 years, probably, and like, it's just consistent. And so, right? So I'm, I kind of live out loud, open book when it comes to, sort of my political views on a personal level as an artist, I not all the time, but often use my art. There's a percentage of my art that is intended to be provocative and kind of reflects where I'm at, you know, and so sometimes that takes various forms. I've done art projects where every day, for 100 days, I would wake up and whatever was on my mind, that's the work of art I made, and then I would post it right to open up conversation with people who were interested in that conversation. I mean, these weren't that. These were more like occasional when I do those kind of series, you tend to get a lot of it at once, but sometimes they're up and sometimes they're down, and sometimes they're on world issues, sometimes they're local,

R

Ronald Bennett 21:08

fair to say, situational, like environmental, situational, yeah,

S Speaker 9 21:14
most,

H Hope McMath 21:14
most of them are, most of them are sort of like a response to what's sort of circulating at the time, sure, but not all of them. I mean, you know, some of them are more more timeless, more sort of broader, not necessarily tacking, tackling a really specific moment, per se, because some of them are consistent threads that sort of carry out over time. You know, you can line up. I've got like, portraits of Martin Luther King and Shure Chisholm and, you know, Confederate monuments, but also like flowers from my garden and orange trees, you know, like,

R Ronald Bennett 21:56
how do you reconcile those posts with your responsibility as a public educator,

H Hope McMath 22:02
I do not take my politics into my classroom.

R Ronald Bennett 22:16
Do you believe that your publicly accessible social media content reflects the values and responsibilities expected of a public educator.

H Hope McMath 22:36
I mean, when I think of a public educator, and even the educators I've had in my life, and just the way, because I've been an educator for a long time in a lot of different settings, universities and museums and community centers and yes, public schools. I like these posts are about hope. McMath, me being an educator is part of who I am and part of who I've always been, right? That has been consistent and hasn't changed. I was brought on to be a public educator with a being a very open book,

R

Ronald Bennett 23:13

sure,

H

Hope McMath 23:14

right? So I don't, I don't really know how to answer that, because it's like, for me, I am an educator. There's not a question. I'm an educator. I am in the public system. I entered that public system being exactly how I am now, like, there's no like, I'm not trying to, like, backtrack from

R

Ronald Bennett 23:36

you're who you

H

Hope McMath 23:36

are, what that is, right? Yeah. But I also like, I'm a 50 something year old person, and I know, like, my job is not to take politics in the classroom. They're not, they're not part of an art history Well, politics are absolutely part of an art history curriculum, because you can't cover Ancient Rome without talking about the emperors, right? But like, as far as contemporary politics, unless we're talking about the Vietnam War Memorial, and we have to talk about, what was the Vietnam War like? There's, there are no contemporary politics in my classroom.

R

Ronald Bennett 24:13

And I guess kind of a follow up that is how you navigate personal expression while maintaining the professional standards, which I guess kind of,

H

Hope McMath 24:20

I just do, I just do. I mean, I'm an I'm an artist, right? I mean, if I were a writer, I'd be probably writing about stuff that would probably, somebody would probably they wouldn't necessarily agree with it, right? Yeah, I don't, I mean, I just feel so I feel so comfortable in this world, because I also know that who I am as an artist and who I am as a activist in the community, and all those roles that I play. I'm very clear that my role as a teacher is something very specific, and it's wrapped around a curriculum, right? And it's wrapped around the needs of those students and the response to the needs of those students, and to my faculty colleagues and to my principal, right? So, yeah, I mean, as a free expression person. For me, it's just not a it's not a conflict. You know, I'm not the school system sitting there saying what the conflict is, but you're asking me how I reconcile it. I am reconciled with it.

S

Speaker 2 25:36

Okay,

R

Ronald Bennett 25:37

all right. And then I know. I give you the two, the district policy 6.84 and then the Florida Ministry of code 680, 10.081 you reviewed those prior in your history as teacher. You're pretty familiar with what they say. Correct. Okay, I figured you already had it. Oh, so what school says the school district, they have trainings and stuff, correct, okay, and we've already done that for the year, because it's like a yearly as far as the policies,

S

Speaker 10 26:23

yeah, I think we

H

Hope McMath 26:24

just, I think we just went through pre planned. Yeah, during, in fact, it may have even been right after pre planning. But yeah, we just finished all those. Because I'm part time. I typically have to do those sort of separate from the right group sessions. But yeah, yeah.

R

Ronald Bennett 26:41

All right, do you believe that any of your posts to be perceived as unprofessional, disruptive or harmful to the district reputation? I

H Hope McMath 26:53
don't know how to answer that, because I'm not the district do anything they're harmful to the district. I mean, I've districts

S Speaker 5 27:02
reputation.

H Hope McMath 27:03
I mean, I haven't, I haven't dissed on the district or my students or the public schools. I mean, do I think some people may think that? Of course, sure.

R Ronald Bennett 27:22
Have you received any formal or informal feedback about your online content, other than having an allegation misconduct against you?

H Hope McMath 27:31
From from this this community,

R Ronald Bennett 27:34
from Yeah, in your for all, from the district, from fellow educators, the community, anybody from the community? I

H Hope McMath 27:44
mean community, yeah, yeah. I mean from the community, yeah, from my from my peers, from my supervisors, from the district, No, sure, but from the community, yeah. I mean, you don't, you know? I Yeah, yeah, you don't. You don't sort of raise issues of like identity and community and what you think is right and wrong in the world without a certain number of people really disagreeing with that and and many of them respond to that in a very public way, and their responses remain on my social media posts. I don't necessarily re engage with some of those, and some I do,

R

Ronald Bennett 28:30

gotcha. So in saying that, and then going back to saying you don't delete anything, you make it all transparent, because that's who you are, you allow people see that you know this, this is what it stands for, and this is what other people that oppose it or approve of it, right, what they say is what

H

Hope McMath 28:48

Right, right versus trying to engineer. Now that doesn't that doesn't mean that if somebody comes on my social media page and is saying something that is harmful to somebody else in that thread, somebody comes on there with their, like, anti blackness or their, you know, anti LGBTQ agenda, if, especially if that's directed at a person, I will block that, or at least hide it, and so, so, yeah, so I will occasionally do that, but for the most part, I I leave the full conversation out there. I'm not trying to necessarily curate whether that is going to be well received or not.

R

Ronald Bennett 29:35

Gotcha Okay? Have you taken steps to distinguish your personal views from your professional role as a district employee? And I know that we you probably kind of already answered it, I think,

H

Hope McMath 29:51

I mean, I certainly posted on my personal page that I am a teacher with the school system. But. I've never attached, like my views to that role, or that role to my views. I mean, so

R

Ronald Bennett 30:08

say, for instance, this picture doesn't have attached to it right under it in the same post, you know, no,

H

Hope McMath 30:15

no, and I don't even know what text went with that.

R

Ronald Bennett 30:18

Yeah, it was, um, and I printed it, but I didn't bring it and I didn't it. What's with this one? Is you talking about teaching, having taught in many different facets, and,

H

Hope McMath 30:32

oh, oh yes. This is a more recent post where I was talking about, sorry, I got confused on this one, because this, this is a, this was a post where I was showing the various places and ways in which I have been a teacher,

R

Ronald Bennett 30:50

right? And I think you were displaying appreciation for for teaching, for

H

Hope McMath 30:55

being a teacher, correct? Yeah. So, like, yes. So if we lined up, if we click through these little dots, sure, there would be photos of me teaching 30 years ago at the comer Museum. There'd be photos of me teaching at yellow house. There was probably a photo maybe of me teaching, I do a lot of work in medical facilities as a humanities and medicine educator, and so there, I think there may be an image of that there too. So, yeah, this was about teaching. Yeah, sorry, I got confused without seeing the text, I couldn't tell and then we already answered this. Are there any identifying information on your profiles that links you to the school district? It does, yeah. I mean, yeah.

R

Ronald Bennett 31:44

Okay. How do you respond to the complaint submitted by moms for Liberty regarding your social media activity?

J

John Phillips 31:52

We don't have it.

H Hope McMath 31:53

We don't we don't have the complaint. We haven't seen the complaint. I mean, we've seen what the media says was submitted. Some of the some of those posts are the same as this. Some are very different and interestingly, not accurate on their part, it was interesting, including one of me in the classroom standing in front of an art history image that they read as something that it wasn't, but that's

J John Phillips 32:21

flat line about calling it lynching, yeah,

H Hope McMath 32:24

like, like, all right, whatever. So I could respond to those if, just like I did with these, sure I would respond to them if they were in front of me. But we don't know. I mean, we are being told by media that those are what they submitted. We have no feedback on whether those have been submitted or taken seriously or not taken seriously, but I did look through what was in the media for sure, like that was this morning,

S Speaker 1 32:54

I think, which goes by

J John Phillips 32:55

that which goes back to our call that we want to be transparent.

H Hope McMath 33:00

Yeah,

J John Phillips 33:01

but I didn't do a press conference. I didn't do a press statement until 10 minutes before you call, saying We ain't talking, right? But meanwhile, Ben Becker has had this agenda. And I know Ben, I like Ben. I don't mind Ben, but he's had this agenda to get this story, you know, all weekend reposted and reposted and reposted off of false information linking this investigation to Rory diamond, but it doesn't appear to be and so, you know, you know, but we had common sense enough to know that. But I'm not going to go out and say, No, you're wrong Ben, because then they're commenting out of me, right? And so, you know, whereas she is pretty unlike the catiano case specifically said she blocked students as a matter of course. You know, moms for liberty is a political organization, and there is falsehoods, at least in what Ben like the notes on script that now has been removed. I don't know if those are your notes, if those are our notes, her notes, or a school board members notes, or

R Ronald Bennett 34:11

nothing came from

J John Phillips 34:12

here, but it's, it's, it's like

H Hope McMath 34:16

problematic.

J John Phillips 34:17

We're showing up. We're answering every question. You know, it is what it is, but it's, it's frustrating from our standpoint too, because we don't have, you know, transparency, but are asked for it. And a lot of that isn't coming from y'all, it's this, moms for liberty, sea bird, Newsome, whoever he is, who

H Hope McMath 34:42

also submitted complaints supposedly

J John Phillips 34:44
bragged about it, like publicly bragged that He's the source,

H Hope McMath 34:47
that He's the source of taking me down. So, yeah, which is interesting.

J John Phillips 34:51
You know, we've had a week and a half go by, and I don't know who the you know, who the finger pointer is, but you know, again, it, it. I. It is what it is we rest on the law. So,

H Hope McMath 35:03
yeah, yeah. So I think, you know, my, my response to the moms for liberty is that we don't really know what we're responding to. I'm not, I'm not real heft on responding to a bunch of stuff that they've put out there with their own interpretations on it, when I don't even know if those are part of any kind of whether they are part of an official complaint, right? Most of those aren't even in this packet, right? So this is the official complaint. So what I got, as far as a complaint was in reference to, specifically the the numerous posts, they mainly mentioned the Jim Crow 2.0 but listed that there are numerous other posts, which obviously I went through to look and then pick pictures to show you. But for the health, safety and welfare of students is the

R Ronald Bennett 36:00
complaint. They're the concern that there's a detriment to the health with safety and weapons,

S Speaker 1 36:06
right?

H Hope McMath 36:06
Because they think I'm going to indoctrinate kids and turn them into transgender human beings, right? You privy

J John Phillips 36:12
to the interviews that have been done of the students,

R Ronald Bennett 36:15
so those interviews weren't done by us. What

J John Phillips 36:18
I figured? But we didn't.

H Hope McMath 36:20
You weren't sure? Yeah, we figured those were done by the state, but we didn't know

R Ronald Bennett 36:24
those were done by not by us.

J John Phillips 36:27
And what do you know about the state's involvement? I know under work product privilege, you know, but I know that children, minors were pulled out of class all day at Douglas Anderson, over and over and over again, and interrogated by some person with city, county or state official titles. Again, I have children in DCPS. Lee spell is one of my best friends, and was at my kid's birthday party. And Lee's no longer a DA but, you know, there is no you know, it's sad that I'm using friends for transparency, right? And send multiple letters out. And again, I don't blame anybody in this room, because everybody's got a chief, right? And then when the state comes in, and we deal with different, you know, situations, but it there, I know there was, from what I heard, again, there was a robust investigation done by students, and it didn't lead very far. I could be wrong. It could be a student that's like, Yes, I was indoctrinated, and now I'm trans because of Hope make math, but I really doubt that.

H Hope McMath 37:52

And we were also aware that the state was involved, because I was sent a certified letter, which we've pieced together, was the afternoon before those investigations began at the school, if I've got my timeline right from saying that the state had taken it over

D David Farcas 38:12

so they are involved, and you're aware of the Commissioner's letter to all educators throughout the state,

S Speaker 1 38:21

yeah,

D David Farcas 38:23

and you're aware the these complaints have been statewide, correct, okay?

J John Phillips 38:30

And I'm aware of case law, it's very favorable,

R Ronald Bennett 38:35

okay? So I'll go, I'll say, Do you believe that the concerns of after hearing that, that the concerns from Long Beach for Liberty reflect broader community sentiment?

S Speaker 8 38:56

I

H

Hope McMath 39:00

I think it probably represents some percentage of public sentiment. I, in my opinion, feel like that is not a majority sentiment. I'm not sure why that even matters, to be honest with you, but if I were to have a concern about that, it's that the disparaging nature of what they were targeting and the way they're targeting the specific posts they're choosing to target are ones that actually target people that I care deeply about, including my students, when the things they're targeting are when the reference is around race or it's around people's gender identity or sexual preferences. Yes, that's the part that concerns me about that right? And I don't think that represents a majority sentiment, and I think it's harmful. I mean, they have free speech rights like anybody else does, right? But there's also been some pretty and again, we don't know where those comments came from and how they're attached to those images, but I know in even talking to other young people who are around yellow house who have absolutely nothing to do with Da like they're they're hurt when they see that people's ultimate expression of anger towards someone is that it's a demeaning of their identities, right? Like, that's that the ultimate thing that people who don't like, whatever it is that I'm saying is to attach it to things like being transgender, right? For young transgender people, that's super harmful, right? When there's a group of people out there expressing that through official channels like the broad media, yeah, and so for me, that isn't something I need to own, nor will I. That is something they need to own. And the people who decide that they want to align with that set of values,

J

John Phillips 41:34

can I read a quote though, real quick, sure, hate speech does not exist legally in America. That's there's ugly speech, there's gross speech, there's evil speech, and all all caps of it is protected by the First Amendment, keep keep America free. You know, his speech, the quote that was Charlie Kirk. Charlie Kirk. And so it's just, it's interesting where we are in America. I think we all agree that there are some issues,

S

Speaker 11 42:05

just a few.

H

Hope McMath 42:07

So, so can I ask a quick question? Am I allowed to ask a question at this point, just because the last couple of questions have dealt with moms for liberty? But again, we're not seeing what their specific complaint is except that if what Ben Becker has is accurate or not, it's just, I find it interesting to be sitting here answering questions about moms for liberty,

R Ronald Bennett 42:33
considering they were the ones that that the complaint came in from. Those are just,

H Hope McMath 42:41
and that is the complaint that I'm in here for, for

R Ronald Bennett 42:45
the for the the poor judgment of making posts that could be harmful or detrimental to the health, safety and welfare of students of the district.

J John Phillips 42:56
Is there a victim that's been identified

R Ronald Bennett 42:58
as a gift? I don't have a particular individual named

H Hope McMath 43:05
Yeah, and is this the only is the moms for Liberty complaint, the complaint on the table that we're talking about right now?

R Ronald Bennett 43:13
I think that's, that's who generated the complaint, because

S Speaker 12 43:19
you keep

H Hope McMath 43:19
saying the complaint, and we've been made to believe, again, by sources, trusted and untrusted, that there's many complaints.

R Ronald Bennett 43:29
I mean, there are. There is one formal complaint that I'm working okay, and that's the moms for liberty from moms.

H Hope McMath 43:37
Okay, thank you for that. I appreciate that's at least, that's that's more clarity than we've

T Tameico Grant 43:42
had, sorry, and I'll tell you, in being transparent, I have received numerous, numerous emails for you know that all be included in the case file as well. And I think I would say, in addition to the term complaint, what I would say the issue right is, is health, safety and welfare, right as it pertains to the code of ethics, right? Is that all, I promise you, that's all we care

H Hope McMath 44:21
about, right? I'm with you. I get that. I get that.

T Tameico Grant 44:25
And so when we receive whatever we receive, whether that our obligation? Yeah, of course,

J John Phillips 44:37
but from a standpoint of us all learning for the next time, right, when you have a political 501, c4, that it's a complainant that then goes to media with its complaint and puts it all out there and takes the position and.

S Speaker 12 45:01
It's

J John Phillips 45:01
based on lynching. That's just out of ignorance, because that's art that's not lynching, and it's not even depicting lynching. I don't know that piece but, but I asked her, like, what is this? Oh, this is so like, she knows

H Hope McMath 45:16
Francisco disasters of order that's

J John Phillips 45:21
as a lawyer, 25 years in this town, on both sides, all sides, and as a as a person that is helped eliminate NDAs for White House employees after a three year very lucrative battle, I might add, against the Trump administration. It's bothersome to say the least that said the big asterisk and caveat is, I stand with you guys, and we're here because it's you got to do what you got to do. And due process is, you know, part of it, you know, I just wanted prompt and you you responded, here we are, so,

H Hope McMath 46:04
you know, I'm with the moms for Liberty piece in particular, because you asked, like, you know, what's, you know, kind of, what's my response to, to the complaint they have put forward, the concerns they've put forward. I am not somebody who has presented a certain way and like gone off the rails, right? There's a consistency, right, wrong, good and bad. I am not for everybody. It is an acquired taste. It is interesting, right? The moms for liberty, or the individuals involved with it have never cared a bit, a bit. And so it's interesting, right? Because it starts to feel like a very targeted hit that actually has nothing to do with the safety of my students,

J John Phillips 47:01
who are also AP Art History students at Bell Sanderson, which does have a distinguishing feature, correct.

H Hope McMath 47:09
So I just Yeah. I mean, it's, it's the

J John Phillips 47:13
principal has been supportive,

H Hope McMath 47:15
yeah. I mean, it's hard not to draw lots of connections when some of the posts they put out into the media were actually targeting things that had nothing to do with me. They were works of art that kids made that were hanging in the gallery one. I don't teach art making classes. I teach art history. Those kids made that artwork as part of their senior AP portfolio. They all express some version of who they are, right? There were 20 paintings shown in that post, and the one they targeted was the one that showed a drag queen in it. Like that starts to smack of not being respectful of the agency of students, especially our students. That is not about the safety of our kids. That is a targeted kind of complaint. And so, yeah, so if I'm going to be really honest, like, that's how I feel about this moms for Liberty thing, if that is the thing that is on this table that we're dealing with, and I'm not saying there aren't, listen, I'm messy, and I've lived a life of taking and receiving critique and also dismissing critique. But this, this, I'm focusing hard on that health, safety and welfare of our students. It I wish that was what was driving this, and I absolutely, to my core, do not believe that that's what's driving

J John Phillips 48:43
and the other side of the coin is this is an AP. These are AP college level course that are expected to have a curriculum taught to them that is probably not currently being properly taught to them through substitutes assumption there, and they have to take a test. And so you want to talk about their health, safety and welfare.

H Hope McMath 49:06
That's our problem. What

J John Phillips 49:07

about what about them? You know, they're pulled out of classes that were outside of this class, to be distracted into this world, to be interrogated, to some extent, how it could be put and two, they've got a looming test that is a big deal, because this is their world, and you know,

H Hope McMath 49:29

and this is a class of choice. APR history isn't required for a single one of them. They've all chosen to take this course, a very rigorous, challenging, very difficult course, and they've now had three weeks with a piano teacher taking attendance. She's great, but playing the piano, there's no teaching happening

J John Phillips 49:51

if these things escalate organically, like I've done that, I've had a problem with a teacher. I've gone to principal Stuckey, with her.

H Hope McMath 49:59

That's right.

J John Phillips 49:59

And. He said, Let me see if I can fix it. It's fixed. I just sent her a message saying, Thank you. Thank you. Thank you. We're good. I'm here to help my kid. You are too. We're on a team that's organic. And if, if I found out, because, because so I ain't putting her into this. But at the open house, she said, I'm putting students out if they don't listen to me. And I said, hmm. And another parent raised their hand said, Can you move on? And I was, I kept it in the bag until something happened, and it was like I dressed it. And she just had a bad moment, right? She can't put students out of the class, particularly one with an IP, and that's organic, but a 501, c4, that's looking and I get it, I and I get how we got here with Charlie Kirk, and you know all of it, but the organic versus not organic is, I hope, something that we as a reasoned group of people trying to better children take a look at as to where these things are coming from and Why, and not just do it because, you know where, where we're compelled to do so. But again, I always want an investigation to err on the side of an investigation and determining what that's what is that right? That's right, but we're, we're literally at competing harms here. One is an allegation of harm that I don't see a substantiated but that's I'm her lawyer, and then another one that That sure is building. And who do I complain to? Who do I complain to on behalf? Do I do a do I do a report and say, moms of liberties, abusing these children by putting this lady into the Gulag so that she can't teach, and they're missing, you know, the core curriculum that she taught from. And I think if you get into those questions, I don't know if you will, but what the curriculum is and how she abided by it, that's a big

S Speaker 5 52:10

That's right,

J John Phillips 52:11

that you know, which is, which is one actually having an impact on these students. So that's, I'm sorry, that's just me as a parent.

R Ronald Bennett 52:23

You're good. You all good. Kind of regress a little bit back on the questions. I know we went over a lot of them, I think of the remaining ones that I have. But So with your posting and it being public, what considerations do you give student and parent audiences? I think you kind of hit on

S Speaker 11 52:48

it.

H

Hope McMath 52:48

I, for the most part, don't, because I try really hard not to have them as part of this audience. But most I'm not naive. I mean, social media, social media is out there, right?

R

Ronald Bennett 53:00

And I think they know better how to navigate it than we do.

H

Hope McMath 53:03

Yeah, yeah, no, no, for sure, for sure. And like I said, a lot of them, like, they identify themselves within that realm in a way, so that they can be sort of, you know. But you know, you know, the number of times that I say fuck in my social media is probably a problem for a lot of people, and would probably be problems for, you know, not just kids and students, but you know, but I don't for the most part, it's like where I am taking consideration for the needs of my Students is in how I show up in the classroom, right? How I hold gracious space for what they need when they are in that school environment. Right? To forward that curriculum in the way it needs to be forwarded. Try to assess them along the way. Care for them when they're falling apart. Find ways to I mean, I'm part time. I regularly stay for lunch and learns, though I do not get paid for that. I am part time. I get paid literally for the hours I'm in the classroom. But if there are students that need support and help, I am absolutely there to support and help them, you know, and so like, that's how I show up for my students.

R

Ronald Bennett 54:19

Gotcha? Do you? Do you believe that your post model appropriate behavior and communication for students, if they were see it, or for outside community members to see it, knowing that you're a district employee, a teacher? Do you feel that it models appropriate behavior?

H

Hope McMath 54:44

I think it models honest behavior. I think it models the same kind of behaviors and language that people regularly use. I mean, it's, yeah, it's not always PG rated, for sure, but. It also does not. It does not. It does not express the harming of people, place or planet. It doesn't. It doesn't set people against each other in any kind of harmful way. I would never I would I would not use some of the language I use in my artwork, verbally in my classroom, obviously,

S Speaker 13 55:32
as

S Speaker 1 55:40
I

R Ronald Bennett 55:40
think kind of went over this one as well guidance for feedback from school leadership.

H Hope McMath 55:48
I mean, to date, there hasn't that's That conversation has never happened, sure.

R Ronald Bennett 55:53
So have you ever communicated with students or parents through your personal social media accounts?

H Hope McMath 56:01
No. Uh, accounts, no, not that I know of right, right, not knowingly, not knowingly. And actually, if that has happened, it's been that they have communicated online, like, let them a reaction or or a comment. And sometimes that's when I recognize that, like, oh, this might be, this might be a current student, and you kind of have to then go into the profile and be like, Okay, this is somebody I need to block, right? But I've not responded to that person, right? The only response I've ever had with my students about social media is when I tell them at the beginning of the year, not to be offended, but that, you know, we cannot be connected on social media. And

S Speaker 1 56:48
one

D

David Farcas 56:52

additional question, yes, how do you communicate with the six students that are volunteers that you're yellow?

H

Hope McMath 56:57

So I have a volunteer manager. Her name is Phillips Bill Davis. She's been with me since I opened yellow house. She actually worked for me when I was at the corner for years. And your son, who was also a DCPS kid, anyway, she's my volunteer manager. She's She's our lead volunteer, and so she's the one who coordinates the volunteer needs, schedules it sends out the calendar of our needs. So email, it's it's all email, and it all goes through Phillips, I do not have direct, no, no. I mean, when they're physically in the building, obviously I do. But as far as communications, there is no phone texting email from me? Yeah, she sort of really coordinates all that, because they get and not all of our requests for volunteers include high school students and da kids are not the only high school kids. At yellow house, there's money and university students too. Sometimes what our needs are aren't appropriate for them, right? Like, if we're going to help finish, you know, building house out on, can I drive? Like we don't bring high school students into that, there's too much liability. And sure, you know so but for the most part, they're on those broad volunteer call outs. In fact, we just did one recently that said we've got this opening coming up, we've got this poetry night coming up, we've got this Family Day coming up. Sign up for whatever you want to sign up for. And that all goes from Phillips and all responses go to Phillips.

R

Ronald Bennett 58:36

Prior to today, you were you aware, or were you not aware that any of the posts could be subject to district review or and or public record?

H

Hope McMath 58:51

Sure. I mean, I assume. I mean, I'm I'm not one of those people who all of a sudden frets because my public posts are public like I am aware of that,

R

Ronald Bennett 59:00

sure. Do you believe their posts could influence students view on authority, law enforcement, political institutions?

H

Hope McMath 59:10

Yeah. I mean, I mean, they are an expression of my own opinion. But I think you know, anything that's out there can influence somebody, whether it's a headline, a data point, an opinion, right? That is not why they're being done. They're not being done to influence high school students. But I do think, and not all my posts are this, right? So let's also be clear, because I haven't said out loud, right?

R

Ronald Bennett 59:41

No, I

H

Hope McMath 59:42

listen. You know, you can see me in my garden, and, like, you know, getting food out to unhoused people. And like, my cat, my mom, my nephew, right? Like walks on the beach, like. Yeah. So, so, yeah.

R

Ronald Bennett 1:00:04

So, when sensitive or controversial topics come up in your class, how you approach it

S

Speaker 13 1:00:10

in

R

Ronald Bennett 1:00:11

your professional

H

Hope McMath 1:00:12

role? If there are sensitive topics that come up in the class, it's usually from the curiosity of the students. So there certainly are examples in teaching something like world culture, where topics come up, where students draw a line to their own lived experiences, right? So I mean, I'll give you an example. There was a we were studying ancient Egypt, and there's an amazing page from the Book of the Dead, right, where the man who's depicted in it, his his his morality is being weighed against the feather of truth, right? And if he passes that test, he gets to go forward, you know, and have an afterlife, right? And if not, he gets eaten by this creature who's part crocodile and part hippo, and, you know, he's part lion, like, he's a really vicious looking beast, right? So anyway, we were sort of talking about, like, this belief system in ancient Egypt, and how that plays out in that work of art. And a student raised his hand and said, interesting. Are there any I have to remember how they put it. Are there any societies that actually recognize that there are people in power who don't live up to it? Do they all get a path. I was, like, thought provoking, right? And so typically, when that kind of thing comes up, I just say, Well, you know, we're going to see lots of examples of that kind of thing as we go through the class, and you're going to have to come up with your own decision. There was a student recently, we were gearing up for the year, and I was showing a tomb painting from the Etruscans, who were the early Romans, and it's this beautiful tomb painting of people like dancing and playing flutes. And it's kind of surprising for a painting in a tomb, right? And somebody said, you know, why? Why is this image, like, so beautiful, like, it's so joyful, and it's like, in the middle of, like, a place where people are buried. I said, Well, this was a joy filled culture, and it's one of the only cultures we're going to look at that never went to war. And there was conversation about that, like, Well, why is that? Is that true? You know, and so. And finally, a student raised their hand and said, So, does that mean that ancient Etruscans were like the hippies of the 1960s in America? My response was, my response was, Well, you know, when we learn more about the 1960s in America, you can sort of make that decision and draw that conclusion, right? So it it happens, right? I mean, in our history, we're looking at images of power of war, right, of joy, lots of nudity, right? And we have to deal with that right, up front, right? And, and we deal with it directly for as far as it is appropriate, sure, and then it's really like, this is you are going to make your own choices on this. You're going to make your own decisions, right? And that that, I mean, that's just part of the way that curriculum rolls out. So that is how it's dealt with. But the topics that we may address that are like that come from the student,

R

Ronald Bennett 1:03:47

so never brought up by you. Let's talk about whatever the assassination or the an assassination, or anything political, nothing in the classroom that you would bring up to set them on a path, per se,

H

Hope McMath 1:04:12

Absolutely not. Absolutely not. I mean, we deal in the facts of the artist. We spend a lot of time where they are just looking at something and trying to discern what it is they're seeing, what might it mean, and then they read, then it

R

Ronald Bennett 1:04:31

might mean different things to different individuals,

H

Hope McMath 1:04:33

well, and it often does, but there are still always the intent of the word, right? So even though they may come up with their own interpretations, it has always been centered around what was the intent of the work, how was it received at the time that it was created? And yes, through different eyes there, you may bring something different to it. I mean, the Vietnam Memorial is a piece that we cover in the class. Class, and it is one that people have all kind of feelings about both its content and its shape and form. There are people who love it, there are people who hate it, there are people who think it should have faces on it and not just names, and there are people who think the names are exactly what it needs to be, right? So my students have those conversations with each other, right? But that's part of learning the intent of the work of art and how it lands. But that is, that is we go down those paths when they bring them up. But no, I do not come in there bring in the headline of the day.

J

John Phillips 1:05:35

What grade are your students?

H

Hope McMath 1:05:37

They are 11th and 12th.

S

Speaker 14 1:05:39

Grade

H Hope McMath 1:05:40
only 11,016

J John Phillips 1:05:40
1718, but

R Ronald Bennett 1:05:42
like 3035, year olds,

J John Phillips 1:05:44
right? Right? Yeah,

S Speaker 1 1:05:46
yeah.

J John Phillips 1:05:46
Just, you know, because I was, I was wondering where, because I monitor the heck out of my kids, like, Where does DeSantis is new law, but I think it's 16 and under that shouldn't even have access right period, 1615, and under, I don't think can have Facebook access right now in Florida. But then the others, I think you would, you would have to look at Facebook's team policies and what the parental guidelines are, if we just take moms for liberties, you know, open ended accusation that they're now programmed on your Facebook, they're focused on you, and because you posted it now they're going to go, Fuck ice, right, right, right, right. But there's, there's also parameters to that that are interesting, and I'm learning as a parent too, that that you know now one would have to have a VPN and a fake account under 1515, and that's

H Hope McMath 1:06:46
right, that's right,

J John Phillips 1:06:47
16 to 18.

S Speaker 12 1:06:49
And probably are some that I'm sure, oh,

S Speaker 15 1:06:53
kids like 11 with

H Hope McMath 1:06:55
multiple accounts.

J John Phillips 1:06:57
They know so much more this way, right? Like, but it's just, it's, that's me. No,

H Hope McMath 1:07:09
no, no, no no.

R Ronald Bennett 1:07:13
So just a couple more, and I'm

H Hope McMath 1:07:17
sorry I gave you such a long answer.

R

Ronald Bennett 1:07:18

No, no, no, I like to hear that's, that's, this is about. So I appreciate,

H

Hope McMath 1:07:26

I appreciate that the conversation at least goes to like, so what is it? What does it look like in your classroom, right? Because that's what I'm, you're

R

Ronald Bennett 1:07:35

Yeah. So that's yeah, the fun. So I already know the answer. Do you consider your online presence to be separate from a professional identity?

H

Hope McMath 1:07:50

Yes, though they I mean, I don't hide the fact that I'm a teacher. Sure. Yeah.

R

Ronald Bennett 1:07:55

Are you? Are you willing to remove or restrict access to posts that have caused concern or may violate district policy.

H

Hope McMath 1:08:17

Sorry, I'm being so pensive about No, I'm not being pensive because I'm trying to, like, engineer the right answer. I don't think it's the right answer. I literally am struggling as a person who believes strongly in free expression, like, deeply, intensely, right? I and

J

John Phillips 1:08:44

normally I would pull you out on this and be like, there's consequences to both answers, but I would tell you to answer privately, and this is just full transparency, not waiving anything depends, you know, but so

R

Ronald Bennett 1:09:00

if i slimmed it down to just if are you willing to remove or restrict access to post that may violate district policy,

H

Hope McMath 1:09:10

but that policy is so damn broad I feel like my whole life would be censored. I mean, I'm just being super honest here, like my whole life, like when all this stuff first came down. One of my beloved family members said, Well, what is it? Is it? Is it how you move through the world? Is it your social media? Is it what you read? Is it your art? Is it yellow house? Is it your activism? I'm like, probably all that, right, so I don't like for me, it would have to give more. Specific than that, right? Like, if somebody were to say, I'll just give an example, and I'm thinking and talking out loud, so

S

Speaker 1 1:09:48

if

R

Ronald Bennett 1:09:48

somebody said, Miss McMath, this post right here violates district policy, would you be willing to remove it so that you're not in violation of district policy? I.

J John Phillips 1:10:00

I would advise you to say yes, and then we would find a collaborative solution with DCPS. But, you know, the problem with that is, is DC is, I think, targeted. We said we again. I'm waving privilege here, sure, but for temporarily, but, and you tell me Shut up too, but, you know, but over sorry. I looked down over here. It was like, because, again, my friends are teachers, my kids, like, I think I had a teacher flirt with me the other day, and I knew these things. And I was like, well, that's definitely, you know, but, but it's like, different for one of my kids, but, but as birthday parties, man, I didn't know that being mom and dad weird things. But it's, it's right, it's, it's, you know, hope is. Hope was this person before she got this job, right? And hope is out outwardly speaking and but I assume most teachers don't set up a Facebook account at Duval school's email address, right? They have their private or they have, they have a pseudonym, or their, you know, their first name, like police officers, they never use their real name, because why would they but how many cases have I had against JSO where police officers are talking about curbing stopping people or or gathering them all up on a Friday night, and then it's like, I grab those. And invariably, at a police officer deposition, they're like, well, that's their personal opinion. I'm like, Well, if it doesn't apply to police, how's it going to apply to teachers, but, but because they're the ones that actually have authority to beat, right? And, but, you know, if, if this were to just keep on going. And I said, All right, give me the email address of every DCPS teacher you got, and let's just go through them, you know, and I'll just do a complaint on every one of them, and then we will, like I said in my quote, We will, we will absolutely chill effect people going into education, because we have to curb speech at that level that they basically can't have a social media account. And so the question, I think, is a fair one, and I would advise her, you know, on post by post to say, Yeah, take it down. You've already it's already been heard.

H Hope McMath 1:12:27

So, so can I,

J John Phillips 1:12:29

but the speech aspect of it, yeah, this is your interview.

H Hope McMath 1:12:33

So, so like the scenario that's planning out. So you gave the scenario, but we said this was the problem is, if somebody were to say this post that you made about artwork that you created that says transgender lives matter, right district, if the district told me that is In violation, that's a problem for

J John Phillips 1:13:00
me. Sure it's censorship.

H Hope McMath 1:13:02
For its censorship, flat out, and it's targeting a particular group of people. Like, no, that doesn't fuck if is, all of a sudden, somebody said, the things that we see, like, when we look at this, the things that are sort of most problematic is, can you just not say, Fuck, like, that's the kind of decision, you know what? I mean, like, that's where it's like, well, of course, of course, I'll just one. I can take down the post that say, Fuck, and I can just stop saying fuck all my you know, sure. I hope this recording never is, like, a public thing. I just like, said that word, like, yeah, in a minute

J John Phillips 1:13:38
on the same token, this is the collaboration that needs to happen more in this country that right?

H Hope McMath 1:13:45
Because I'm not saying I'm so absolute in this that I'm going to be like, like, I'm going to jump out this window on this cause, right? But what I am saying is that I feel like a whole lot of things are being lumped right together as sort of being equally offensive. I do not consider teaching black history an offense. I do not consider making a work of art which is also its own protected speech when it's my art that I didn't make at school, that I didn't display at school, that I didn't have kids in the studio helping me make I did not distribute that. That's another thing those moms for Liberty people said on one of those posts that that fuck ice print was distributed at the school, and that is a lie. Big fat. That thing never touched school. Never touched it, never touched a kid. It never touched it. So, so there are, but I get it right, like I'm not that person who's like, I'm gonna push this to a place that is just untenable and actually not practical and not helpful. But I am reluctant in the blanket answer to say. See, oh yes, because I think for a lot of people, and I'm not alone in this, some of those policies are so broad, and now, when we are layering in this stuff that's come out of Tallahassee, there's confusion right amongst a whole lot of people. And then, you know, if all of a sudden everybody says, yeah, like, we get to police everything that you do and everything that you say, well then it becomes the decision of the teacher whether they can actually live being a teacher, sure. Sorry, that was a very concluded answer, but

J John Phillips 1:15:36

it's in the policies were written. A lot of these policies were written before the last few years where public leaders are escalating and using those very words. And so our children, I did a post today, and nobody cares about my post. But like I did a post today, that's like our children are watching all of ours and, and if we're doing this because everybody thinks they have to, then everybody has to escalate. We're reprogramming in a vat. I mean, look, shooting everything and, and, you know, that's a terrible interest, but to isolate one voice is, the, is, the, is the thing I get. Y'all got the complaint. You're like, we understand. Otherwise we would come in and said yes or no that there's a difference between the investigation or or what's the word, the report or claim or whatever, and and you know the job you all have to do, and you know that's it's why we're looking at this, you know differently, and maybe hope, and I'll regret it one day, but sorry.

S Speaker 1 1:16:55

You

J John Phillips 1:16:55

know I would, I would rather a broader conversation, no, because we have three people in the room that can make a difference in the long term. And that means more to me because I got, I got 10 more years from from my youngest in DCPS, and I want to keep it there. You know,

R Ronald Bennett 1:17:13

any questions? Questions, I will say, looking back before today, what if anything would you do to I guess not that you set out to do it, but to avoid an allegation of misconduct.

H Hope McMath 1:17:42

I believe I could do nothing to avoid an allegation from loans for liberty. And

R Ronald Bennett 1:17:52

then that being said, Is there anything you feel that wasn't asked that you wanted to be known for clarification purposes.

S

Speaker 9 1:18:09

I

H

Hope McMath 1:18:13

feel like, because the openness of the conversation, I feel like, for me, the things that needed to be said. You know, I guess the only other thing I would underscore is that I actually feel like, if we are centering students, right, like so, while I've been reassigned, you know, I continue to feed lesson plans because I got your permission to do so in principal, Fagan's like, they're getting updated lesson plans. Are getting resources that they need their their own pace, for those that are doing it, and not just like boycotting the learning right, or just like sleeping, like I care deeply that these kids get this content. And we had a great year last year, and like, just, I feel like kids really transformed through the learning that happened in the class. It makes them better humans. They earned their AP scores, which means they, like, you know, like, it's a and that's the piece that's, that's not in this conversation, right? I mean, we finally brought it up in this conversation, thank goodness. But that's, that's if they were really concerned about, and I don't even see in the post that they sort of posted, saying that things were a problem. It wasn't even about what I was teaching the classroom. Just wasn't, just wasn't. And so I just, I don't know it makes me actually, the knowledge of that makes me just sad. So. For the state of this, for for my students, it's like for all of this to get so politicized and so opened up and so public, where who they are is being targeted. I just it's it's unfortunate. So my hope is that we just move forward quickly. So whatever the solution is, they get the solution in place, right,

R

Ronald Bennett 1:20:26

right?

D

David Farcas 1:20:28

So I don't want this to sound accusatory in any way. Okay, I'm just going to kind of present it and have you answer. You mentioned something earlier regarding harmful post. And if you ever saw a harmful post, you would go in either address it and correct me if I'm wrong what you said, okay, that you would go in, address it and or delete it or do what you needed to do as your response,

H

Hope McMath 1:20:57

if it was harmful to somebody else on that thread.

D

David Farcas 1:21:01

Okay, so someone else,

H

Hope McMath 1:21:03

right? So if somebody is in a conversation on on my page, my personal page, underneath whatever the topic is, if somebody comes on there, right with harmful, harmful commentary, threatening commentary, disparaging commentary of somebody on that thread. I will block them

D

David Farcas 1:21:25

so it's directed towards another person, not yourself. So if a student were to go on to your page, and I'm just going to point and they see, you know, the finger flipping. Do you think that that would be harmful to that student if they were viewing that, no matter what their perspective may be on politics?

H

Hope McMath 1:21:52

No, I don't. I don't think throwing a bird is harmful to the student if that bird was being thrown at them. Yes,

S

Speaker 16 1:22:01

I

H

Hope McMath 1:22:01

do right? If I was holding up a photograph of one of my students right, or standing in front of the school, or targeting their identity in a way that makes it seem like it's not legitimate in this world. That's harmful to those students. Me flipping a bird to a building and on the streets of Chicago is not harmful to students, in my opinion. So, so yeah, that's two different things, like when I was referencing going into a post, which I very rarely do, but if there is harm, because it does happen right where there's commentary happening, and somebody comes on there and they make some disgusting comment about, like, well, you know, and these aren't involving students, but like adults in the community and making harmful comments. I mean, debate, yes, people get hot headed, yes. But like, if they are going after somebody, I will go in and block that person.

R

Ronald Bennett 1:23:05

That's it. So timeline, I intend to get through this expeditiously as I possibly can. I'll do my investigative report, and it'll probably take me a day or so. But then there's also it has to be approved by district level, you know, individuals on up to and including possibly the superintendent. So I don't have a definite timeline, all I can say is that I'm going to do it as fast as I possibly can, and then based on their recommendations, you know, go from that.

H

Hope McMath 1:23:52

Can I ask a question, absolutely? How is what is happening in this room and through the process that you just laid out, intersecting or not with whatever the state is doing. Is there, is there a separate investigation happening at the state level concurrent to this?

R

Ronald Bennett 1:24:09

Yeah, so there's

H

Hope McMath 1:24:10

two investigations happening.

R

Ronald Bennett 1:24:12

So yes, they have. They're independent. The state's investigation is independent of ours. However, per state law, whenever we do an investigation that involves an allegation against an employee, health, safety, welfare of students, we have to make an initial report to DOE, and then they decide, you know, at that point, whether it's something that they want to do another investigation on. And then, obviously, when we're done with our investigation, we report and say, This is what our findings are. More times than not, I have seen, in my experience, they go with our investigation, they say, okay, that's. Fine. However, they do have their own separate investigation, and

H Hope McMath 1:25:06

it's there so their investigation is independent of yours. Beyond like obviously you're reporting your investigative findings to them. Yes, they consider that at whatever level they consider that, but they are already on their own path, as we know because they interviewed students and faculty, but have had no communication with me beyond the letter saying that they were investigating

S Speaker 13 1:25:33

me. Seems likely

D David Farcas 1:25:35

their decisions, their outcomes are and may be, completely different from ours,

H Hope McMath 1:25:41

right? So one scenario would be, y'all school system makes a recommendation she needs to go. They're corking, uncorking champagne in Tallahassee, thrilled about it, or it's she's being reinstated, but with some sort of disciplinary action or whatever, and the state might say, Oh no, no, we're

R Ronald Bennett 1:26:04

taking her certificate. Worst case scenario,

S Speaker 10 1:26:06

yeah,

R Ronald Bennett 1:26:06

from one new inspection to the other, it could be,

H Hope McMath 1:26:10
and we don't know what a timeline for their investigation. Do you have any track record in knowing how long their investigations take? Different

R Ronald Bennett 1:26:20
for each one.

J John Phillips 1:26:20
And this is a very different situation

H Hope McMath 1:26:23
well, and in the current moment, it's unlike any other moment. We have no idea. This

J John Phillips 1:26:27
is probably a question I can't answer. But how many similarly situated teachers are in Duval County? Five,

H Hope McMath 1:26:35
meaning being reassigned,

J John Phillips 1:26:36
that are being Yeah, for posts, social media post recently,

S Speaker 1 1:26:42
believe we have a total of five complaints, okay,

J John Phillips 1:26:45
by the same

S Speaker 1 1:26:46
I don't like

D David Farcas 1:26:46
I believe we

S Speaker 5 1:26:47
we have

J John Phillips 1:26:48
by the same complainant.

S Speaker 5 1:26:49
No,

S Speaker 2 1:26:50
Okay, interesting. Thank you. I appreciate

S Speaker 1 1:26:52
that.

J John Phillips 1:26:52
And so they have a multiple because they stay alive.

H Hope McMath 1:26:56
So I have one more question. So for people who have been very public about complaints they have made that are not part of this. Mems for liberty, thing is that is there, is there the case where complaints are made but just discounted and not followed up on more all complaints part of an investigation.

R Ronald Bennett 1:27:25
So if we and correct me, Dr, if we get a complaint, we have to investigate it. We it's if it's reported to us, we investigate it. Now, there are times that when a complaint comes to us and we look at it and well, still, we still investigate it. We may come up with, okay, it's nothing, but we give it the investigation, investigative process, and, you know, whatever lead that we can. And if

S Speaker 17 1:27:53
we're

H Hope McMath 1:27:53
Newsom campaign and those 25 people who all said they lost a complaint, no wonder, or I wonder if they did that at the state level and not locally.

J John Phillips 1:28:06
There's a lot of Melissa,

H Hope McMath 1:28:08
listen, there's some ish going on right now. I got white nationalist at me. I got monster liberty at me. I got, it's like, and it's like, it's just, it's just interesting, right? Because the media then also got that, which we need. That was they got that

R Ronald Bennett 1:28:22

all I can all that we can speak to is if we get a complaint on the employee of the district, we have to open up an investigation and look into it. We come to a conclusion on it, a decision is made whether substantiated, not substantiated. If it's substantiated, okay, they're getting disciplined. Okay, what type of discipline? Because there's a progressive discipline scale, and

H Hope McMath 1:28:49

not all complaints are teachers taken out of the classroom, either,

R Ronald Bennett 1:28:52

correct? So

H Hope McMath 1:28:53

it's interesting that I was taken out of the

R Ronald Bennett 1:28:57

classroom so certain investigations would require individuals to be temporarily reassigned until we can put them back. Which

J John Phillips 1:29:10

one would think that link is allegations of harm to a child or not a child, but a threat to children broadly, okay?

D David Farcas 1:29:23

And that's a good point. Anything questionable that relate, it's interesting,

J John Phillips 1:29:27
and it's ripe for abuse now. But how many of you are there? How many investigators are there?

R Ronald Bennett 1:29:33
We have not enough

H Hope McMath 1:29:35
for a district this. Wow.

R Ronald Bennett 1:29:38
We have six investigators. And of course, the

J John Phillips 1:29:42
it's interesting, and then, okay, that's my question.

T Tameico Grant 1:29:50
I'm sorry that was the end of my questions.

J John Phillips 1:29:52
Are you? No? You, if you have anything? No. My three things were, how many paths are we on?
To

H Hope McMath 1:30:00
the

J John Phillips 1:30:00
complaints, 501, c3, I want to make that point,

H Hope McMath 1:30:03
501, C, 451,

J John Phillips 1:30:03
c4, exactly. AP, art history and the New York curriculum that you stuck to or the curriculum,
yeah, but nobody

H Hope McMath 1:30:11
seems to care about that. They actually don't care about what's happening in the classroom,

J John Phillips 1:30:15
yeah? Like

S Speaker 18 1:30:16
nobody's

S Speaker 1 1:30:17
Well,

D David Farcas 1:30:17
we do. We just don't want it to affect the student

J John Phillips 1:30:20
correct

D David Farcas 1:30:21
in the classroom. Look, that's that's our drive towards that.

J John Phillips 1:30:25
DCPS, and again, just you can turn off the recorder, but I don't care. DCPS, can you turn off the recorder?

D David Farcas 1:30:33
Yeah, absolutely. I.

EXHIBIT N

Recommended Order, Kamoutsas v. Pulis

DOAH Case No. 25-5751PL

ALJ James H. Peterson, III. May 4, 2026.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANASTASIOS KAMOUTSAS,¹ AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

Case No. 25-5751PL

JEANNE MARIE PULIS,

Respondent.

_____ /

RECOMMENDED ORDER

An administrative hearing was conducted in this case via Zoom conferencing on February 25, 2026, before James H. Peterson, III, Administrative Law Judge with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: David E. Chauncey, Esquire
Judy Piseth, Esquire
Alexander Degance Barnett, P.A.
1500 Riverside Avenue
Jacksonville, Florida 32204

For Respondent: Jeanne Marie Pulis, pro se
3556 Northeast 138th Place
Anthony, Florida 32617

¹ On March 4, 2025, this case was referred by the office of the Commissioner of Education to the Division of Administrative Hearings styled as *Manny Diaz, Jr., as Commissioner of Education vs. Jeanne Marie Pulis*. On July 14, 2025, Anastasios Kamoutsas succeeded Commissioner Diaz as Commissioner of Education. Thus, the style of this case is amended to *Anastasios Kamoutsas, as Commissioner of Education vs. Jeanne Marie Pulis*, and any references to the Commissioner of Education refer to the current Commissioner.

STATEMENT OF THE ISSUES

Whether Respondent violated section 1012.795(1)(j) and (p), Florida Statutes, and Florida Administrative Code Rule 6A-10.081(2)(a)1,² as alleged in the Administrative Complaint and, if so, the appropriate penalty.

PRELIMINARY STATEMENT

On April 8, 2024, Manny Diaz, Jr., as Commissioner of Education (Petitioner or Commissioner),³ executed an Administrative Complaint (Administrative Complaint) against Jeanne Marie Pulis (Respondent), alleging that Respondent violated section 1012.795(1)(j) and (p) and rule 6A-10.081(2)(a)1.

Respondent timely filed an Election of Rights requesting a settlement option and, if not resolved, requesting a formal hearing. After a settlement was not reached, Petitioner forwarded the case to DOAH on July 14, 2025, and it was assigned to the undersigned to conduct the administrative hearing. The case was then scheduled for the administrative hearing held February 25, 2026.

At the administrative hearing, Petitioner presented the testimony of Miguel De Leon Bautista, Renee Johnson, Jolene Vining, and Rose Cohen, and called Respondent as an adverse witness. Petitioner submitted 18 exhibits received into evidence as Exhibits P1 through P18. Out of turn, Respondent presented the testimony of John Sweet, and then, after Petitioner's witnesses finished their testimonies, Respondent testified on

² Unless otherwise noted, all citations to the Florida Statutes and the Florida Administrative Code are to the 2021 versions in effect at the time of the alleged violations.

³ See footnote 1, above.

her own behalf. Respondent submitted two exhibits received into evidence as Respondent's Exhibits R1 and R2.

The proceedings were recorded and a transcript was ordered. The parties were given 30 days from the filing of the transcript within which to file proposed recommended orders. The one-volume Transcript of the final hearing was filed on March 16, 2026. Thereafter, Petitioner timely filed its Proposed Recommended Order. Respondent filed her Proposed Recommended Order on April 20, 2026. Both Proposed Recommended Orders were considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Respondent holds Florida Educator's Certificate number 1459864, covering the areas of Pre-kindergarten/Primary Education, which is valid through June 30, 2026.

2. In spring 2022, Respondent was employed as a full-time classroom teacher at Sparr Elementary School in Marion County, Florida, where she worked with Exceptional Student Education (ESE) students whose Individual Education Plans provided for testing accommodations. At the time, Respondent also served as the test administrator for three of her ESE students who were taking Florida's statewide student assessment (FSA) tests.

3. The FSA test administration at issue was paper-based and given over two days in two separate sessions.

4. The material allegations against Respondent are set forth in paragraphs three through five of the Administrative Complaint as follows:

3. On or about March 23, 2022, Respondent signed the Spring/Summer 2022 Test Administration and Security Agreement whereby Respondent agreed that when administering statewide assessments, she was prohibited from, among other things,

changing or otherwise interfering with student responses to test items.

4. On or about March 23, 2022, Respondent signed the Spring/Summer 2022 test Administrator Prohibited Activities Agreement whereby Respondent indicated by her signature that when administering statewide standardized tests including the Florida Standards Assessment (FSA), that she understood that she was prohibited from, among other things, reading student responses, monitoring students for use of testing strategies, coaching students during testing regarding test taking strategies, and giving students verbal cues including pointing out questions the student may have gotten wrong.

5. On or about May 5, 2022, Respondent administered the FSA Reading test to her class of three Exceptional Student Education (ESE) students. Respondent inappropriately assisted students by verbally suggesting to students that answers were incorrect. As a result of Respondent's conduct, results of the students' tests were invalidated.

5. Miguel De Leon Bautista worked in Respondent's classroom during the 2021-2022 school year as a Special Needs Paraprofessional.⁴ His responsibilities included assisting in the classroom, helping calm students, and supporting the teacher. Mr. Bautista worked with Respondent and served as the proctor with Respondent during the FSA test administrations at issue.

6. Prior to the tests at issue, both Respondent and Mr. Bautista attended the initial training required for test administrators and proctors. Respondent also attended a separate accommodations training before administering the tests.

⁴ At the time of his testimony, Mr. Bautista was working as a Dollar General "customer rep." and was no longer employed by the school.

7. Accommodations available for Respondent's three ESE students for the spring FSA administration included read-aloud and verbal encouragement.

8. Respondent signed an Accommodations Acknowledgment confirming that she received and read the 2021-2022 Statewide Assessments Accommodations Guide, and signed the "Spring/Summer 2022 Test Administrator Prohibited Activities Agreement" listing certain prohibited activities in administering the FSA, as well as the "Spring/Summer 2022 Test Administration and Security Agreement."

9. The Accommodations Guide explained that verbal encouragement was an allowable accommodation, giving examples such as "keep working" and "make sure to answer every question," but expressly stated that verbal encouragement "may not be used to assist a student in producing or correcting responses."

10. The Accommodations Guide also permitted read-aloud accommodations for eligible students, which allowed the test administrator to read questions and answer choices aloud in the manner authorized by the guide, but required care to not lead a student to a correct or incorrect response.

11. The Prohibited Activities Agreement expressly prohibited, among other things, coaching students during testing, assisting students in answering test items, monitoring students for use of testing strategies, and giving students verbal cues such as "you may want to re-check number 7."

12. The Security Agreement also prohibited explaining or reading passages or test items for students except as allowed, "changing or otherwise interfering with student responses to test items," and "[c]ausing achievement of schools to be inaccurately measured or reported."

13. On May 6, 2022, Mr. Bautista's domestic partner, the school's health clinic assistant, told then-Assistant Principal Renee Johnson that Mr. Bautista was concerned that Respondent was inappropriately coaching students to change their answers during testing. Ms. Johnson reacted by

immediately removing Respondent from her classroom and arranging for a backup test administrator and proctor.

14. After that, Ms. Johnson gathered witness statements⁵ and relevant testing documents, including training sign-in sheets, the training PowerPoint, logs, seating charts, and the testing agreements signed by Respondent, and forwarded those materials to the director for assessment, accountability, and research for Marion County Public Schools, Joelene Vining.

15. On May 12, 2022, the Marion County School District (District) opened a formal internal administrative investigation and assigned a special investigator to investigate the reported testing-security violation.

16. Because an earlier assessment administered by Respondent had already been submitted to the State for scoring, Ms. Vining contacted the Florida Department of Education (Department), provided information and statements that had been collected, and consulted with the Department to determine whether the students' scores had to be invalidated.

17. After that review, the FSA tests administered by Respondent for her three ESE students were invalidated. According to Ms. Johnson, once the scores were invalidated, there was no way to know what the students' scores would have been on the FSA test administrations at issue. There was no evidence presented to determine what effect, if any, Respondent's alleged improper test administration had on her student's test scores.

⁵ Witness statements collected by Ms. Johnson included handwritten statements from Mr. Bautista and Ms. Johnson dated May 6, 2022, as set forth in paragraphs 19 and 30 below, respectively, and Mr. Bautista's handwritten statement dated May 9, 2022, set forth in paragraph 20, below. In addition, Ms. Johnson received a second handwritten statement from Respondent dated May 9, 2022, that was received into evidence as Petitioner's Exhibit 15, but is not recited below in this Recommended Order.

18. Following the District's investigation, it issued Respondent a written reprimand dated July 26, 2022, finding, *inter alia*:⁶

You were found to have violated the Code of Ethics under the Marion County School Board Policy 6.270 Professional Ethics and the State Board of Education Rule 6A-10.042, Florida Administrative Code (FAC) which states in part: "Persons who are involved in administering or proctoring the tests or persons who teach or otherwise prepare examinees for the tests shall not participate in, direct, aid, counsel, assist in, or encourage any activity which could result in the inaccurate measurement or reporting of the examinees' achievement." As a result of your actions, the District is issuing you this Written Reprimand.

19. Mr. Bautista's hand-written statement dated May 6, 2022, obtained by Ms. Johnson and forwarded to Ms. Vining, stated:

Yesterday 5-5-22/and Today 5-6-22 I was Proctoring for Ms. Pulis, and she was reading the Test questions to the students, I felt that she was guiding them to the answer, because she would tell them or asked them if they were sure if that was the answer or correct answer, to go back and try again or to redo it. She would also asked [sic] if they even read the story or questions. So she would tell them to go back and read it again.

20. In another hand-written statement signed May 9, 2022, Mr. Bautista wrote:

Back in April I saw the same thing and watch students change their answers only saw it happening with [student name blanked out] and [student name blanked out] Just like with the math test those two students.

⁶ The written reprimand stated that Respondent "shortened the testing time to 72 minutes instead of 80 minutes," but that allegation was not alleged in the Administrative Complaint at issue in this case. Moreover, there is little evidence of meaningful interactions with or consideration of Respondent's explanations prior to the issuance of the written reprimand. *See also* footnote 11, below, and Petitioner's Exhibit 18.

21. Mr. Bautista's written statements are general in nature and lack specificity regarding exact language, timing, and context.

22. Similarly, during the hearing, Mr. Bautista's testimony was less than clear. He acknowledged that statements attributed to Respondent might have been different and, at times, agreed that alternative wording presented by Respondent "sounded like something [she] said."

23. During the hearing, when asked about whether he received proctor training about test accommodations, Mr. Bautista testified:

Like I said, not really, not that I can recall. They just kind of told you basically what was expected. I said, basically, I don't recall watching no videos or somebody, you know, teaching us how to do it. That's why . . . I didn't say anything, you know, exactly to yourself or anything. I just - - I didn't think it was appropriate. But, again, that's why I just kept it to myself.

24. When asked during cross-examination why he kept it to himself, Mr. Bautista testified:

Like I said., I, I just felt uncomfortable. I didn't think that it was right, I guess or in my view, it was leading them to change the answer, kind of thing. That's why I didn't say anything to you - - to you or - - you know. And I just - - like I said, I spoke to somebody else. And it just got escalated up to that point.

25. In response to the question (Q) "Did you hear anyone state that you cannot tell a child to make sure they answered all the questions?"

Mr. Bautista answered (A):

A. Not that I can think of. I don't recall. Yeah. · I don't -- recall that.

26. With regard to one of the three students that were administered tests, Respondent asked Mr. Bautista, "do you recall [student name omitted]?"

A. Yes.

Q. Was he in our testing group?

A. Yes.

Q. Was he openly defiant?

A. Consistently.

Q. Did he avoid work?

A. Most of the times.

Q. During testing, when you were proctoring with me, did he flip to the back of the book and imply that he was finished?

* * *

A. Yeah. Basically, he -- well, I don't know if he flipped the whole thing, but I do remember him being in front of what she was reading. Basically, let's say she was in question number 2 or 3. He was already, like, 7 or 8 or something like that. He was just -- like I said, he wanted to --like I stated, they just wanted to breeze through or they didn't really care about the testing in a way. They just -- wanted to get it done.

27. Mr. Bautista's recollection was not consistent. For instance, to the question from Respondent during cross-examination, "Did I tell [student name omitted] that he needed to go back and answer all the questions and that he did not even take time to read?"

28. Mr. Bautista responded in his testimony:

I mean, that sounds like you would say that. I -- like I said, I can't recall specifics like that but maybe.

29. During Mr. Bautista's cross-examination, Respondent also asked the following questions and Mr. Bautista gave the following answers:

Q. In one of your statements, it was alleged that you said that I told children to go back and change their answers. Did you say that?

A. Well, not specifically change but, like, "Go back and read the answers because I don't think that was right."

Q. Is it possible that what I was saying is go back and answer the questions because you did not take time to read it?

A. I guess. I mean --

Q. Anther question --

A. Like I said, like, I just -- at that moment -- at that moment, like I said, I just -- I -- what I -- at that moment, what I remember, that's what I wrote down. So that was it, basically. It wasn't me making up stuff. It's just me writing down what I was just listening or hearing at that moment. That was it.

Q. During these tests, do children change answers without anything being said? Do they second guess themselves and go back and change something?

* * *

A. I guess, I wasn't really paying attention. I was just -- when you were reading the questions and I was looking behind them, passing by them or whatever, giving them candy, I would see -- I would see basically what question they were on. And that was it -- that was it.

30. In her written statement dated May 6, 2022, Respondent wrote:

Concerning verbal encouragement for my students, I will encourage them by reminding my students "we worked on this in class", "you can do this", "you know this, just take your time and think about what you are doing." If a child flips a page and does not look at the problem, but bubbles in an answer, I will tell them, "you didn't even take time to read that or to work out your problem."

31. Joelene Vining, who at the time of her testimony served as the director for assessment, accountability, and research for Marion County Public Schools, testified that statements such as “we worked on this in class” and “you didn’t even take time to read that or to work out your problem” were impermissible verbal encouragement because they constituted coaching, cueing, or prompting that interfered with obtaining a valid score. Ms. Vining’s opinion in that regard is derived from review of statements taken out of context and is not otherwise supported by clear and convincing evidence.

32. Respondent, in her testimony, strongly disagreed with the conclusion that she had impermissibly prompted or wrongfully interfered with her student’s tests. As stated in her direct testimony at the hearing:

. . . . Any kind of, of verbal encouragement that I used was to encourage my EBD^[7] students to believe in themselves.

The same statements I used had historically been used during [another] test with administration present in my classroom. I was not aware that my words were inappropriate. I do, however, realize that they were perceived as such. I want to take a moment to clarify some things within some of the exhibits, starting with Exhibit 10.^[8] This is a dialog with missing lines of questioning. Ms. Johnson asked -- Ms, Ms. Johnson asked if I had prompted students to go back and try again.

When I answered no, I tried to explain the situation with one of the students who, in seconds, flipped to the back of the book and answered one question and said he was done. Ms. Johnson grew frustrated with me and said, "Ms. Pulis, this is us trying to help you. Let us help you." She then asked aggressively, "Did you want the student to go back and answer the questions? Did you want the student to do their best?"

⁷ EBD refers to Emotional/Behavioral Disability as defined in rule 6A-6.03016,

⁸ Exhibit 10 (admitted into evidence as Petitioner’s Exhibit 10) is Renee Johnson’s written statement regarding her discussions on May 6, 2022, with Ms. Hernandez, Ms. Street, Respondent, and Mr. Bautista.

My response was, "Sure, I wanted them to do their best," confused as to why I was being questioned about something that she told us to do during previous meetings and in district testing guides. I'm referring to Exhibit 4, bullet 9, where it says, "Make sure to answer every question." My answer of sure was directly related to me knowing that that was what we were supposed to do.

I will add, for Exhibit 14,^[9] a student changing an answer is not evidence of coaching, prompting, or of misconduct. Students frequently change answers on assessments in all grade levels. Students were never told, during an assessment, that an answer was incorrect or prompted to change an answer. If any student changed an answer, that action was independent, not prompted by me or by Mr. D.^[10]

The allegations made against me were that of being dishonest, unprofessional in test administration, and of failing to protect children in my care by use of verbal encouragement. At no time have I been dishonest in any manner or withheld the truth. I can see that the statements I use for verbal encouragement were perceived as unprofessional.

And let me remind you, when I gave these assessments, I was not a professional but had only just passed the testing guidelines to become certified with a temporary certificate. I had not previously administered a state test. As for failing to protect the children, I will and have always done what is best for the child. The only thing that can be proved here with evidence in this court hearing is that the training I received for accommodations was insufficient.

And perhaps the second piece of evidence from Mr. D should have been looked at more carefully before invalidating a test that would lead multiple students to have their test be invalidated. I thank all of you for hearing me and listening.

⁹ Exhibit 14 (admitted into evidence as Petitioner's Exhibit 14) is Mr. Bautista's May 9, 2022, statement, stating in part: ". . . and watch students change their answers . . ."

¹⁰ Respondent referred to Mr. Bautista as "Mr. D."

33. Respondent's direct testimony stood up to cross-examination. When asked whether asking students to review their answers before turning in a test was a test strategy, Respondent testified, "I don't know if that's a testing strategy or not. I do hear a lot of teachers do that. I don't do that."

34. When confronted with her May 6, 2022, written statement during her cross-examination, Respondent explained:

I am not telling them to review anything again. This is specific to a child who flips to the back of their test. The same child flips to the back of their test and says they're finished, knowing they have not answered any of the questions.

35. In her credible testimony, Respondent consistently maintained that she did not provide answers, did not indicate correctness, and did not intend to influence her student's responses to test questions. Rather, as explained by Respondent, in context, her statements to her students during the test reflect her attempt to encourage engagement rather than influence or change their responses to questions.¹¹

36. While students, particularly elementary students, commonly change answers independently during assessments, a student changing an answer is not, by itself, evidence of coaching or misconduct. Further, the record does not support a finding that Respondent provided or guided her students with test answers.

37. In fact, Respondent was not in a position to guide students toward correct responses. Respondent did not have advance access to test content. The tests at issue were sealed and not opened until just before testing and there is no evidence that Respondent had prior knowledge of correct answers.

¹¹ Respondent's letter dated September 30, 2023, to the Department, Office of Professional Practices, admitted into evidence as Petitioner's Exhibit 18, corroborates Respondent's credible testimony and provides further evidence and explanation showing that Respondent did not improperly influence or interfere with the FSA tests she administered to her ESE students. There is insufficient evidence that either the District or the Department had meaningful interaction with or explanations from Respondent prior to reaching the decisions reflected in the District's written reprimand dated July 26, 2022.

38. As described and explained in her testimony, which is credited, the methods Respondent used in administering the tests were limited to permissible encouragement and accommodations and the evidence does not establish that Respondent acted with intent to violate testing protocols or that her methods in administering the tests were improper.

39. In sum, it is found that the evidence does not support the allegations of the Administrative Complaint.

CONCLUSIONS OF LAW

40. DOAH has jurisdiction over the parties and subject matter of this proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes.

41. Section 1012.796(6) authorizes the Commissioner to file a formal complaint and prosecute the complaint against a teacher's certificate pursuant to the provisions of chapter 120.

42. Petitioner, as the party asserting the affirmative in this proceeding, has the burden of proof. *See, e.g., Balino v. Dep't of HRS*, 348 So. 2d 349 (Fla. 1st DCA 1977).

43. Because the Commissioner is seeking to prove violations of a statute that may result in the imposition of administrative fines, licensure action, or other penalties, the Commissioner has the burden to prove the allegations of the Administrative Complaint by clear and convincing evidence. *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987).

44. Section 1012.795 gives the Education Practices Commission the power to suspend or revoke the teaching certificate of any person, either for a set period of time or permanently, or to impose any penalty provided by law, if he or she is guilty of certain acts specified in the statute.

45. A statute imposing a penalty is never to be construed in a manner that expands the statute. *Hotel & Restaurant Comm'n v. Sunny Seas No. One*, 104 So. 2d 570, 571 (1958).

46. The three-count Administrative Complaint alleges that, as a result of her conduct, Respondent violated section 1012.795(1)(j) (Count 1), (p) (Count 2), and rule 6A-10.081(2)(a)1. (Count 3). Section 1012.795(1)(j) and (p) provides:

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or may impose any other penalty provided by law, if the person:

* * *

(j) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

* * *

(p) Has violated test security as provided in s. 1008.24.

47. Rule 6A-10.081(2)(a)1., one of the subparts of rule 6A-10.081, entitled “Principles of Professional Conduct for the Education Profession in Florida,” provides:

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student’s mental and/or physical health and/or safety.

48. Count 1 of the Administrative Complaint seeks to discipline Respondent on allegations that she violated section 1012.795(1)(j) for having “violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.” This count does not charge an independent violation, but rather, is dependent upon a corresponding violation of the rule prescribing the Principles of Professional Conduct for the Education Profession in Florida. There was no clear and convincing evidence showing that Respondent was in violation of any rule.

49. Count 2 of the Administrative Complaint charges Respondent under section 1012.795(1)(p) for allegedly violating test security as provided in section 1008.24, Florida Statutes. Considering those provisions¹² in light of

¹² Section 1008.24 entitled “Test administration and security; public records exemption,” provides, in pertinent part:

(1) A person may not knowingly and willfully violate test security rules adopted by the State Board of Education for mandatory tests administered by or through the State Board of Education or the Commissioner of Education to students, educators, or applicants for certification or administered by school districts pursuant to ss. 1002.69, 1003.52, 1003.56, 1007.25, 1007.35, 1008.22, 1008.25, and 1012.56, or, with respect to any such test, knowingly and willfully to:

(a) Give examinees access to test questions prior to testing;
(b) Copy, reproduce, or use in any manner inconsistent with test security rules all or any portion of any secure test booklet;

the evidence adduced at the hearing, it is found that there was a lack of clear and convincing evidence that Respondent violated applicable test security protocols.

50. Finally, Count 3 of the Administrative Complaint charges Respondent with violating rule 6A-10.081(2)(a)1. for allegedly failing to “make reasonable effort to protect the student from conditions harmful to learning and/or to the student’s mental and/or physical health and/or safety.” As with the other two counts, the evidence was insufficient to prove this allegation. Rather, as outlined in the Findings of Fact, above, the evidence failed to prove that Respondent exposed her students to any harmful conditions or that Respondent failed to protect them while under her care. Rather, considering the evidence, it is found and concluded that the methods Respondent used in administering the subject tests were limited to permissible encouragement and accommodations, and that the evidence failed to show that Respondent acted with intent to violate testing protocols, or that her methods in administering the tests were improper.

51. In sum, the allegations of the Administrative Complaint were not supported by clear and convincing evidence.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be issued finding that Respondent did

-
- (c) Coach examinees during testing or alter or interfere with examinees’ responses in any way;
 - (d) Make answer keys available to examinees;
 - (e) Fail to follow security rules for distribution and return of secure test as directed, or fail to account for all secure test materials before, during, and after testing;
 - (f) Fail to follow test administration directions specified in the test administration manuals; or
 - (g) Participate in, direct, aid, counsel, assist in, or encourage any of the acts prohibited in this section.

not violate section 1012.795(1)(j) or (p) or rule 6A-10.081(2)(a)1., and dismissing the allegations of the Administrative Complaint.

DONE AND ENTERED this 4th day of May, 2026, in Tallahassee, Leon County, Florida.



JAMES H. PETERSON, III
Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
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Filed with the Clerk of the
Division of Administrative Hearings
this 4th day of May, 2026.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

EXHIBIT O

Recommended Order, Kamoutsas v. Mersinger

DOAH Case No. 25-4192PL

ALJ Francine M. Ffolkes. March 30, 2026.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANASTASIOS KAMOUTSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

Case No. 25-4192PL

MAX MERSINGER,

Respondent.

_____ /

RECOMMENDED ORDER

A duly noticed final hearing by Zoom conference was conducted on December 9, 2025, before the Honorable Francine M. Ffolkes, an Administrative Law Judge (ALJ) with the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Charles T. Whitelock, Esquire
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For Respondent: Mark S. Wilensky, Esquire
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STATEMENT OF THE ISSUES

Whether Respondent, Max Mersinger (Respondent), committed any of the offenses as charged in the Amended Administrative Complaint dated November 16, 2022; and, if so, what is the appropriate penalty to impose against Respondent's Florida Educator's Certificate.

PRELIMINARY STATEMENT

On November 16, 2022, Petitioner, the Commissioner of Education (Petitioner or Commissioner), filed a three-count Amended Administrative Complaint against Respondent alleging violations of sections 1012.795(1)(g) and (j), Florida Statutes, and Florida Administrative Code Rule 6A-10.081(2)(c)4.

Respondent timely filed an Election of Rights form disputing the allegations and requesting a hearing. On August 4, 2025, Petitioner referred this matter to DOAH for assignment of an ALJ. On August 26, 2025, the undersigned noticed this matter for final hearing on November 21, 2025. On the request of the parties, the final hearing was postponed for good cause shown, and was held on December 9, 2025. On December 4, 2025, the parties filed their Amended Joint Pre-hearing Stipulation.

At the final hearing, Petitioner presented the testimony of Susan Rockelman (Ms. Rockelman). By stipulation of the parties, Petitioner's Exhibits 1 through 20 and Respondent's Exhibits 1, 2, 9, 10, 16, and 17 were admitted into evidence, subject to hearsay objections. Respondent presented the testimony of Adam White, Ph.D. (Dr. White).

The one-volume Transcript was filed with DOAH on January 28, 2026. The parties timely filed their Proposed Recommended Orders, which were considered in the preparation of this Recommended Order.

All references to the Florida Statutes and Florida Administrative Code are to the most recent codifications; the relevant penal provisions in effect at the time of the alleged misconduct are identical to those cited.

FINDINGS OF FACT

Based on the parties' stipulations, and on the evidence adduced at the final hearing, the following Findings of Fact are made:

1. The Commissioner is the agency head of the Florida Department of Education (Department). The Department's Professional Practices Section is responsible for investigating allegations of misconduct against persons holding Florida Educator Certificates. Upon a finding of probable cause, Petitioner is responsible for filing an administrative complaint pursuant to chapter 120, Florida Statutes.

2. At the time of the allegations contained in the Amended Administrative Complaint, Respondent held Florida Educator's Certificate No. 1194773, covering the areas of English and Social Science, which was valid through June 30, 2022. As of the date of his deposition, taken on September 8, 2023, Respondent had submitted paperwork to renew his certificate.

3. At the time of the allegations contained in the Amended Administrative Complaint, Respondent was employed as a Critical Thinking Teacher at Whiddon-Rogers Education Center in the Broward County School District.

4. The Amended Administrative Complaint alleged:

3. That on or about March 4th, 2019, Respondent was observed by a supervisor teaching students housed in the detention center how to make bombs.

4. That on April 11, 2019, Respondent became angered and threatened school staff stating, "I feel like smashing someone. I will kill everyone!" or words to that effect and telling staff that they better get out of his way when he is killing people, that people had tried to kill him before and that they were no longer there and he was.

5. That on April 12th, 2019, and as a result of his actions Respondent created a hostile work environment. Respondent was required to undergo a Fitness-For-Duty examination. Respondent was psychologically examined on May 7th, 2019 and

found to be unfit to return to his teaching position with the school district.

6. That on July 1st, 2019, Respondent was terminated from employment with the school district. That as a result of his termination, Respondent's effectiveness as an employee was seriously reduced.

5. Executive Director for Talent Management for the School Board of Broward County, Ms. Rockelman, testified at the hearing that as a result of an incident, information received from the special investigation unit, and a fitness for duty evaluation, it was determined that Respondent would be terminated as an employee.

6. Respondent has not been employed by the Broward County School Board since 2019. Ms. Rockelman claimed that based on the information that she had from 2019, Respondent had no effectiveness as an employee of the Broward County School Board.

7. After he was terminated from employment with the Broward County School Board, Respondent worked as a teacher at a charter school in Broward County until he left there during the COVID health emergency.

8. Ms. Rockelman did not conduct the fitness for duty evaluation. Her testimony as to its content, including its result, is hearsay. Hearsay is admissible to supplement or explain non-hearsay evidence, but cannot stand alone to support a material finding of fact. *See* § 120.57(1)(c), Fla. Stat.

9. Respondent did not testify at the hearing, but his deposition was admitted as Petitioner's Exhibit 20. Respondent's statement dated April 11, 2019, was admitted as Petitioner's Exhibit 6. These documents contain out-of-court hearsay statements by Respondent that are admissible as admissions offered against him by Petitioner. Respondent's answers to interrogatories, admitted as Petitioner's Exhibit 18, and Petitioner's responses to a request for admissions, admitted as Petitioner's Exhibit 19, established by his

admission that a fitness for duty evaluation took place, but not any details or findings of that evaluation.

10. On redirect examination, Ms. Rockelman testified about an investigation conducted by persons in a special investigations unit. The details and result of that investigation are hearsay. Ms. Rockelman's mere repetition of the investigation's findings in the hearing does not convert the hearsay statements into non-hearsay. Statements by non-testifying witnesses are hearsay. Statements by non-testifying investigators who interviewed non-testifying witnesses are hearsay within hearsay. Hearsay and double hearsay cannot be the basis for specific material factual findings about Respondent's alleged statements and actions on March 4, 2019, and on April 11, 2019.

11. Petitioner cannot rely on hearsay and double hearsay statements to clearly and convincingly prove the specifics of the allegations in paragraphs three, four, and the first sentence of paragraph five¹ in the Amended Administrative Complaint. The hearsay and double hearsay statements are the source of the specified actions in those paragraphs and do not merely corroborate Respondent's April 11, 2019, statement and his deposition statements.

12. Respondent was required to undergo a fitness for duty examination after the April 11, 2019, incident. However, the specifics of the evaluation and its findings are hearsay. The only non-hearsay evidence of a fitness for duty evaluation came in the hearing through the testimony of Dr. White.

13. Dr. White testified to his opinion that within a reasonable degree of psychological certainty, he could assure the Educational Practices Commission that were Respondent to return to classroom teaching there would not be worry about the safety of students, staff, or parents were there a problematic situation presented. Dr. White testified that his opinion included

¹ Either the first sentence in paragraph five contains a scrivener's error regarding the date of the alleged incident or there is no proof of an incident on April 12, 2019.

a recommendation of assignment of a mentor to Respondent to help him re-enter the educational system.

14. Ms. Rockelman also testified that Respondent was eligible to reapply for a position with the Broward County School Board; and, that if a location were interested in hiring him, the School Board would require him to present a fitness for duty affidavit from a school district physician.

Ultimate Findings

15. There was no clear and convincing proof that Respondent was observed teaching students how to make a bomb.

16. There was no clear and convincing proof that Respondent threatened school staff.

17. There was no clear and convincing proof that Respondent created a hostile work environment as a result of his actions.

18. Respondent's effectiveness as an educator was not seriously reduced as a result of his termination from employment.

CONCLUSIONS OF LAW

19. DOAH has jurisdiction over the subject matter of this proceeding and of the parties pursuant to sections 120.569 and 120.57(1), Florida Statutes.

20. The Education Practices Commission is the state agency charged with the certification and regulation of Florida educators, pursuant to chapter 1012.

21. This is a proceeding where Petitioner sought to discipline Respondent's educator certificate. Disciplinary proceedings are penal in nature, such that Petitioner was required to prove the allegations in the Amended Administrative Complaint by clear and convincing evidence. *See Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996); *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987).

22. The Fourth District Court of Appeal enunciated the standard:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts in issue. The evidence must be of such a weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983). "Although this standard of proof may be met where the evidence is in conflict, it seems to preclude evidence that is ambiguous." *Westinghouse Elec. Corp. v. Shuler Bros.*, 590 So. 2d 986 (Fla. 1st DCA 1991).

23. Section 1012.795 and rule 6A-10.081 are penal in nature and must be strictly construed, with any ambiguity construed against Petitioner and in favor of Respondent. *See Latham v. Fla. Comm'n on Ethics*, 694 So. 2d 83 (Fla. 1st DCA 1997).

24. Whether particular conduct constitutes a violation of applicable statutes and rules is a factual question to be decided in the context of the alleged violation. *See Langston v. Jamerson*, 653 So. 2d 489, 491 (Fla. 1st DCA 1995). Whether specific conduct constitutes a deviation from the required standard is an ultimate finding of fact within the realm of the ALJ's fact-finding discretion. *See Holmes v. Turlington*, 480 So. 2d 150, 153 (Fla. 1st DCA 1985). In addition, discipline may be imposed only on grounds specifically alleged in the Amended Administrative Complaint. *See Cottrill v. Dep't of Ins.*, 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996).

25. Respondent is charged in the Amended Administrative Complaint with two statutory violations and one rule violation. Petitioner did not prove the allegations in the Amended Administrative Complaint by clear and convincing evidence.

Hearsay

26. In considering the proof offered to establish these allegations, this tribunal is subject to and bound by the limitations on the use of hearsay evidence in administrative proceedings set forth in section 120.57(1)(c). "Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions." § 120.57(1)(c), Fla. Stat.

27. Petitioner's exhibits referenced in the above Findings of Fact were admitted because chapter 120 allows the admission of hearsay, with the caveat that they were hearsay and could only be used to supplement or explain other competent evidence. However, those exhibits could not themselves be the sole support for material findings of fact. Party admissions, such as Respondent's statement, deposition, and discovery responses, constitute admissible evidence and were accorded appropriate weight in resolving disputed facts. *See* § 90.803(18), Fla. Stat. ("admissions" exception to the hearsay rule).

28. All of the information in the special investigation unit's report referenced by Ms. Rockelman specifically describing Respondent's words and actions were the statements of non-testifying investigators and witnesses, and so were hearsay within hearsay. *See M.S. v. Dep't of Child. & Fams.*, 6 So. 3d 102, 104 (Fla. 4th DCA 2009) ("The general rule is that a hearsay statement which includes another hearsay statement is admissible only when both statements conform to the requirements of a hearsay exception.") (quoting *Harris v. Game & Fresh Water Fish Comm'n*, 495 So. 2d 806, 809 (Fla. 1st DCA 1986)).

Absence of Clear and Convincing Proof

29. In analyzing whether the violations charged were proven, the allegations for which no evidence other than hearsay was proffered must necessarily fail.

30. No admissible, non-hearsay evidence was adduced in support of many of Petitioner's allegations. There was neither admissible testimony nor documentary evidence adduced that would allow a finding of fact that Respondent was observed teaching students to make a bomb. There was neither admissible testimony nor documentary evidence adduced that would support a finding of fact that Respondent threatened school staff or uttered any specific words. There was similarly no evidence that Respondent's actions created a hostile work environment. While there was admissible testimony or documentary evidence adduced to support a finding that Respondent was required to undergo a fitness for duty evaluation, there was neither admissible testimony nor documentary evidence adduced from which a finding of fact could be made that Respondent was found to be unfit to return to his teaching position with the school district.

31. That lack of clear and convincing proof makes it most simple to address the charges out of order. The second count of the Amended Administrative Complaint lists the violation of section 1012.795(1)(j) and charges Respondent with violations of one or more of the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules. Petitioner has charged Respondent with a rule violation of engaging in harassment or discriminatory conduct which unreasonably interfered with an individual's performance of professional or work responsibilities or with the orderly processes of education or which created a hostile, intimidating, abusive, offensive, or oppressive environment; and further, failed to make reasonable effort to assure that each individual was protected from such harassment or discrimination. A violation of the cited rule constitutes a violation of this provision.

32. However, as set forth in the factual findings and the above analysis, Petitioner failed to prove by clear and convincing evidence that Respondent violated section 1012.795(1)(j) and rule 6A-10.081(2)(c)4.²

33. The remaining (first) count of the Amended Administrative Complaint lists the violation of section 1012.795(1)(g) in that, upon investigation, Respondent has been found guilty of personal conduct that seriously reduces his effectiveness as an employee of the school district. However, as detailed above, there was no clear and convincing proof adduced of personal conduct of Respondent that reduced his effectiveness as a school district employee. *See generally McNeill v. Pinellas Cnty. Sch. Bd.*, 678 So. 2d 476 (Fla. 2d DCA 1996).

34. The admissible evidence was that there was a fitness for duty evaluation and that Broward County terminated Respondent's employment. The testimony of Ms. Rockelman, the only witness called by Petitioner, was that Respondent was eligible to reapply for employment as a teacher and would be considered for re-employment on completion of a fitness for duty evaluation. There was neither admissible testimony nor documentary evidence adduced from which a finding of fact could be made that Respondent was found guilty of personal misconduct or was found to be unfit to return to his teaching position with the school district. *See Braddock v. Sch. Bd. of Nassau Cnty.*, 455 So. 2d 394 (Fla. 1st DCA 1984).

35. Petitioner failed to prove by clear and convincing evidence that Respondent violated section 1012.795(1)(g).


RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Education Practices Commission enter a final

² The rule violation was also labeled "Count 2" but was the third charge in the Amended Administrative Complaint.

order dismissing the Amended Administrative Complaint against Max Mersinger.

DONE AND ENTERED this 30th day of March, 2026, in Tallahassee, Leon County, Florida.

Case No. 25-1199PL


FRANCINE M. FFOLKES
Administrative Law Judge
DOAH Tallahassee Office

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Charles T. Whitelock, Esquire
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

EXHIBIT P

Recommended Order, Kamoutsas v. Burchers

DOAH Case No. 25-3933PL

ALJ Hetal Desai. April 1, 2026.

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANASTASIOS KAMOUTSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

Case No. 25-3933PL

vs.

LAURA E. BURCHERS,

Respondent.

_____ /

RECOMMENDED ORDER

Administrative Law Judge (ALJ) Hetal Desai of the Division of Administrative Hearings (DOAH) conducted a final hearing in this matter on January 15, 2026, via Zoom conference under sections 120.569 and 120.57(1), Florida Statutes (2025).¹

APPEARANCES

For Petitioner: Ron Weaver, Esquire
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 Egan, Lev, Lindstorm & Siwica, P.A.
 231 East Colonial Drive
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¹ All references to the Florida Statutes and Florida Administrative Code are to the 2025 versions, which have not materially changed since the allegations at issue took place.

STATEMENT OF THE ISSUES

Whether Respondent violated section 1012.795(1)(j), Florida Statutes, and Florida Administrative Code Rule 6A-10.081(2)(a)1. when she reported to her head coach that a fellow assistant track coach was sending texts to a student track team member, but did not immediately report the same to the school principal or assistant principal, as alleged in the Amended Administrative Complaint (Amended Complaint); and, if so, what is the appropriate discipline.

PRELIMINARY STATEMENT

On October 30, 2023, the Commissioner of Education (COE) issued an Administrative Complaint charging Respondent, Laura E. Burchers, with violating Florida law for allegedly failing to properly report texts between a fellow assistant track coach and a student. Specifically, the COE alleged three separate counts against Respondent and sought discipline ranging from a written reprimand to revocation of Respondent's educator's certificate.

On November 28, 2023, Respondent filed an Election of Rights in which she denied the material allegations and timely requested an administrative hearing. On May 12, 2025, the COE referred the matter to DOAH for assignment of an ALJ to conduct an evidentiary hearing under chapter 120.

On January 8, 2026, the COE was granted leave to file the Amended Complaint based on the following allegations:

3. On or about April 8, 2022, R.M., a female twelfth grade student, reported to Respondent that Coach Anthony Bombassaro had sent her numerous text messages that made R.M. feel concern and discomfort. Respondent shared R.M.'s concerns with Coach Roland Palmer. Later that evening, Respondent called Coach Palmer to discuss R.M.'s concerns and being uncomfortable around

Coach Bombassaro. Respondent did not report R.M.'s concerns to the school Principal or Assistant Principal.

4. On or [about] April 16, 2022, R.M. again expressed to Respondent that she was uncomfortable with Coach Bombassaro and comments he makes [sic] to her. Respondent then contacted Coach Palmer to determine whether he had spoken with Coach Bombassaro about Bombassaro's communications with R.M. Coach Palmer informed Respondent that he had not spoken with Coach Bombassaro. Respondent did not report R.M.'s concerns to the school Principal or Assistant Principal.

5. On or about April 18, 2022, Respondent forwarded another text message to Palmer that R.M. received from Bombassaro. Respondent still did not report R.M.'s concerns to the school Principal or Assistant Principal.

Based on these facts, the COE alleged two counts against Respondent: (1) a violation of section 1012.795(1)(j), for violating the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules; and (2) violation of rule 6A-10.081(2)(a)1., for failing to make reasonable efforts to protect R.M. "from conditions harmful to learning and/or her mental health and/or physical health and/or safety."

The final hearing was held on January 15, 2026, via Zoom. The parties stipulated to five uncontested facts which have been incorporated into this Recommended Order where appropriate.

The COE presented testimony from three witnesses: (1) Darya Grote, an assistant principal; (2) R.M., a former student; and (3) Fernando Vazquez, the director of professional standards with the Lee County School District (LCSD). The COE's Exhibits P1 through P9 were admitted in evidence.

Respondent testified on her own behalf and presented testimony from two other witnesses: (1) Angela Taillon, a Charlotte County school principal; and (2) Mary Culleton-Burchers, Respondent's mother and a retired LCSD school counselor. Respondent's Exhibits R1 through R24 were admitted in evidence.

A Transcript of the final hearing was filed on February 4, 2026. At the final hearing Respondent requested ten additional days to file proposed recommended orders (PROs); COE did not object and the request was granted. By agreeing to the extension, the parties waived the requirements for the rendering of a recommended order within 30 days of the filing of the transcript. *See Fla. Admin. Code R. 28-106.216(2)*. Both parties timely filed their PROs on March 10, 2026, and both PROs were duly considered in preparing this Recommended Order.

The findings below are based on the parties' stipulated facts, the sworn testimony at the hearing, and the evidence admitted at the hearing. Hearsay evidence was considered if it supplemented or explained other non-hearsay evidence or would be admissible over objection in civil actions. § 120.57(1)(c), Fla. Stat.

FINDINGS OF FACT

1. The COE, as the head of the Florida Department of Education, is charged with investigating and prosecuting educators who violate Florida law, including the Principles of Professional Conduct.
2. Respondent holds Florida Educator's Certificate 1358763, covering the areas of Mathematics, which is valid through June 30, 2030.
3. During the relevant time, the 2021-2022 school year, Respondent was in her second year of employment as an algebra teacher at Fort Myers High School (FMHS) in LCSD.

4. In addition to teaching math, Respondent was an assistant coach for the FMHS Track and Field team (track team). She primarily coached student athletes competing in the triple jump and long jump events.

5. Anthony Bombassaro (known also as “Coach Bomb”) was also an FMHS track coach.

6. As an assistant track coach, Respondent reported to Roland Palmer, the head track coach. Palmer also was a math teacher and had been at FMHS for over 20 years. Respondent looked to Palmer for advice and believed he served as her mentor.

7. As the head coach of the track team, Palmer directed all of the track coaches, including Burchers and Bombassaro. Palmer’s duties included giving the other coaches advice, scheduling their activities, approving their expenditures, and making policy and procedural decisions concerning the track team. Palmer was Burchers’ and Bombassaro’s supervisor for their track duties.

Texts with R.M.

8. R.M., a female twelfth-grade student, was a pole-vaulter on the track team during the 2021-2022 school year. R.M. wanted to try the triple jump event, but Bombassaro discouraged her from doing so. Burchers, on the other hand, encouraged her to participate in other events beside the pole vault.

9. R.M. originally was coached by “Coach Stephanie,” but at some point Bombassaro either took over or also coached R.M. in the pole vault event. He began “repetitive texting” with R.M. and would go out his way to talk to her in the hallways. During track practices, R.M. felt Bombassaro singled her out and paid more attention to her than others. R.M. had been a student athlete for all her time at FMHS, and had never had a coach text her as often as Bombassaro. Although he never made any sexual comments or propositions, this behavior annoyed her and made her feel uncomfortable.

10. On or about April 8, 2022, R.M. told Respondent about Bombassaro’s texts to her. R.M. trusted Respondent and felt Respondent was someone she

could confide in. After talking to Respondent, she felt as if everything was going to be okay and felt better about the situation.

11. The texts were about track, track meets, or other athletes. R.M. and Respondent were not concerned about the content of the texts, but rather their frequency. As R.M. later explained to investigators, “He texted me too often. I still do not understand the reasons for his attention.”

12. Burchers recognized the texts were causing R.M. stress and making R.M. feel uncomfortable.

13. That same day on the field, on April 8, Respondent told Palmer that she needed to talk to him about R.M. She did not go into details because there were students around, but told him she was going to call him.

14. Within 30 minutes of talking to Palmer on the field, Respondent called him to discuss the texts. When Palmer asked if they were sexual, Respondent told Palmer the texts were not sexual, but were generally about pole vaulting and being a better athlete. Palmer told Respondent that he would “handle it.”

15. There was no evidence Palmer reported Respondent’s concerns to anyone at FMHS, or that he talked to Bombassaro about the texts.

16. Burchers also consulted with Mary Culleton-Burchers, a retired school counselor, who had worked for LCSD for 26 years. Culleton-Burchers was also Respondent’s mother. Culleton-Burchers did not believe the texts were sexual or abusive, nor did she believe there was any immediate danger to R.M. Culleton-Burchers was familiar with LCSD protocol on how to recognize harassment and report it. The undersigned credits Culleton-Burchers’ testimony and agrees that there was no evidence proving the texts were sexual or abusive in nature.

17. Based on her conversations with Palmer and Culleton-Burchers, Burchers instructed R.M. to include either her or another coach on any further communications with Bombassaro, and told R.M. to share the texts with R.M.’s mother. Respondent followed this advice.

18. Meanwhile, Respondent and “Coach Stephanie” kept close contact with R.M. and monitored the communications between R.M. and Bombassaro, both on the field and through texts.

19. Over Easter weekend, in mid-April 2022, R.M. received more texts from Bombassaro. On or about April 18, R.M. told Burchers about these texts. Again, the texts were not sexual, but one involved Bombassaro asking R.M. to meet him in the equipment shed. R.M. did not meet him.

20. After learning about the text, Burchers immediately relayed the information to Palmer, who in turn called R.M. After talking to R.M., Palmer called Bombassaro and told him not to text R.M. any more. Palmer relayed these conversations to Respondent. Bombassaro stopped texting R.M.

21. Although Respondent reported the texts to Palmer and discussed the texts with R.M.’s female coach, Coach Stephanie, she did not report Bombassaro’s texts to the FMHS Principal or Assistant Principal.

Texts with A.M.

22. Unbeknownst to Respondent, Bombassaro was also texting A.M., R.M.’s sister who was on the track team. Although most of these texts were about track, on May 11, 2022, Coach Stephanie informed Burchers that Bombassaro had texted a picture of A.M. in a bikini from A.M.’s mother’s social media page. The text message stated, “Look what I saw. Will make for a great senior banner for track. Not embarrassing at all!”

23. The next day, Burchers told Palmer about the bikini picture and Bombassaro’s text to A.M. Burchers stood next to Palmer when he called “Dr. Butz,” the FMHS principal, and informed him about Bombassaro’s bikini picture and text.

24. Although there was some evidence that either the FMHS athletic director or FMHS principal may have instructed Bombassaro not to text students, Bombassaro continued to teach and coach after May 12, 2022. Respondent had the impression that Dr. Butz had not taken any action related to Bombassaro or his texting with A.M. and R.M.

25. On May 26, 2022, A.M. called Respondent, but Respondent was not at the school (because was called for jury duty). A.M. told Respondent that Bombassaro came up to her at school while she was in her car and he was “looking as if he was going to cry” and asked her “are we ok.” The conversation made A.M. very uncomfortable.

26. Burchers told A.M. to immediately go to the guidance office and talk to Kyle Yankovich, a school counselor Burchers knew well. A.M. followed these instructions.

27. Burchers immediately called Yankovich to let him know about the situation with R.M. and A.M. and Bombassaro. After speaking to A.M., Yankovich reported the car incident to Darya Grote, an assistant principal.

Investigation and Discipline

28. LCSD began an investigation of Bombassaro regarding the car incident with A.M. It is unclear whether the scope of the investigation extended to the texts and interactions with R.M. Grote testified that she was not investigating the texts with R.M., but learned about them when A.M. informed Grote that Bombassaro had also texted her sister.

29. Regardless, Grote testified that after reviewing the texts with R.M. and A.M., she had no concerns that R.M. or A.M. were in danger of harm or immediate danger from Bombassaro. She was concerned that Bombassaro approached A.M. in her car at school.

30. On June 6, 2022, Grote issued written reprimands to both Palmer and Burchers for failing to promptly report Bombassaro’s April 2022 texts with R.M. to the administration (the principal or assistant principal). At the time, the LCSD Professional Standards Office had not concluded its investigation into Bombassaro’s interactions with A.M.

31. The written reprimand issued against Respondent was for violation of rule 6A-10.081, and LCSB Policies 1.28 and 5.26. There was no evidence what these school policies required or stated.

32. The next school year, 2022-2023, LCSD investigator David Eaton conducted an investigation of Bombassaro's conduct towards A.M. and specifically, how he approached her car after being told not to communicate with her. Although part of the report was entered into evidence, it is unclear whether the investigation encompassed the April 2022 texts to R.M.

33. The LCSD investigation into Bombassaro was completed March 13, 2023, well after the reprimand issued to Respondent.

34. Later, the Interim Director of Professional Standards and leader of the Office of Professional Standards for LCSD, Fernando Vazquez, issued a letter of reprimand to Bombassaro for "allegations of misconduct" and "conduct unbecoming an educator." Bombassaro was not disciplined for sexual or other harassment. In addition to the written reprimand, Vazquez suspended Bombassaro for three days without pay. There was no citation to any violations of specific Professional Standards.

35. LCSD transferred Bombassaro to another school, where he continued to teach.

36. Vazquez testified that although his office had not investigated Respondent, he believed that Respondent's action in reporting it to Palmer was appropriate because "he is a head track coach and she was an assistant." But he also felt the texts should have also been reported to FMHS administration.

Reporting Training and Policies

37. In April 2022, there was no rule prohibiting students and coaches from texting each other. Coaches and student athletes used texts to exchange information related to practices and meets. This was done through individual texts and group texts.

38. As part of its training process, LCSD required employees in positions similar to Respondent to watch mandatory training videos on recognizing and reporting abuse. Respondent went through this training.

39. Moreover, LCSD Policy 5.32, Complaint Procedures for Sexual Harassment and Discrimination by Employees, outlines the procedure for reporting harassment by an LCSD employee. Grote did not find a violation of this policy nor did Respondent's written reprimand cite this policy.

40. Culleton-Burchers testified that the LCSD policy in effect during this time required Respondent to report any non-sexual or abusive misconduct to her supervisor, which in this case was Palmer and which Respondent had already done. Policy 5.31, which Grote also did not cite in Respondent's written reprimand, sets forth the procedure for complaints relating to general misconduct by employees. The version in effect in April 2022 does not mention reporting to an administrator, but rather only to a supervisor:

(2) Any employee who knows of an action by another employee that is a serious violation of School Board policy, State Board Rules, Florida Statutes or laws of the United States is obliged to *report that action to the appropriate supervisor*. This includes, but is not limited to, incompetence, gross immorality or an act involving moral turpitude, misconduct in office, gross insubordination or willful neglect of duty, or conviction of a misdemeanor, felony or other charge other than a minor, non-criminal traffic offense. Failure to report such violations may result in discipline up to and including termination. (emphasis added).

41. The COE's witnesses admitted that in determining whether an employee violated a reporting policy, one should take into consideration any policies instructing teachers on how they should report misconduct.

Impact on R.M.

42. R.M. finished her senior year and competed in the state finals at the end of the track season in May 2022. She invited Respondent to her graduation party. R.M. is currently attending a university on an athletic scholarship and still competes in sports.

43. After R.M. told Respondent about the texts, Respondent continued to check on her. R.M. testified that of all the people on the track team or at FMHS, R.M. felt Respondent did the most to protect her. Respondent made her feel safer. R.M. also felt Respondent protected her sister.

44. After LCSD disciplined Respondent, Palmer, and Bombassaro, the COE instituted its own disciplinary proceedings against all three. Palmer entered into a Settlement Agreement agreeing to a letter of reprimand and one-year probation. Bombassaro entered into a Settlement Agreement agreeing to a letter of reprimand and a two-year period of probation.

45. Bombassaro is still teaching for LCSD.

46. Respondent is currently teaching Algebra 1 and coaching at Charlotte High School in Charlotte County, where she has been employed for the last four years.

47. The COE issued an administrative complaint, and later an Amended Complaint against Respondent. The complaint ultimately charged Respondent with failing to make reasonable efforts to protect the student from conditions harmful to learning and/or to the student's mental health. The COE seeks to discipline Respondent with "a letter of reprimand, one-year probation, a course determined by the EPC, a fine in the amount of \$750.00, and other conditions deem[ed] appropriate by the EPC."

CONCLUSIONS OF LAW

48. DOAH has jurisdiction over the parties and subject matter of this cause. §§ 120.569, 120.57(1), and 1012.796(6), Fla. Stat.

49. The COE, as the head of the Department, is the state agent responsible for investigating and prosecuting allegations of misconduct against a teacher holding a Florida educator's certificate. §§ 1012.795(1) and 1012.796(1) and (6), Fla. Stat.

50. A determination of whether charged conduct violates a statute or rule is a question of ultimate fact decided by the trier-of-fact based on the weight

of the evidence. *Langston v. Jamerson*, 653 So. 2d 489, 491 (Fla. 1st DCA 1995) (citing *Holmes v. Turlington*, 480 So. 2d 150, 153 (Fla. 1st DCA 1985)); *McKinney v. Castor*, 667 So. 2d 387, 389 (Fla. 1st DCA 1995).

51. Disciplinary proceedings are penal in nature. *State ex rel. Vining v. Fla. Real Estate Comm'n*, 281 So. 2d 487, 491 (Fla. 1973). Thus, the COE must prove its allegations by clear and convincing evidence. *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996).

52. As stated by the Florida Supreme Court:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Henson, 913 So. 2d 579, 590 (Fla. 2005) (quoting *Slomowitz v. Walker*, 492 So. 2d 797, 800 (Fla. 4th DCA 1983)).

53. “No conduct is to be regarded as included within a penal statute that is not reasonably proscribed by it; if there are any ambiguities included, they must be construed in favor of the licensee.” *McClung v. Crim. Just. Stds. & Training Comm'n*, 458 So. 2d 887, 888 (Fla. 5th DCA 1984).

54. This proceeding is predicated on the factual allegations set forth in the Amended Complaint. *See Trevisani v. Dep't of Health*, 908 So. 2d 1108 (Fla. 1st DCA 2005); *Cottrill v. Dep't of Ins.*, 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996). Due process prohibits the COE from taking disciplinary action against a licensee based on matters not alleged in the Amended Complaint, unless those matters have been tried by consent. *Delk v. Dep't of Prof'l Reg.*, 595 So. 2d 966, 967 (Fla. 5th DCA 1992). Importantly, the COE has only alleged Respondent's inaction in protecting R.M. by failing to report Bombassaro's

text to the administration. Respondent is not charged with any allegations relating to A.M.

55. The COE seeks to discipline Respondent's educator's certificate for violating section 1012.795(1)(j) and rule 6A-10.081(2)(a)1., for failing to make reasonable effort to protect a student—R.M.—from conditions harmful to her learning, mental health, or physical health and safety.

56. The COE may discipline an educator's certificate for "violat[ing] the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules." § 1012.795(1)(j), Fla. Stat.

57. Rule 6A-10.081 sets forth the Principles of Professional Conduct for Florida educators. The rule provides as follows:

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

58. The weight of the credible evidence established Respondent fulfilled her obligation to report possible misconduct when she followed LCSD policies and reported Bombassaro's behavior to her supervisor, the head coach. Additionally, the evidence established Respondent made reasonable efforts to protect R.M. from harmful conditions by reporting the texts and the student's uneasiness to the head coach, advising R.M. to include her or another coach on any future texts, monitoring the interactions between R.M. and Bombassaro (on and off the field), and continuing to check on R.M. so that she (and her sister) felt they could report such behavior to her.

59. Additionally, there was no credible evidence that R.M. suffered from harmful learning conditions or that her mental or physical health and safety were at risk. Bombassaro continued to coach and teach even after the administration became aware of his texts to A.M., and continues to teach. Grote agreed that R.M. was never at risk. At the hearing R.M. confidently testified that although she believed Bombassaro was obnoxious, intrusive, and overbearing sometimes, she remained on the track team, successfully completed high school, and received an athletic scholarship to a university where she continues to compete.

60. Based on the Findings of Fact above, the COE did not prove by clear and convincing evidence that Respondent failed to make reasonable efforts to protect R.M. from conditions harmful to learning and/or to R.M.'s mental and/or physical health and/or safety.

61. Without such evidence, the COE failed to carry its burden of proof regarding Counts 1 and 2 charged against Respondent.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Education Practices Commission issue a Final Order dismissing the charges alleged in the Amended Administrative Complaint against Laura E. Burchers.

DONE AND ENTERED this 1st day of April, 2026, in Tallahassee, Leon County, Florida.

Hetal Desai

HETAL DESAI
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of April, 2026.

COPIES FURNISHED:

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Ron Weaver, Esquire
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Tobe M. Lev, Esquire
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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

EXHIBIT Q

Recommended Order, Diaz v. Shelton

DOAH Case No. 24-0831PL

ALJ Garnett W. Chisenhall. July 16, 2024.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MANNY DIAZ, JR., AS COMMISSIONER OF
EDUCATION,

Petitioner,

vs.

Case No. 24-0831PL

JACQUELINE ANN SHELTON,

Respondent.

RECOMMENDED ORDER

Pursuant to notice, a formal administrative hearing was conducted in Ocala, Florida before Administrative Law Judge Garnett W. Chisenhall of the Division of Administrative Hearings (“DOAH”), on May 17, 2024.

APPEARANCES

For Petitioner: Ron Weaver, Esquire
 Post Office Box 770088
 Ocala, Florida 34477-0099

For Respondent: Mark Herdman, Esquire
 Herdman & Vicari, P.A.
 29605 U.S. Highway 19 North, Suite 110
 Clearwater, Florida 33761

STATEMENT OF THE ISSUE

Whether Respondent committed the violations alleged in the Administrative Complaint; and if so, what penalty should be imposed.

PRELIMINARY STATEMENT

Manny Diaz, Jr., as Commissioner of Education (“Petitioner”), issued an Administrative Complaint on October 26, 2022, alleging that Jacqueline Ann

Shelton (“Ms. Shelton” or “Respondent”) violated statutes and rules governing education certificate holders by telling a student, on approximately March 4, 2021, that “[i]f I was 18, I would be all over you” or words to that effect.

On November 17, 2022, Ms. Shelton responded to the Administrative Complaint by requesting a formal administrative hearing, and this matter was referred to DOAH on February 23, 2024. After convening a telephonic status conference on March 12, 2024, the undersigned issued a Notice scheduling the final hearing for May 17, 2024.

The final hearing took place as scheduled with Petitioner calling Bernard Rembert, K.G., R.D., A.L., Lafaydra Thompson, and A.M. as witnesses. At the outset of the final hearing, the parties announced that there was no objection to Petitioner’s Exhibits 1 through 4 being accepted into evidence. However, Respondent maintained that Petitioner’s Exhibits 1 and 2 contained hearsay and that Petitioner’s Exhibits 3 and 4 were irrelevant. Petitioner’s Exhibits 1 through 4 were accepted into evidence with Respondent’s objections being noted. Respondent testified on her own behalf and did not move any exhibits into evidence.

The final hearing transcript was filed on June 11, 2024. After the deadline for filing proposed recommended orders was extended to June 27, 2024, both parties filed timely Proposed Recommended Orders that were considered in the preparation of this Recommended Order.

Unless stated otherwise, all statutory references are to the 2020 version of the Florida Statutes. That version of the Florida Statutes applies to the instant case because that is when the conduct at issue allegedly occurred. *McCloskey v. Dep’t of Fin. Serv.*, 115 So. 3d 441, 444 (Fla. 5th DCA 2013).

FINDINGS OF FACT

Based on the oral and documentary evidence adduced at the final hearing and the entire record in this proceeding, the following Findings of Fact are made:

1. Ms. Shelton taught physical education for 26 years, 25 of which were at Howard Middle School in Marion County, Florida where she taught students in sixth, seventh, and eighth grades.¹

2. Over the course of her teaching career, Ms. Shelton had a habit of making positive comments about her students' appearance. She did this in order to build their self-esteem.

3. In March of 2021, Ms. Shelton made a comment to one of her students, A.M. After arriving home that day, A.M. told his mother that something Ms. Shelton said made him feel uncomfortable. However, A.M. was unable to describe to his mother precisely what Ms. Shelton said or why it made him uncomfortable.

4. The testimony given by Petitioner's witnesses present when the alleged incident occurred was vague, inconsistent, uncertain, and lacking in detail.² As a result, the undersigned was unable to formulate a firm belief regarding the truth of Petitioner's allegations. In short, Petitioner failed to carry its burden of proving, by clear and convincing evidence, that Ms. Shelton: (a) committed an act that seriously reduced her effectiveness as an employee of

¹ Ms. Shelton was 65 years old at the time of the alleged incident. She is retired from teaching, and she has no intention of teaching again. Even though her teaching certificate expired on June 1, 2022, she is still subject to discipline for any violations she committed while her teaching certificate was active. *See* § 1012.796(1)(a), Fla. Stat. (providing that the Department of Education "may investigate or continue to investigate and take action on a complaint filed against a person whose educator certificate has expired if the act or acts that are the basis for the complaint were allegedly committed while that person possessed an educator certificate.").

² Petitioner offered testimony from multiple witnesses who were classmates of A.M. and present when the alleged incident occurred. Their statements varied considerably as to the circumstances of the alleged incident. There was little consistency. The shortcomings in their testimony were not surprising given the witnesses' age at the time of the alleged incident and the amount of time that had passed between the alleged incident and the final hearing.

the Marion County School District; (b) failed to make reasonable effort to protect A.M. from conditions harmful to learning and/or A.M.'s mental and/or physical health and/or safety; and (c) intentionally exposed A.M. to unnecessary embarrassment or disparagement.

CONCLUSIONS OF LAW

5. DOAH has jurisdiction over the subject matter and the parties to this action in accordance with sections 120.569 and 120.57(1), Florida Statutes (2024).

6. The Commission is the state agency charged with the certification and regulation of Florida educators pursuant to chapter 1012, Florida Statutes.

7. This is a proceeding in which Petitioner seeks to impose discipline against Respondent's educator certification. Because disciplinary proceedings are considered to be penal in nature, Petitioner is required to prove the allegations in the Administrative Complaint by clear and convincing evidence. *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996); *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987).

8. Clear and convincing evidence "requires more proof than a 'preponderance of the evidence' but less than 'beyond and to the exclusion of a reasonable doubt.'" *In re Graziano*, 696 So. 2d 744, 753 (Fla. 1997). As stated by the Florida Supreme Court:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts in issue. The evidence must be of such a weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Davey, 645 So. 2d 398, 404 (Fla. 1994)(quoting, with approval, *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)); *See also In re Henson*, 913 So. 2d 579, 590 (Fla. 2005). “Although this standard of proof may be met where the evidence is in conflict, it seems to preclude evidence that is ambiguous.” *Westinghouse Elec. Corp. v. Shuler Bros.*, 590 So. 2d 986, 989 (Fla. 1991).

9. Charges in a disciplinary proceeding must be strictly construed, with any ambiguity construed in the licensee’s favor. *Elmariah v. Dep’t of Prof’l Reg.*, 574 So. 2d 164, 165 (Fla. 1st DCA 1990); *Taylor v. Dep’t of Prof’l Reg.*, 534 So. 2d 782, 784 (Fla. 1st DCA 1988). Disciplinary statutes and rules must be construed in terms of their literal meaning, and words used by the Legislature may not be expanded to broaden their application. *Beckett v. Dep’t of Fin. Servs.*, 982 So. 2d 94, 99-100 (Fla. 1st DCA 2008); *Dyer v. Dep’t of Ins. & Treas.*, 585 So. 2d 1009, 1013 (Fla. 1st DCA 1991).

10. The Commission argues that the allegations against Ms. Shelton amount to violations of sections 1012.795(1)(g) and 1012.795(1)(j), Florida Statutes (2020). The former statute subjects a certificate holder to discipline for being “found guilty of personal conduct that seriously reduces that person’s effectiveness as an employee of the district school board.” Section 1012.795(1)(j) subjects a certificate holder to discipline for violating “the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules” set forth in Florida Administrative Code Rule 6A-10.081.

11. With regard to the pertinent Florida Administrative Code provisions, the Commission’s Administrative Complaint alleges that Ms. Shelton violated rules 6A-10.081(2)(a)1. and 5. which provide that:

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

* * *

5. Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

12. As discussed above, the testimony given by Petitioner's witnesses present when the alleged incident occurred was vague, inconsistent, uncertain, and lacking in detail. Accordingly, Petitioner did not carry its burden of proving the allegations against Ms. Shelton by clear and convincing evidence.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Education Practices Commission issue a Final Order dismissing the charges against Jacqueline Ann Shelton.

DONE AND ENTERED this 16th day of July, 2024, in Tallahassee, Leon County, Florida.

Garnett Chisenhall

G. W. CHISENHALL
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of July, 2024.

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Ron Weaver, Esquire
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Andrew King, General Counsel
(eServed)

Randy Kosec, Jr., Chief
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

EXHIBIT R

Petitioner's Motion for Leave to File Amended Administrative Complaint

Kamoutsas v. McMath, DOAH Case No. 25-5786PL

Filed May 6, 2026

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANASTASIOS KAMOUTSAS, AS
COMMISSIONER OF EDUCATION,

Petitioner,

vs.

DOAH Case No. 25-5786PL
Agency Case No. 256-0563

HOPE MCMATH,

Respondent.

_____ /

PETITIONER'S MOTION FOR LEAVE TO FILE
AMENDED ADMINISTRATIVE COMPLAINT

Petitioner, Anastasios Kamoutsas, as Commissioner of Education, by and through his undersigned attorney, and pursuant to Rule 28-106.202, Florida Administrative Code, moves for leave to file an Amended Administrative Complaint ("AAC"), and in support thereof states the following:

1. This motion is authorized by Rule 28-106.202, Florida Administrative Code. A petitioner may amend the petition upon order of the presiding officer.
2. Amendment should be allowed liberally. Courts should be especially liberal when leave to amend is sought at or before hearing. *JVN Holdings, Inc. v. American Construction & Repairs, LLC*, 185 So. 3d 599, 601 (Fla. 4th DCA 2016).
3. The public policy of Florida favors liberality in permitting amendments to pleadings so that disputes may be resolved on their merits. See *Morgan v. Bank of New York Mellon*, 200 So. 3d 792, 795 (Fla. 1st DCA 2016) (citing Fla. R. Civ. P. 1.190(a) and *Hatcher v. Chandler*, 589 So. 2d 428, 429 (Fla. 1st DCA 1991)). Absent exceptional circumstances, motions for leave to amend should be granted. See also *Department of Health v. Khan*, 350 So. 3d 87 (Fla. 1st DCA 2022).
4. Attached hereto is the proposed AAC. The AAC provides a more definite and complete statement of the material facts supporting the existing charged statutory and rule violations and incorporates additional social media posts and related allegations.
5. The proposed amendment does not alter the nature of the proceeding or inject unfair surprise. Rather, it amplifies the factual allegations concerning the same course of conduct already at issue, including Respondent's admitted public social media activity, Respondent's admitted maintenance of public social media accounts while employed as a certificated educator, and Respondent's admitted additional posts and commentary bearing on the charged violations.

6. Allowing amendment will promote a full and accurate adjudication on the merits and will not prejudice Respondent, as the additional allegations arise from materials already disclosed in discovery, supplemental exhibits, and Respondent's own deposition testimony.

7. Prior to filing this motion, the undersigned forwarded a copy of the proposed AAC to Respondent's counsel for review and comment pursuant to Rule 28-106.204(3), Florida Administrative Code. By email dated May 6, 2026, Respondent's counsel advised that Respondent objects to the amendment.

WHEREFORE, Petitioner moves that the Administrative Law Judge enter an order granting Petitioner leave to file the attached Amended Administrative Complaint.

RESPECTFULLY SUBMITTED this 7th day of May 2026.

/s/ Ron Weaver
RON WEAVER
Florida Bar No. 486396
101 Marketside Avenue
Suite 404, Box 157
Ponte Vedra, Florida 32081
Telephone: 850.980.0254
Email: ron@ronweaverlaw.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been forwarded by email to all registered users via the DOAH e-filing portal this 7th day of May 2026.

/s/ Ron Weaver
RON WEAVER

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**ANASTASIOS KAMOUTSAS, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 256-0563

HOPE MCMATH,

Respondent.

_____ /

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner, Anastasios Kamoutsas, as Commissioner of Education, files this Amended Administrative Complaint against HOPE MCMATH. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to sections 1012.315, 1012.795, and 1012.796, Florida Statutes, and pursuant to Rule 6A-10.081, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 1484487, covering the area of Art, which is valid through June 30, 2027.
2. At all times pertinent hereto, the Respondent was a curator at Yellow House Art and employed as an Art Teacher at Douglas Anderson School of the Arts in the Duval County School District.

MATERIAL ALLEGATIONS

3. Respondent has a history of imposing her personal and controversial views on students, even before becoming a certified teacher in Florida. In or around November of 2021, Respondent welcomed students into Yellow House Art where Respondent served as curator. There, Respondent provided students with a leaflet titled 'God is Trans.'
4. On or about September 11, 2025, Respondent posted unprofessional comments on her personal, and open-to-the-public, social media account that were grossly immoral after the shooting death of Charlie Kirk. Respondent's message stated, 'Karma's a bitch - and she heard all your speeches when you proudly proclaimed that you didn't give a shit about other people's lives.'

5. Additionally, Respondent posted or reposted an artist's rendition of an individual holding the screaming severed head of what is clearly intended to represent the President of the United States, Donald Trump.

6. On or about September 22, 2024, Respondent made a public social media post stating that she wore a 'Just Mercy' shirt from EJI.org, that a student asked her what the shirt meant, and that she told the student about EJI and Bryan Stevenson's work. In that same public post, Respondent acknowledged uncertainty as to whether she was 'allowed' to have that conversation with the student, but stated, 'I did and I will.' Furthermore, in that same public post, Respondent discussed racial terror lynchings, the death penalty, and 'state-sanctioned murder,' and further stated, 'teaching in fascist Florida ain't no joke, but I'm here for it - at least for now.'

7. On or about August 18, 2025, Respondent publicly posted on Facebook that Donald Trump was 'still a liar and a deadly presence in the world' and shared an image of artwork Respondent created depicting 'Liar 45.'

8. On or about July 16, 2025, Respondent publicly posted on Facebook artwork created in her home studio featuring the phrase 'Fuck ICE.'

9. On or about August 21, 2025, Respondent publicly posted on social media commentary stating that 'all white people benefitted from ... slavery' and 'still do,' in connection with artwork Respondent created concerning her own ancestral past. On the same date, Respondent publicly posted on social media a post against the bombing of children in Gaza.

10. On or about September 3, 2025, Respondent publicly shared on social media a post criticizing the ending of vaccine mandates for schoolchildren and added commentary stating, 'Disgusting. Dangerous. Ignorant. These fuckers are playing games with our lives.'

11. Respondent also publicly posted 'Jim Crow 2.0' artwork and related commentary on her Facebook page.

12. These additional public posts further reflect a continuing pattern of Respondent's use of publicly accessible social media while identifiable as a public-school educator. Respondent did not place any disclaimer on her social media pages distinguishing her personal views from those of the School District or school with which Respondent was affiliated.

13. Throughout her tenure as a Florida certified educator, Respondent has invited students to visit the Yellow Rose Museum where Respondent is curator and where multiple politically motivated works of art and/or other political informational pieces that highlight Respondent's moral and/or political views are on display. Respondent's invitations further inappropriately expose students to Respondent's personal viewpoints, opinions, and prejudices.

The Petitioner charges:

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of section 1012.795(1)(d), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

COUNT 2: The Respondent is in violation of section 1012.795(1)(g), Florida Statutes, in that Respondent, upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the district school board.

COUNT 3: The Respondent is in violation of section 1012.795(1)(j), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

RULE VIOLATIONS

COUNT 4: The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(a)1, Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

COUNT 5: The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(b)1, Florida Administrative Code, in that Respondent has failed to take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.

(SIGNATURE ON FOLLOWING PAGE)

WHEREFORE, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Amended Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; determining the Respondent to be ineligible for certification; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 6th day of May, 2026.

ANASTASIOS KAMOUTSAS, as
Commissioner of Education
State of Florida

/s/ Bonnie Wilmot
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