IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR THE NEW CASTLE COUNTY

ALICE BRENDA SQUIRE, Employee - Appellant, v. BOARD OF EDUCATION OF THE RED CLAY CONSOLIDATED DISTRICT Employer - Appellee.	)	C.A. No. 04A-11-001-FSS

Submitted: September 12, 2005
Decided: January 18, 2006

MEMORANDUM OPINION AND ORDER

Upon Appeal From The Board's Decision – *AFFIRMED*

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SILVERMAN, J.

This is an appeal by a tenured, elementary school, library/media specialist. Appellant challenges a hearing officer's decision upholding her firing, despite her many years of service to Appellee, a school district. For the most part, Appellant argues that Appellee mis-characterized her as a teacher, rather than as a specialist, and, therefore, held her to inapplicable performance standards. She further claims that she did not receive the evaluations necessary to support Appellee's decision. Woven into her core arguments are related, procedural issues, such as her discharge's timing.

I.

Pre-2003 History and Overview

Although the parties mostly agree about what happened, they disagree over the facts' legal implications. Generally, Appellant was a dedicated librarian for forty years, starting in the now-defunct, Wilmington Public School system. Originally, she was assigned to the old Wilmington High School, and the years passed uneventfully. But times changed. Appellee took over Wilmington's schools and, eventually, it closed Wilmington High. In the end, Appellee wound up at Baltz Elementary School, where she worked for seven years.

As mentioned, Appellant started as a librarian. But just as the school system changed, so did Appellant's job responsibilities, along with those of Appellee's other librarians. Appellee's librarians, including Appellant, evolved into

library/media specialists. Under that title, librarians not only kept their traditional duties, cataloging and so on, they also were required to teach reading to elementary school children.

The teaching assignment was important. Under "No Child Left Behind," public schools are now measured against state standards, using benchmark or "high stakes" tests, the Delaware State Testing Program. Baltz was under review and it had to raise its students' reading scores. As a library/media specialist, Appellant was expected to play a significant role, helping the students and school measure-up. The parties' disagreement over Appellant's role (librarian vs. librarian + reading teacher) permeates Appellant's years at Baltz, the administrative proceedings, and this appeal. The record amply establishes, however, that librarians became library/media specialists and their teaching is supposed to dovetail with the classroom teachers'.

Unfortunately, Appellant and Baltz were a bad fit. Appellant was not trained, certified, or licensed to teach reading. She saw herself as a specialist and she bridled at teaching. As she put it, "I'm put in a position to be a classroom teacher, but I'm not." Worse, by her own reckoning, Appellant was not temperamentally suited to teach elementary school children. Again in her words: "It isn't that I don't like little children, it's that I don't like having to teach them."

Appellant's troubles were compounded by Appellee's cost-saving measures. Library aides, for example, were eliminated in 1978. Apparently, that still

rankles Appellant.

Furthermore, the library at Baltz did not have enough computers and the school's computer technicians left necessary things undone. At several points, the record reveals problems with the Follett system, a vital, bar-code, cataloging system. Appellant only received minimal, peer-to-peer training on the system, largely at her initiative. Appellee failed to provide complete tech manuals, much less formal training on the system. Moreover, there was not enough time to bar-code all the library's books and, according to Appellant, unlike other library/media specialists, she would not hide un-coded books in a closet to avoid her supervisor's glare.

The fact remains, however, that Appellant's professional challenges were similar to those of Appellee's other library/media specialists. For example, as a specialist who worked with Baltz's entire student body, over 700 children, Appellee insisted that Appellant learn all the students' names. Appellee's other specialists – nurses, gym teachers, art teachers, guidance counselors and library/media specialists – mastered that challenge, or at least they tried.

Appellant, however, summarily rejected the task and Appellee's suggestions for accomplishing it, such as greeting the children by name, using name tags or place cards, etc. Appellant told her supervisors that it was "ridiculous" to expect her to know every student's name. The record shows that frequently, Appellant followed her preference, referring to her students as simply "young lady"

or "young man." Appellant's intransigence also permeates her years at Baltz. Appellant knew some students' names, and she testified that she used a seating chart. Neither the hearing officer nor the court see that as a good-faith attempt to meet Appellee's standards, much less satisfactory performance.

Ultimately, Appellant's classroom shortcomings were her undoing. Appellee's employees started observing and evaluating Appellant under its regular review process. As discussed in the hearing officer's decision and recapitulated below, after several formal evaluations, meetings, and warnings, before and during the 2003-2004 academic year, Appellee was let go. All of this is supported by the record.

B. 2000 – 2003 Observations and Evaluations

1. November 2000 – Announced Observation

On November 17, 2000, Dorothy Johnson, Assistant Principal at Baltz Elementary School, observed Appellant during a class. The observation was announced. An announced observation is the most formal evaluation method under Appellee's administrative rules, the Delaware Performance Appraisal Standards. Classroom observation followed by a conference between the appraiser and employee is the DPAS' cornerstone.

An announced observation is part of the appraisal process's "formative phase." An announced observation follows a pre-observation conference, during

which "the appraiser and the teacher establish ground rules, provide situational information and discuss lesson objectives." The DPAS offer a pre-observation form that the teacher turns-in before or during the pre-observation conference. The announced observation is followed by a "formative conference" where "the appraiser describes the data collected, provides feedback, discusses objectives, and provides assistance."

The hearing officer incorrectly refers to the November 2000 observation as "unannounced." The mistake appears to be typographical, as the hearing officer also discusses the pre-observation conference, which, again, is associated only with an announced observation. In any event, whether the November 2000 observation was announced or unannounced has no bearing on the decision.

Johnson evaluated Appellant's work, using the Lesson Analysis form included in the DPAS' Policy for Appraising Teachers and Specialists. The Lesson Analysis form's ratings are based on: instructional planning, classroom organization and management, instructional strategies, interaction with students, student performance, and related responsibilities.

As presented above and discussed in the next section, Appellant insists that because she was a specialist, not a teacher, Appellee should have evaluated her using a different form, the one meant for specialists, the Job Analysis form. As also discussed below, the Lesson Analysis and Job Analysis forms are similar. The latter

includes the same categories as the former, except, predicably, the Job Analysis does not address instructional technique. Based on ample evidence, however, the hearing officer found that Appellee regularly uses the Lesson Analysis form, not the Job Analysis form, to evaluate its library/media specialists.

Anyway, Johnson testified that Appellant's performance was unsatisfactory in two of the five, rated areas. That was because Appellant's lesson plan was not suitable for the grade level. Also, Appellant did not have the students' undivided attention and her students were not wearing name tags. Johnson's review of the remaining three areas was not positive.

Johnson met with Appellant on December 1 and December 4, 2000, to review Johnson's concerns. During these post-observation conferences, Johnson developed an Individual Improvement Plan, addressing the deficiencies. An IIP is DPAS' remedial tool, which:

> shall be developed when an individual's performance in any category has been appraised as Needs Improvement or Unsatisfactory on a Performance Appraisal or if a Lesson/Job Analysis is identified with the statement "Performance is Unsatisfactory".

Appellant was allowed to contribute to her IIP's development, but she declined. This is significant, as it relates to one of the grounds for appeal.

The record shows that Appellant's choice not to contribute to the IIP is part of a pattern of conduct by Appellant, which the hearing officer characterized as

"uncooperative." Another example is her adamant refusal to sign every unfavorable evaluation. This, despite DPAS' express requirement and *caveat*:

> The teacher . . . shall sign the Lesson Analysis to indicate that it has been reviewed and discussed, not that the teacher necessarily agrees with the Lesson Analysis.

Appellant justifies her refusing to sign every unfavorable Lesson Analysis by, tellingly, analogizing an unsatisfactory evaluation with a speeding ticket. Not only is the analogy inapt, her premise – signing a traffic summons admits the violation – is incorrect. In any event, the record is clear that Appellee consistently gave Appellant the required opportunity to participate in developing all her IIPs'.

2. January 2001 – Unannounced and Announced Observations

Johnson further testified that she returned for an unannounced observation on January 24, 2001. Like an announced observation, an unannounced observation is also a formal evaluation, and part of the DPAS' formative process. It is not preceded by a pre-observation conference, as is an announced observation, but it is more than an informal "drop in." Appellant's instructional planning and instructional strategies were again deemed unsatisfactory. Appellant's classroom organization and management needed improvement. Following the unannounced observation, Johnson spoke again with Appellant about Johnson's concerns.

Johnson followed the January 24, 2001 unannounced observation with yet another announced observation, on January 29, 2001. Johnson testified that

Appellant's instructional planning and instructional strategies continued to need improvement, but that was a better review than the unsatisfactory rating for the two, prior observations. Appellant's classroom organization, classroom management and teacher–student interaction remained unsatisfactory, however. Johnson met with Appellant following the January 2001, announced observation and produced a modified Independent Improvement Plan. Appellant was given the opportunity to contribute to this IIP's development, but she did not.

3. October 2002 – Announced Observation

On October 30, 2002, then-Baltz Principal, Edward Tackett, conducted an Announced Lesson Analysis in Appellant's class. Tackett was more positive than Johnson had been during the preceding school year. At least, he did not rate Appellant's work unsatisfactory. But, under Recommendations for Growth, Tackett listed the same deficiencies mentioned earlier. The court assumes, without record support, that because Tackett did not rate her work "unsatisfactory," Appellee chose not to reevaluate Appellant in the 2002 – 2003 school year. In the following year, things would be different.

B. 2003 – 2004 School Year

1. October - November 2003 – Unannounced and Announced Observations

On October 1, 2003, Baltz Assistant Principal, Jill Compello, observed Appellant's class, unannounced. Her Lesson Analysis did not mention deficiencies

and it was not an "unsatisfactory," but Compello testified that she did not consider the lesson satisfactory. Compello's October 2003, unannounced observation precipitated an announced observation on November 13, 2003, where she found Appellant's instructional planning, instructional strategies, classroom management and organization unsatisfactory. Compello met with Appellant before the evaluation. The pre-observation meeting's details are sketchy, but the meeting is not denied. On November 21, 2003, Compello and Appellant met for a post-observation conference. They met again, on December 3, 2003, to develop another IIP. Appellant asked Compello not to suggest that Appellant visit other libraries nor to observe other classes. Compello respected Appellant's wishes. Otherwise, Appellant did not contribute to this IIP's development.

2. February-March 2003 Unannounced Observations

On February 12 and March 19, 2004, Appellee carried out unannounced evaluations. The February 12, 2004 observation was conducted by Suzanne Curry, Appellee's Manager of Elementary Education and supervisor of its library/media specialists. The March 19, 2004 evaluation was performed by Deborah Hooper, the Principal at Baltz Elementary School. Both evaluators, like Compello before them, found Appellant's performance unsatisfactory in instructional methods, strategies and activity. After their observations, Curry and Hooper held post-evaluation conferences. They did not, however, generate a new IIP.

3. June 2003 – Performance Appraisal

Finally, on June 10, 2004, Compello, Hooper and Curry prepared a Performance Appraisal. Taking the previous four observations into account, the appraisers found Appellant's performance unsatisfactory in two of the six areas they considered.

Thus, between November 2000 and her May 2004 discharge, five observers formally evaluated Appellant's classroom performance eight times. Those observations and evaluations generated three IIP's, including the original IIP's modification. All, five evaluators found Appellant's work needed improvement and four found it unsatisfactory.

Most importantly for present purposes, as laid-out above and discussed by the hearing officer, Appellee formally evaluated Appellant four times during her final academic year: on October 1, 2003, November 13, 2003, February 12, 2004 and March 19, 2004. The November observation was announced and unsatisfactory. Afterwards, on December 5, 2003, Appellee developed an IIP. And after that, Appellee evaluated Appellant twice, finding Appellant's performance unsatisfactory both times. Thus, in 2003 – 2004, Appellee failed to complete successfully both the formative and the performance appraisal phases of the DPAS appraisal process.

II.

Appellee sent Appellant a Notice of Termination on May 14, 2004,

without mentioning its grounds. Appellant challenged her discharge and a hearing was set for July 9, 2004. At the hearing, Appellee protested that the May 14, 2004 notice was legally insufficient under the Teacher Tenure Act.[1] The hearing officer and the parties agreed that the July hearing would be continued and Appellee would send a revised notice, which it did on August 5, 2004, stating that Appellant was fired for incompetence and neglect of duty, effective September 10, 2004.

An extensive, administrative hearing was held on August 25, 2004 and September 2, 2004. On October 13, 2004, the hearing officer upheld the termination. Appellant filed a timely appeal, which the court is now deciding.

On appeal, the parties filed briefs. After reviewing them, the court called for supplemental submissions, which the parties filed.

III.

Because this is an appeal, the court's role is circumscribed. As to questions of law, the review is plenary. As to questions of fact, the court does not reexamine evidence, much less make its own factual findings. The court must uphold the administrative decision if it was based on substantial evidence. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate

[1] 14 *Del. C.* §§1401 – 20.

to support a conclusion."[2]

When a teacher appeals an adverse decision from the Board of Education, the teacher must prove that the decision was not based on substantial evidence, or that it was arbitrary or capricious.[3] Findings by the Board are not set aside by the reviewing court unless the record clearly lacks substantial evidence.[4] Therefore, for example, the court cannot dispute the hearing officer's finding that Appellant did not cooperate with the appraisal process. That finding is supported by substantial evidence.

The court observes that reviewing the record is unnecessarily difficult. This is because, over Appellee's repeated objections and despite the hearing officer's preference that Appellant testify through the traditional question-and-answer format, Appellant's counsel insisted that she testify through her own narrative, which was disjointed and, at times, rambling. When direct questions were put to Appellant, her testimony was clear and helpful.

The court further observes reluctantly, that although Appellant's counsel was usually respectful at the hearing, at times he went overboard. For example, it was improper (and inaccurate) for counsel to opine to the hearing officer "that this process

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[2] *Board of Education v. Shockley*, 155 A.2d 323 (Del. 1959).

[3] *Id.* at 328.

[4] *Leach v. Board of Education*, 295 A.2d 582 (Del. 1972).

is ridiculous" and "it is totally absurd that we have to go through this type of detail." The hearing officer was consistently sensitive, considerate and respectful. He obviously was concerned about Appellant's rights at the hearing and when he decided what he considered "the very difficult issue [presented]."

IV.

Appellant does not seriously challenge the hearing officer's finding that she "failed to demonstrate a willingness to work with or cooperate with observations made by different professionals she worked with . . . ." Nor does she argue persuasively that she was a competent, library/media specialist. Actually, she all but admits that she did not do well in the role Appellee required her to play. Instead, Appellant challenges her discharge and the decision-below on procedural grounds.

A.

Appellant's first argument is that the hearing officer erred as a matter of law by concluding that Appellee correctly used the Lesson Analysis form when reviewing Appellant. She contends that when reviewing a specialist, such as herself, Appellee should have used the Job Analysis form. Although she focuses on forms, Appellant's real disagreement is less about them, and more about her job responsibilities, especially her having to teach reading. Put another way, Appellant begs the question. She begins with the premise that she was a specialist, not a teacher, and from that premise it follows that she should have been evaluated as a specialist,

not a teacher. Appellant's initial premise is incorrect.

Long ago, Delaware's Department of Education adopted and implemented the Delaware State Performance Appraisal System, mentioned above, which provides model forms for appraising teachers and specialists. The Lesson Analysis Form was meant for appraising teachers, while the Job Analysis Form was meant for specialists. The DPAS defines a specialist as "a certified employee whose primary responsibility is not that of a classroom teacher, such as a nurse, guidance counselor, educational diagnostian, or librarian." Based on the DPAS's description of its forms, Appellant argues that she is a specialist, not a teacher.

While it is true that the DPAS explanation of its forms specifically uses the librarian as an example of a specialist, that does not conclusively establish that Appellant was a specialist and not a teacher, as well as a specialist. In reality, as the record reflects, the DPAS' old examples are no longer accurate. For several years, at least, Appellee has required its librarians to teach. The DPAS' examples do not accurately reflect a library/media specialist's responsibilities in the current school system.

It was stipulated at the administrative hearing that the DPAS was developed in 1987 and has remained unchanged since 1987. Since then, librarians' titles have changed, and their responsibilities have also changed to include more teaching. According to the Librarian Media Specialist Manual, which was adopted by

Appellee in March 2002, "the school library/media specialist's role is one of teacher, manager, and educational resource." Library media/specialists are, among other things, expected to "introduce various genres of literature to promote an appreciation for books and reading." They also are required to "integrate lessons into the curriculum of the classroom teacher." As between the examples in DPAS and the Manual, the Manual establishes Appellant's job description.

Appellant was not singled-out for appraisal including her teaching. The Lesson Analysis form was used to review Appellant's performance because it is the form now used throughout the district to evaluate library/media specialists. The hearing officer found that the district was consistently using the Lesson Analysis form for those involved in teaching. This finding was supported by substantial evidence and was not arbitrary, capricious or manifestly unjust.

Since Appellant is responsible for teaching, there is logic behind appraising her performance using the form for appraising teachers. This is so, even though the DPAS, developed almost twenty years ago, could be read otherwise. Presumably, for example, if school districts start requiring that school nurses teach health classes, their teaching performance could be subject to review using a Lesson Analysis form. Meanwhile, unlike for specialists who are not required to teach, Appellee's choice of forms for evaluating its library/media specialists reflects changing times.

Furthermore, the hearing officer found that under the controlling, collective bargaining agreement, Appellant could have contested the Lesson Analysis form's use, through the grievance process. Although she knew about the grievance process, she never challenged Appellee's using the Lesson Analysis form. She also could have objected to the Lesson Analysis form during her post-observation conferences, but she did not.

Finally on this point, as a practical matter, Appellant gains little by arguing that Appellee should have used the Job Analysis form rather than the Lesson Analysis form. Both forms measure essentially the same skills, although the Lesson Analysis form is better framed to measure them in an instructional setting. Both forms describe the employee's responsibilities, judging the employee's planning, organization, strategies, interaction with students and how well the task is performed. The hearing officer's 17 page decision includes a chart comparing the forms. Using either form Appellee probably would have reached the same conclusion. Appellant was deemed unsatisfactory in carrying out her responsibilities as a library/media specialist. That is why she was dismissed.

B.

Appellant's second argument is that the hearing officer erred by not properly applying the DPAS' two-year appraisal cycle. Appellant contends that the hearing officer's findings were not based on substantial evidence, because Appellee

presented testimony regarding three unsatisfactory observations made during the 2000-2001 school year. Appellant believes that the DPAS two-year appraisal cycle bars Appellee from terminating her based on observations conducted more than two years before her termination's date. Appellant further argues that a single satisfactory evaluation begins a new two-year cycle. Thus, she had two years following Tackett's 2003 evaluation to comply with her Individual Improvement Plan. Appellant also argues that the DPAS requires the parties mutually to develop an IIP following every formative conference and report.

Appellant's arguments are supported by neither DPAS, case law, nor common sense. When deciding whether or not to fire an employee, Appellee's consideration is not limited to unsatisfactory performance within the past two years. The DPAS states that "tenured teachers/specialists . . . shall receive a minimum of three (3) formative conferences/reports . . . within a two (2) year appraisal cycle." DPAS does not prohibit Appellee from considering reports from outside a two-year appraisal cycle, it merely guarantees the right to three formative conferences/reports every two years.

Similarly, the DPAS allows a district to give annual performance reviews, as long as the district holds a minimum of two observations, followed by formative conferences and reports, per year. The argument that only Lesson Analyses and post-observation conferences resulting in IIP's constitute "formative conferences and

reports" is unsupported.

In *Leach v. Board of Education*, a teacher argued that the school district erred by considering insubordination that occurred before the year in which he was fired. In finding that the teacher's termination was based on substantial evidence, the court held that the Board there "had the right to consider appellant's non-cooperation throughout the period of his school employment."[5] Likewise, in this case, it was appropriate for Appellee to consider Appellant's entire employment history.

Furthermore, as discussed above and in the decision-below, Appellant received the formal evaluations she was entitled to under a single year appraisal cycle. After the unsuccessful evaluation in November 2003, Appellant was put under an IIP, which meant she was to receive a minimum of three formative conferences/reports and a performance appraisal/conference that school year. After that, she was formally observed in February and March 2004 and her work was unsatisfactory. Thus, she received four formative conferences/reports and a performance appraisal in 2003 –2004. The last three observations generated unsatisfactory evaluations and an unsatisfactory performance appraisal.

Finally, on this argument, according to Suzanne Curry, Appellant made an ambiguous statement that Appellant, "didn't really know if she was going to make

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[5] *Leach*, 295 A.2d 582 at 584.

any changes [in her evaluation] because she only had three years left." That statement could have been construed as Appellant's looking to retirement, or as reflecting her misunderstanding about the review process. The hearing officer gave Appellant the benefit and viewed her statement as the latter. In any event, the appraisal cycle is dictated by the DPAS.

C.

Appellant argues that Appellee did not allow her to mutually develop the Individual Improvement Plan. Appellant further argues that she was fired despite her compliance with the IIP.

According to Appellant, the DPAS regulations require that the appraiser and the teacher/specialist work together to develop an IIP. The DPAS states "If the appraiser has indicated unsatisfactory performance, an Individual Improvement Plan shall be mutually developed." The DPAS further provides, however, that "if the plan cannot be cooperatively developed, the appraiser shall have the authority and responsibility to determine the plan." In this case, the Hearing Officer found that Appellant had an opportunity to suggest changes to her IIP, but she chose not to. As presented above, the record shows in the instance where Appellant chose to voice concern, the appraiser accommodated her. Assistant Principal Compello did not demand that Appellant visit other libraries. Nor did she require Appellant to use name tags and seating charts to help learn the students names. libraries.

Appellant also argues that she was fired despite the fact that she complied with her final IIP. Appellant states that she submitted weekly lesson plans to Compello, she attempted to contact Denise Allen of the Department of Education, and she read *Information Power: Building Partnerships* – the things required by her IIP. And, Compello acknowledged that Appellant, "was writing lesson plans." Appellant seems to suggest the things she did – submitting lesson plans, contacting the Department and reading – were what the IIP was all about.

As Compello also testified, although Appellant was submitting lesson plans, Appellant "wasn't including the elements successfully in the lesson plans that we expected." None of the administrators who observed Appellant saw any lasting improvement in Appellant's performance after the final IIP was put in place. The hearing officer details several ways that Appellant failed to cooperate.

D.

Appellant's final argument is that the Hearing Officer erred, as a matter of law, by approving the allegedly defective and untimely way that Appellee discharged Appellant. As mentioned above, Appellee sent Appellant a notice of termination on May 14, 2004, which was defective because it did not state the reason why Appellant was fired. At the original hearing on July 9, 2004, Appellee agreed to issue a new notice and both parties agreed to waive any procedural objections, including the defective notice.

Following that hearing, Appellee withdrew its May 14, 2004 notice and reissued it on August 5, 2004, stating Appellee's reasons. After Appellee sent the first notice, it received the Performance Appraisal, discussed above. The re-notice informed Appellant that Appellee had "voted to terminate your services in accordance with [14 *Del. C.*] Section 1420 for incompetence and neglect of duty." Under 14 *Del. C.* § 1420, an employee may be fired during the school year upon thirty days notice.

The August 5, 2004 notice of termination informed Appellant that she would be "terminated effective September 10, 2004," which was during the 2004 – 2005 school year. This notice gave Appellant thirty days notice of her termination, stated the reasons for her termination and recognized her rights to a hearing.

The short answer to Appellant's argument is that Appellee would have pressed the issue in July, arguing that its notice substantially complied with the procedural requirements. The hearing officer correctly found that Appellant, through counsel, expressly waived her claims based on the notice's shortcomings. Moreover, Appellee argues correctly that the notice's requirements are meant to ensure that a discharged teacher has time to find other work. Here, Appellant was told in May, before the 2003 – 2004 school year's end, that Appellee would not have her back the following year.

In other words, this Appellant has no claim that Appellee cost her a reasonable chance to look elsewhere for work in 2004 – 2005. The court observes, in

passing, that the Teacher Tenure Act's requirements are not too complicated, and in at least one earlier case, a more extreme one, a teacher's discharge was reversed due to defective notice.[6] Appellee might consider reviewing its procedures with counsel. By the same token, perhaps the time has come for the State Board of Education to revisit the DPAS', which it adopted almost 20 years ago.

V.

It appears that Appellee, the hearing officer, and the court all regret the outcome here. Ms. Squire did not start as a teacher, much less as an elementary school teacher. Sad to say, many years ago her job, as she wanted it to be, ceased to exist in the Red Clay district. Ms. Squire had years to adjust or find work more to her liking elsewhere. In the end, she knew as early as November 2000 that the district was on her case. Even so, Ms. Squire persisted in setting her own terms.

After reviewing the record carefully, the court shares the hearing officer's belief that "we would not be at this point if Ms. Squire had made an effort." Be that as it may, whether she was trying or not, the record supports the hearing officer's conclusion that the discharge was procedurally correct and based on good cause.

For the foregoing reasons, the Board's decision accepting the hearing

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[6] *Behrens v. Bd. Of Edu. Colonial Sch.*, Del. Super., C.A. No. 94A-09-011, Babiarz, J. (October 2, 1995) (Op. and ORDER). *Compare, Board of Public Education in Wilmington v. Delaney*, 155 A.2d 51, 54-55 (Del. 1959).

officer's thoughtful recommendation that the action of Appellee to terminate Appellant is supported by the record is **AFFIRMED.**

IT IS SO ORDERED.

Judge

oc: Prothonotary (Appeals Division)