

**I. Call to Order**

Call to Order: Chairman Arnold

**II. Introduction of the Parties**

School Board

District 1 – Joe Arnold, Chairman

District 2 – Malissa Morgan

District 3 – Gay Carlton, Vice Chairman

District 4 – India Riedel

District 5 – David Williams

Tom Conely, School Board Attorney

Ken Kenworthy, Superintendent of Schools (*Petitioner*)

Robert Kilbride, Attorney Representing the Superintendent

Elaine Murphy, Employee (*Respondent*)

Mark Wilensky, Attorney Representing Elaine Murphy

**Motion to Disqualify**

Tom Conely, School Board Attorney, advised the Board that they should first consider and act upon a Motion to Disqualify which was filed by the Respondent. Mr. Conely advised the Board that the basis for consideration of the motion should be whether or not the Board feels it can be impartial in the matter. Mark Wilensky, Attorney for Elaine Murphy, disagreed with Mr. Conely and stated that the Board's decision must be based instead upon the viewpoint of the Respondent as to whether she feels that she can receive a fair hearing from the Board. Robert Kilbride, Attorney for Superintendent Kenworthy, stated that if that were the case, no School Board would ever conduct an employee disciplinary hearing. He also stated that the standards that apply to an administrative hearing do not rise to the level of a judicial hearing. After consideration and discussion, and a motion by India Riedel, seconded by Malissa Morgan, the Board voted 5-0 to deny the Motion to Disqualify and to go forward with the Employment Termination Hearing.

**III. Introductory Statement**

An introductory statement was made by Tom Conely, School Board Attorney, as follows:

This is a hearing on the recommendation of the Superintendent for the suspension without pay and termination of employment of Elaine Murphy. The hearing is being held in accordance with School Board Policy 6.52 Suspension and Dismissal and Florida Statutes 1012.33, 120.569, and 120.57.

A Court Reporter will transcribe the proceedings and administer the oath to all persons testifying as witnesses. The Superintendent has the burden of proof and will present his case and witnesses first. The parties will be provided an opportunity to make an opening statement limited to not more than five (5) minutes each; and, at the conclusion of all the evidence, the parties will be provided an opportunity to make closing statements limited to not more than 10 minutes each.

Once the presentations have been completed, the School Board members will deliberate and rule on the recommendation from the Superintendent.

The School Board's Attorney will explain to the School Board members and answer issues and questions of procedure as these questions arise during the course of the hearing.

**IV. Superintendent's Recommendation**

It is the recommendation of the Superintendent that Elaine Murphy be suspended without pay effective April 24, 2014, through July 23, 2014, and that employment of Elaine Murphy be terminated effective July 24, 2014.

Minutes of  
Okeechobee County School Board  
Employment Termination Hearing for Elaine Murphy  
July 23, 2014  
9:00 a.m.

**V. Presentations**

A. OPENING STATEMENTS

Opening statements were given by Robert Kilbride, Attorney for the Superintendent (*Petitioner*), and Mark Wilensky, Attorney for Elaine Murphy (*Respondent*) regarding an alleged incident where Ms. Murphy was accused of pulling a child's hair on January 15, 2014.

B. SUPERINTENDENT'S CASE

C. EMPLOYEE'S CASE

The following witnesses were called for examination, cross-examination, and questioning by the School Board members during the course of the hearing:

- Chevela McKinney
- C.M. (Minor Child)
- Erica Schneider
- Matt Koff
- Joni Ard
- Ken Kenworthy
- Gisela Vavra
- Jennifer Hawthorne
- Elaine Murphy

The sworn deposition of Betty Jo Cox was read into the record as Ms. Cox could not be present at the hearing.

The following exhibits were entered into the record:

By Petitioner:

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|------------|--|
| Exhibit #1 | Written statement given by Chevela McKinney to the Okeechobee County Sheriff's Office                    |
| Exhibit #2 | Written statement given by C.M. (Minor Child) to the Okeechobee County Sheriff's Office                  |
| Exhibit #3 | Matt Koff's documentation of his conversation with Ms. Murphy on 01-16-14 regarding the alleged incident |
| Exhibit #4 | Department of Children & Families Investigative Summary Report   |
| Exhibit #5 | Investigative Report – Alleged Physical Injury to Student – completed by Joni Ard                        |
| Exhibit #6 | Joni Ard's documentation of her interview with Chevela McKinney  |

By Respondent:

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|------------|--|
| Exhibit #1 | 2013-14 Annual Employee Evaluation for Elaine Murphy |
| Exhibit #2 | 2012-13 Annual Employee Evaluation for Elaine Murphy |

D. CLOSING STATEMENTS

Closing statements were given by both parties: Robert Kilbride, Attorney for the Superintendent, and Mark Wilensky for Elaine Murphy. Mr. Kilbride stated, in summary, that the Board is left with a paraprofessional who is not capable of working with special needs children, and the DCF investigation ended in a recommendation that Ms. Murphy not work as a caretaker for children. Mr. Wilensky's closing remarks were centered on his belief that the evidence presented supports that the incident was an accident and that termination of employment is not an appropriate action for an accident.

E. CLOSE HEARING

Chairman Arnold called for further questions from the Board. Hearing none, Chairman Arnold closed the evidentiary portion of the hearing.

**VI. School Board Member Deliberation and Decision**

Chairman Arnold read the Superintendent's recommendation. Attorney Tom Conely advised the Board that they have the options of rejecting the Superintendent's recommendation, revising the Superintendent's recommendation, or issuing a completely different decision. Mr. Conely advised the Board of the content of: (1) Definition of Abuse; (2) School Board Policy 6.56 Professional Ethics; (3) School Board Policy 6.103 (1)(a) Appointment or Employment Requirements (Good Moral Character); and (4) Failure of performance of job duties as described in the Job Description for a paraprofessional.

David Williams stated that Ms. Murphy should not lose her job, but that she should be moved to a position that is not working with young children, and that she should receive training on how to handle difficult students. Mr. Williams stated that he would vote to dismiss the Superintendent's recommendation. Malissa Morgan stated that she was in agreement with Mr. Williams' statement and that she felt that there was significant omission and inconsistencies in the evidence presented at the hearing. Ms. Morgan stated that she also would vote in favor of dismissing the Superintendent's recommendation. Board Member India Riedel stated that she respectfully disagrees with dismissing the Superintendent's recommendation, especially in light of the recommendation from the Department of Children & Families that Ms. Murphy not be employed as a caretaker for children. Ms. Riedel also stated that it is the responsibility of the Board to ensure safety of the children in its care. Ms. Riedel made a motion to uphold the Superintendent's recommendation for termination of employment of Elaine Murphy. The motion was seconded by Gay Carlton. Chairman Joe Arnold stated that he agreed with Ms. Morgan and Mr. Williams in that this incident does not appear to rise to the level of termination of employment. Gay Carlton stated her concern is that parents will not feel their children are safe at school if the recommendation for termination of employment is not upheld. Chairman Arnold called for a vote on Ms. Riedel's motion to approve the Superintendent's recommendation that Elaine Murphy be suspended without pay effective April 24, 2014, through July 23, 2013, and that employment of Elaine Murphy be terminated effective July 24, 2014. The Board voted as follows:

Gay Carlton	Yes
India Riedel	Yes
Joe Arnold	No
Malissa Morgan	No
David Williams	No

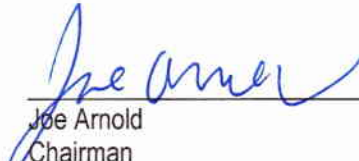
David Williams made a motion that Elaine Murphy be suspended without pay effective April 24, 2014, through the end of the 2013-14 school year. The Board voted as follows:

Joe Arnold	Yes
Malissa Morgan	Yes
David Williams	Yes
Gay Carlton	No
India Riedel	No

**VIII. Adjournment**

Chairman Arnold adjourned the hearing at 5:00 p.m.

OKEECHOBEE COUNTY SCHOOL BOARD

  
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Joe Arnold  
Chairman

  
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Ken Kenworthy  
Superintendent of Schools