

LAW OFFICES
GIBBS & HOLMES
171 CHURCH STREET, SUITE 110
POST OFFICE BOX 938
CHARLESTON, SOUTH CAROLINA 29402-0938

ALLAN R. HOLMES
PARTNER
CERTIFIED SPECIALIST IN LABOR
AND EMPLOYMENT LAW

TELEPHONE (843) 722-0033
TELECOPIER (843) 722-0114
E-MAIL
aholmes@gibbs-holmes.com

October 26, 2023

PERSONAL AND CONFIDENTIAL
BY HAND

The Honorable Members of the Charleston County School Board

Dear Members of the Board:

I have been asked to investigate the September 21, 2023, complaint (hereinafter "Complaint") from a high-level administrative employee of the Charleston County School District (CCSD). The Complainant alleges that Dr. Gallien has created an environment that is harmful, intimidating, and unprofessional, and she provides detailed allegations.

As a result of my investigation, I have concluded that Dr. Gallien has not created a "hostile environment" – that is, an intolerable working environment which exists because of discrimination based upon an employee's race, sex, national origin, age, religion, disability, sexual preference, or some other status protected by state and/or federal law. Dr. Gallien has not subjected the Complainant to such a hostile environment, nor has he retaliated against the Complainant because she engaged in protected conduct related to her – or some other employee's – protected status. To be clear, the Complainant¹ does not even allege this sort of unlawful conduct, and I find that Superintendent Gallien has not engaged in it.

However, I also find that Dr. Gallien has violated a clear, published directive established by the CCSD Board. He was placed on notice of that directive. He was directed to follow it. He intentionally failed to comply. His noncompliance improperly and significantly modified the terms and conditions of the Complainant's employment to her detriment, and this noncompliance materially disrupted her work. He also disrupted the work of the District.

Repeatedly, when asked, I have explained that it would likely take until the end of October for me to complete this investigation. Recent events, including a Board meeting scheduled for October 27, have reduced my available time. I am certain that my conclusions

¹ Given the publicity afforded her complaint, it may be an exercise in futility, but I have attempted to redact the name of the Complainant throughout this report. Where her first or last name would be stated in a document, I have placed *Complainant* in italics.

have not been affected by this reduction. However, it has reduced my ability to review and confirm some facts which are immaterial to my conclusions.

On May 18, 2023, while Donald Kennedy was Superintendent², the Board passed a motion which directed “the Superintendent” to “make no changes to the organizational chart of the central office without an explicit vote of the Board”. The motion passed with 8 in favor, and 1 absent.

This directive has neither been repealed nor modified. On July 17, 2023, the Board rejected (5-4) a Motion to Rescind the May 18, 2023, action of the Board. At the same July 17, meeting, the Board voted (5-4) to allow the “new Superintendent to take appropriate action to fill interim positions and vacancies.” On July 21, 2023, the following language appears in the minutes of the Board meeting: “In accordance with the May 18, 2023, personnel directive and the July 17, 2023 personnel motion, the board will consider the requested appointments to fill interim positions.” Both appointments proposed by Superintendent Gallien were thereafter voted down 5-4 by the Board.

Consequently, since May 18, 2023, the Board has allowed neither the present nor immediately prior Superintendent to make changes to the organizational chart of the central office without an explicit vote of the Board, and the Board is reserving to itself the right to make the final decision as to appointments to certain interim and vacant positions.

There is now a lawsuit seeking a determination as to whether these actions of the Board are permitted by state law. That legal issue is beyond the scope of my investigation. It is to be decided by a court. I do note that the Board – without a single vote in opposition – determined that the restraint was within the discretion of the Board. Consequently, the Board – without dissent – viewed itself as empowered to restrain the Superintendent regardless of whether the law permitted such a restraint. While some have contended that the May 18, 2023, action was only intended to restrain Mr. Kennedy from taking actions that would interfere with the activities of his then unknown successor, a similar non-discriminatory reason has been offered against its rescission: until the Superintendent presents a comprehensive and acceptable³ plan for restructuring the Central Office, he should not make piecemeal changes.

² Kennedy had been an “interim” Superintendent, but by action of the Board taken May 23, 2022, he was appointed “Superintendent of CCSD” effective that date. “This appointment bestows upon you all authority and responsibility conferred upon a Superintendent by state law, South Carolina Board of Education Regulations and CCSD policy.” See July 18, 2022, letter of Rev. Eric Mack, Chairman of the Board, CCSD, to Donald R. Kennedy, Sr.

³ It is my understanding that Dr. Gallien presented an organizational chart at a retreat attended by the Board. However, I do not find any indication that the Board accepted this chart as sufficient.

Regardless, because the Board unanimously asserted 8-0 (with one member absent) on May 18, 2023, that the law allowed it to place this restraint on Superintendent Kennedy, I find that members of the Board could not now reasonably contend that the Board has *no authority* to place the same restraint on Superintendent Gallien.

Some of those I interviewed opined that the application of the May 18 directive to Superintendent Gallien is perhaps racially motivated. While I find that this opinion was offered sincerely and in good faith, it is beyond the range of my investigation⁴ to fully investigate and make a determination of that issue. I do note that at least two of the Board members who voted against rescinding the May 18th action also voted in favor of hiring Superintendent Gallien. Indeed, they were critical to the formation of the majority required for his hiring. Although this does not eliminate every possibility of racial motivation, it does seem to undercut any contention that race was a determining factor in the vote against rescission – particularly when a rational non-discriminatory reason has been offered for that vote. It is unlikely that the Board members whose votes were essential to the hiring of an African American Superintendent decided – just a few weeks later – to discriminate against him because he is African American. Also, it seems reasonable for the Board to have a policy that requires its review of a comprehensive plan for reorganization – as a precondition to any reorganization.

The reasonableness of this policy appears corroborated by what Dr. Gallien is reported to have intended for the first 100 days of his Superintendency:

For his first 100 days on the job, which officially began on July 1, Gallien said forming relationships will be his top priority. He said he has no specific program or project that he intends to implement right away, nor has identified any specific areas of improvement for the district. He plans to use the next 100 days to gather information, audit and analyze the district's budgets and speak with students, parents and community leaders.

“What I’m going to do in the first 100 days is to make sure I listen and learn and find out where the opportunities may exist,” Gallien said. “I plan to listen and learn from the community as we go out and find out what the challenges may be.”

Moultrie News, June 11, 2023.

https://www.postandcourier.com/moultrie-news/news/education/new-ccsd-superintendent-to-focus-on-building-relationships-gathering-info-in-first-100-days/article_d2b63adc-1c3f-11ee-a97e-af7650985414.html

⁴ It is also beyond the scope of my investigation (and my authority) to determine whether Dr. Gallien competently performed his duties as Superintendent.

Much of the brief history of the relationship between Superintendent Gallien and the May 18 directive is set out in contemporaneous emails⁵.

The term of Superintendent Gallien's Employment agreement began July 1, 2023. He and the Board Chair executed it on June 21. On June 22, he discussed his pick for chief of schools and the modification of former Superintendent Kennedy's contract with the CCSD Human Resources Director, William Briggman.

Thu, Jun 22, 2023 8:19 AM Email from Mr. Briggman⁶ to Dr. Gallien. Hello. The following JDs are attached for your reference. For the combined Chief Financial and Administrative Officer and the Chief Administrative Officer, these were the duties at the time the former Superintendent and Mr. Kennedy were discussing these two positions. As I mentioned, Don returned to CCSD Jan. 2018 with plans to be the Chief Administrative Officer, but we have a major need for a CFO, so there was a hybrid position if you will to combine the duties. Also attached is the JD for the Chief of Schools. This position was filled from late summer of 2022 to Nov. 2022 by Anthony Dixon, who is now the Superintendent of Berkely County Schools, a neighboring district. Dixon was an interim. The final JD is the Chief Transformation Officer, who was Anita Huggins, our current Deputy Superintendent. Don's vision for the Transformation position was similar in concept to the Chief Administrative Officer. We can discuss these positions in the near future.

Eric Gallien
To: William Briggman
Thu, Jun 22, 2023 at 9:27 AM

Thank you Mr. Briggman. This will be helpful. To be clear, the Chief Transformation Officer position still exists from a budgeted FTE perspective or was it absorbed by the creation of the Deputy Superintendent position? Also if you have time today I would like to explore if the chief of schools position is budgeted and the best approach to getting my person⁷ in district as soon as possible (ie: interim)?

⁵ These were provided at my request by the CCSD administrative staff. I have left all typographical and other similar errors in the emails uncorrected.

⁶ It should be noted, and I so find, that the initiative for any and all changes in the organization came from Superintendent Gallien, and not from Mr. Briggman or Ms. Huggins. Early on, the Board Chair, Ms. McKinney, urged Dr. Gallien to use Mr. Briggman for any such initiatives. Neither Ms. Huggins nor Mr. Briggman were in a position to defy the directives of Dr. Gallien.

⁷ "My person" is a resident of Wisconsin, who was offered and accepted an employment contract as interim Chief of Schools on July 18, 2023. A redacted copy of this contract is appended.

June 22, 2023, Email exchange E. Gallien / W. Briggman.

Shortly thereafter, the Board Chair Ms. McKinney specifically informed Superintendent Gallien of the Board's May 18, 2023, directive:

From: Pamela McKinney
Sent: Friday, June 30, 2023 4:25 PM
To: Eric Gallien
Subject: Board Minutes

Dr. Gallien,

Here is an excerpt of May 18, 2023 Special Called Board minutes in which the Board moved and passed a direction to the Superintendent:

"Motion to direct the Superintendent to make no personnel changes to the organization chart of the central office, without an explicit vote of the Board"

This motion has not been rescinded and no approval has been granted for personnel hires by the Superintendent. I understand that you are in the process of making a number of personnel changes, which, in accordance with this motion, you are not authorized to make. Please be aware that the Board has to approve all such changes, which we will have to review in light of the 23-24 budget once it gets adopted.

June 30, 2023, Email P. McKinney to E. Gallien (emphasis mine).

Dr. Gallien complained of the May 18 directive, and while Chair McKinney expressed a willingness to discuss it, she provided him no relief from it:

On Sun, Jul 2, 2023 at 5:44 AM Dr. Gallien wrote:

Good morning Mrs. McKinney. I am not sure if you got my initial response to this email, but I am circling back on this email. I would like to speak with you regarding this, due to the fact that it has been my understanding that this directive was for the previous administration and that upon the start of my administration I would be allowed to hire where the budget allowed (not adding unbudgeted FTE's) and I would work with Mr. Briggman to approve or disapprove the already budgeted interim positions. Upon review of that list two positions I made the decision to appoint a different interim (from outside the district) in order to get the process moving forward and then upon a successful interview make a recommendation for permanent placement to the board later. Keep in mind these are not new FTE's, they already had people slated to serve as interim in those roles. It is imperative that while striking a delicate balance that I have the ability to appoint where opportunities exist, people that I know and trust to do the work. When you have a chance I would like to discuss how can we move forward.

On Mon, Jul 3, 2023 at 8:43 AM Pamela McKinney wrote:

Dr. Gallien,

Yes, we may talk about this. It is my understanding from your interview that upon arrival, your plan was to assess and work on an organizational chart. After that, hires would begin. Mr. Briggman is very knowledgeable and will be an asset for you.

The July 3rd email from Ms. McKinney prompted Mr. Briggman to email Dr. Gallien while copying the Deputy Superintendent Anita Huggins:

On Tue, Jul 4, 2023 at 1:18 PM William Briggman wrote:

Hello Dr. Gallien. I hope you are doing well and have a wonderful July 4th. Yesterday I was a little off the grid, so I am catching up on my emails this afternoon. I want to support you with your hiring decisions, both interim and permanent, but based on this email it appears the Board will need to approve. Did you talk to Mrs. McKinney about the Chief of Staff and the Chief of Schools? As you will recall, both of these positions were not in the 1st reading of the budget and I am certain the Chief of Schools position, because it is vacant, was cut from the 2024 budget. Per your request, I asked J Carlen about the ability to add the Chief of Schools (we had not discussed the Chief of Staff at that time). She felt it could be added, but we need to be transparent with the Board, especially with Chief level positions. I told J Carlen you would discuss it with the Board Chair.

Again, based on this email from Mrs. McKinney, what do you advise? Anita, hope you are well.

Copied you here since the Chief of Schools reports to you and ... also Chief of Staff duties in your area.

July 4, 2023, Email W. Briggman to E. Gallien and A. Huggins.

Dr. Gallien responded to Mr. Briggman that Dr. Gallien would talk to Ms. McKinney, but Briggman should continue with Gallien's hiring plans:

I will discuss with the board chair, meanwhile continue moving forward with the preliminary work needed in HR to prepare both Burns and Day⁸ to be appointed interim.

⁸ A resident of Wisconsin, was offered and accepted an employment contract as Interim Executive Director of the CCSD Elementary Learning Community on July 19, 2023. A redacted copy of this contract is appended.

July 4, 2023, Email from E. Gallien to W. Briggman.

After a conversation with Chair McKinney in which she refused to support rescission of the May 18th directive, Dr. Gallien wrote the entire CCSD Board of Trustees and asked that the issue be put on the Board agenda.

Good Morning, BOT,

Thank you for the warm welcome to Charleston. I have enjoyed my time being acquainted with family and meeting staff. I'm looking forward to working with you and the great team of folks assembled here.

I'm aware of a May 18 Board action that directed "the Superintendent to make no personnel changes to the org chart of the central office without an explicit vote of the Board."

As such, I'd like to add an agenda item to Executive Session either July 12 (special called meeting) or July 17 (regularly scheduled Board meeting) for the Board to reconsider this motion/action for rescission, so I can take appropriate action to fill interim and vacant positions.

If you have questions or concerns, please let me know. Otherwise, I look forward to our discussion on July 12/July 17.

Jul 6, 2023, 8:43 A.M, Email from E. Gallien to CCSD Board of Trustees

This email prompted a response from the Board Chair:

Dr. Gallien,

Thank you for looping the entire Board into this issue.

As I stated in our meeting yesterday, I think it behooves you and our District to support your 100 Day plan of assessments.

I was very impressed in your interview when you stated that our District needs a 'clear organizational chart with expectations'. I would like to see that before we proceed with major staff changes.

Granted the above may not take 100 days. I am prepared to help.

While I am not opposed to a frank discussion, I am not inclined to vote for the motion to be rescinded. This echoes our conversation yesterday.

Thu, Jul 6, 2023, 9:49 AM Email from P. McKinney to Board of Trustees and various CCSD administrators.

As previously noted, at the July 17 meeting, the Board rejected the Motion to rescind the May 18th directive. While the Board determined that it would allow the Superintendent to prepare and submit appointments for vacant and interim positions, these appointments require Board approval.

Consequently, from before the effective date of his employment contract, Dr. Gallien has known that he is constrained by the May 18th directive.

Nonetheless, on July 11, 2023, at Dr. Gallien's direction, CCSD Human Resources advised the Complainant that her employment position in the Central Office was being changed:

The purpose of this memo is to inform you of your work assignment effective August 1, 2023. Your interim position of Executive Associate Superintendent will end on July 31, 2023. Beginning August 1, 2023, you will report to William Briggman, Chief Human Resources Officer as an Associate Superintendent with the job duties and responsibilities to be determined prior to this date. Within the immediate future and with the guidance of Mr. Briggman and Mrs. Anita Huggins, Deputy Superintendent, your current job duties and responsibilities will transition to other district staff.

July 11, 2023, Email from Division of Human Resources to Complainant.

After receiving this email, the Complainant met with Mr. Briggman to ask what she was to do. She says he told her to just keep working in good faith on behalf of the organization. Mr. Briggman corroborates these facts and indicates that he had no further immediate direction for Dr. Gallien as to what should be done with the Complainant's position.

When I interviewed Dr. Gallien, he told me that very early in his review of the CCSD organization, he had wondered why the duties of the Complainant were out of the Academic Office, and this change was intended to remedy that issue. Deputy Superintendent Huggins also told me that this was the rationale he gave to her. He said the "position looks odd", and he decided that a then report of the Complainant – would report to the Interim Chief Interim Academic Officer, Michelle Simmons⁹. This led to the July 11 letter.

Subsequently, on July 19, the Complainant met with Ms. Simmons and [REDACTED].

Notably this meeting between Ms. Simmons and the Complainant did not occur "without notice" as alleged by the Complainant. During the course of the investigation, Ms. Simmons provided the following emails:

Hi [first name of *Complainant*],
I was informed that Literacy is transitioning back under the CAO portfolio for FY24. I am hoping you and I can meet with Susan as Director for core literacy to discuss. I will search your calendar next week. Thank you so much!

⁹ From the standpoint of my investigation, the merit of this change is irrelevant. I am not competent to judge it on that basis. The relevant question is whether the change was permitted under the terms of the May 18, 2023, directive of the Board. I have concluded that it was not.

Michelle

July 11, 2023, Email from Michelle Simmons to Complainant

From: [Complainant]

Date: Wed, Jul 12, 2023 at 7:38 AM

Subject: Re: Transition Meeting

To: Michelle Simmons

Cc: [REDACTED] Anita Huggins

Michelle -

That sounds great! I look forward to meeting with you and finalizing the transition.

[first name of Complainant]

July 12, 2023, Email from Complainant to Michelle Simmons

Also, in her interview with me, the Complainant acknowledged that Ms. Simmons was not “loud” in their conference. The Complainant told me that she wished she had used a different term so as to better describe how uncomfortable the conference made her. Ms. [REDACTED] also present at the conference, stated that the conference was cordial, and that the Complainant did most of the talking. Ms. Simmons also described the conference as cordial, and remembers that after it ended, the Complainant took Ms. Simmons to the Complainant’s office and made a light remark about the number of cubicles there. While Ms. [REDACTED] understood that she and Ms. Simmons were undertaking action authorized by Superintendent Gallien, she does not recall any mention of his name at the meeting. Ms. Simmons indicates that she was at the meeting upon the instruction of Deputy Superintendent Huggins, her superior and the superior of the Complainant. Ms. Simmons is understandably upset about the claim that there was no notice of the meeting as well as the mischaracterization of her demeanor at the meeting. She cannot understand why the Complainant stated these things.

While it is understandable that the Complainant would be concerned or upset about the meeting, I find that she was given notice of the meeting, and that neither Ms. Simmons nor Ms. [REDACTED] were loud or otherwise inappropriate in their interactions with her. I further find that Ms. Simmons and Ms. [REDACTED] have both been cooperative and forthcoming during my investigation.

Most importantly, I find that – ultimately – the meeting resulted from Dr. Gallien’s decision to eliminate the Complainant’s position in violation of the May 18 Directive. Without his decision, this meeting would not have occurred. After the meeting Ms. [REDACTED] reported to Ms. Simmons instead of the Complainant, and literacy went with Ms. [REDACTED] to Ms. Simmons. Such other supervisory authority that the Complainant exercised after that date was to be transitioned elsewhere by August 1.

Dr. Gallien continued to attempt to obtain Board relief from the May 18 Directive. For sake of brevity, I am omitting some of those efforts. However, on July 31, Chair McKinney emailed him as follows:

Good morning, Dr. Gallien,

This is a brief follow up to our Saturday conversation. I hope there is success in a meeting with Mr. Kennedy for him to assume some responsibilities with our Finance team.

At the very least, I know that the Board is interested in his job title and its description, if that is different from the letter and contract that we are familiar with.

Secondly, it was heard at CES that *Complainant* has a different position in the central office. Please advise the Board on this so we do not learn from the media.

I appreciate you addressing these concerns,

Pam McKinney

July 31, 2023, 6:01A.M. Email McKinney to Gallien

Dr. Gallien responded, "Thank you Mrs. McKinney for this email. We will work to get you the job description for both positions." July 31, 2023, 7:01 A.M. Email Gallien to McKinney.

Sensing that Dr. Gallien did not fully understand her prior email, Ms. McKinney emailed him again:

Dr. Gallien,

I perhaps was not clear about Mr. Kennedy and *Complainant*. According to the May 18 directive, there should not be personnel changes to the organizational chart of the central office, without an explicit vote of the Board. I would think they are in their July 1 positions until you ask for a board vote to change.

I understand if you are creating new positions and descriptions to present for a Board vote.

Pam McKinney

July 31, 11:13 A.M. Email McKinney to Gallien

That afternoon, prompted by the concern raised by these emails, the CCSD Director of Human Resources emailed Dr. Gallien:

Dr. Gallien, This email from the Board Chair concerns me as it relates to *Complainant*. As you are aware, the first week you arrived, the decision was made to reassign *Complainant* to HR as an Associate Superintendent effective August 1, 2023. *Complainant* was notified on July 11th. She has several direct reports who's reporting line needs to be reassigned and Michelle S has already met with *Complainant* to transition literacy. Do I need to attempt to undo this decision? When I say attempt, I think after last week, people are aware of this move. How do you recommend proceeding?

Please advise. I am very concerned.
Bill

July 31, 2023, 2:31 P.M. Email Briggman to Gallien

On August 1, 2023, Dr. Gallien replied, "Lets talk during our meeting." August 1, 2023, Email Gallien to Briggman.

Thereafter, Deputy Superintendent Huggins met with Mr. Briggman and Dr. Gallien. However, the issue remained unresolved. On August 14, 2023, Mr. Briggman again sought advice from Dr. Gallien:

Good morning. I hope all is well with you and you had a great weekend. Depending on the outcome of the retreat, I need to resolve the following personnel issues:

1) *Complainant* - is there a final decision? I know we have already notified her of her reassignment to HR, but I need to define her role in HR. Also her direct reports need to be reassigned based on the org charts we created

August 14, 2023, Email Briggman to Gallien

Dr. Gallien replied, "Let's try to meet this afternoon." August 14, 2023, Email Gallien to Briggman. By midday August 15, Mr. Briggman had prepared an HR job description for Complainant as "Associate Superintendent in HR", and forwarded it to Dr. Gallien. Mr. Briggman noted, "*Complainant* was notified in July that she would report to me in HR and she has been asking about her new role." Dr. Gallien acknowledged receipt of the job description, told Briggman, that he'd forward it to the Board. Email exchange Gallien and Briggman August 15, 2023.

Mr. Briggman again expressed concern to Dr. Gallien: "I met with *Complainant* today. I didn't give details about her position in HR, but she is asking details and I fear if we do not respond to her soon, this will create a hostile work environment. We could have a legal issue here. Dr G, please advise." *Id.*

This led to the meeting of August 16, 2023, between the Complainant and Dr. Gallien. Her September 21st Complaint states, "I met with you at your request to discuss a job description you indicated you'd written for the Associate Superintendent of Human Resources. You indicated you were taking the job description to the Board Monday August 28 for approval. However, I heard nothing additional from you for nearly another month."

Mr. Briggman attended the end of this August 16 meeting, and on August 17, he emailed the Complainant:

... , thank you for meeting with Dr. Gallien and me yesterday to discuss your reassignment to HR. I know I missed most of the meeting, just the way it goes with school about to open. However, I understand it went well and as always,

you have a home in HR. Dr. Gallien is sending an update to the Board soon so once this has occurred, we can notify your staff about this change. You did receive a letter in July with an effective start date of August 1. I see no reason to send a new letter, unless you prefer.
Please let me know if you have any questions or concerns.

August 17, 2023, Email Briggman to Complainant.

On the same day, Ms. Vanessa L. Denney, Interim Executive Director, Office of Communications emailed the Complainant's proposed job description – and two others - to the Board of Trustees:

At Dr. Gallien's request, I am sharing three job descriptions:

Associate Superintendent of HR - Dr. Gallien is sending this JD for trustee review and feedback before the August 28, 2023, meeting.

Chief of Schools - Dr. Gallien is sending this JD for trustee review and feedback before the August 28, 2023, meeting.

Chief Administrative Officer - No action necessary - Dr. Gallien is sending this in response to requests for Mr. Kennedy's job description from the August 12, 2023, executive session.

Please let me know if you have any questions.

August 17, 2023, Email Denney to Board of Trustees

Chair McKinney replied directly to Dr. Gallien.

Dr. Gallien,

I appreciate the opportunity for feedback.

As for the Associate Superintendent of HR, I have grave concerns that this starts a domino effect. How are *Complainant's* reports redistributed and how many places have to be rearranged in HR? I am currently not in favor of this change. As for the Chief of Schools, now is not the time. This is not in the budget which is stretched to the max. It also appears that most of the job description is currently being handled by others. I am currently not in favor of this addition.

August 17, 2023, Email McKinney to Gallien

Dr. Gallien replied, "We are prepared to discuss the details of *Complainant's* move in the executive session. The Chief of Schools JD was for information only." August 17, 2023, Email Gallien to McKinney and others.

These were addressed at the August 28, 2023, Board Meeting in Executive Session. While I am unclear as to exactly what happened in Executive Session, the ensuing email from Chair McKinney clarifies:

To assure there is no misunderstanding of Board action, I am sending this so we are all on the same page. "Since Agenda 6.8. motion failed and Agenda 6.C. motion was not made, the organizational chart stays as is for now and *Complainant* stays in her literacy position."

Ms. Paylor as parliamentarian and general counsel concurs.

August 29, 2023, from McKinney to Gallien, Huggins, Simmons, and Briggman

From June 11, 2023, until the August 28, 2023, Board meeting, Dr. Gallien violated the May 18 directive of the Board. On August 31, 2023, Mr. Briggman emailed him to determine whether – in light of the Board action – Dr. Gallien was going to take corrective action:

Good afternoon. At the end of cabinet Tuesday we decided to address the email from Ms McKinney about the organizational structure after the storm. As I understand the board directive from May 18 and the recent conversation in Ex Session Monday, we need to restore *Complainant* to her prior position and org structure (all direct reports) as it was structured May 18, 2023. Dr G, is this correct based on what you are aware? If so, I need to notify *Complainant*.

August 31, 2023, Email exchange Briggman and Gallien

Later that day, Dr. Gallien replied, "You are correct, but I plan to clarify in my meeting tomorrow." *Id.* Nothing occurred, and on September 2, 2023, Mr. Briggman again emailed Dr. Gallien:

Good morning. Dr. G can you provide an update on this situation? I would like to notify *Complainant* of her assignment. Michelle, do I need to notify [REDACTED] that she is reporting to *Complainant*? Is there anyone else who has been reassigned and needs to return to *Complainant* as a direct report?

Saturday, September 2, 2023, Email Briggman to Gallien

Dr. Gallien emailed Briggman, "As of right now, she is to return to her previous assignment. The reports should also be assigned accordingly." Briggman immediately replied and directed staff to take appropriate action, "Thank you Dr Gallien. Susan, Tuesday please issue *Complainant* a letter assigning her to her original associate level position. We can discuss the language. Also, a letter needs to be sent to [REDACTED] as well. We can discuss Tuesday." September 2, 2023, Email chain Gallien and Briggman.

Unfortunately, there was further delay. On Monday, September 4, 2023, Dr. Gallien emailed again:

Mr. Briggman in response to your directive to Susan to issue letters to *Complainant* and Ms. [REDACTED] I am requesting that before any letters are

distributed that you coordinate a meeting with *Complainant*, Anita, yourself and I for Tuesday at 10:00 am to discuss her responsibilities and establish expectations moving forward.

Due to the current challenges we must overcome in the area of Literacy, I believe the District's interest is better served by approaching this personnel action with a thorough review of our recent efforts with an eye toward sustainable growth. As I have suggested since my arrival, our instructional efforts will require an 'all hands on deck, approach.' To that end significant decisions such as this one will be accompanied with thoughtful discussions to make it clear that our purpose is sustainable growth."

After that meeting we will work on the letter of assignment together.

September 4, 2023, Email Gallien to Briggman

Mr. Briggman replied and expressed his concern over further delay:

Dr. G, we will certainly hold on this notification until we meet. Tuesday at 10 will be a challenge for me. I have to miss cabinet due to another meeting. Also, the cabinet meeting tomorrow has a very lengthy agenda, so I am thinking 10 will not work anyway. We will need to look at other dates/times.

I must share my concerns that we are entering a 3rd month with *Complainant* having no clear direction of her role in the organization knowing that the Board has directed you not to move *Complainant* Nor her direct reports. I will respect your decision and look forward to discussing, but even if *Complainant* wants to be reassigned, the Board must approve as I understand. In my role, I feel my job is also to "protect" the Superintendent, so that is the reason I am sharing this concern....

* * *

Please know I am only trying to serve as an adviser on this matter.
Note, I removed Michelle S and Susan from this response.
Thank you

September 4, Email Briggman to Gallien

Dr. Gallien then emailed Mr. Briggman and Deputy Superintendent Huggins:

Bill I appreciate your feedback and advise. I have every intent to follow the board directive. My goal here is to take the deliberate approach in making sure we are carrying out the district board goal of continuing to improve literacy achievement. Again, I appreciate your support and look forward to your assistance as we move this appointment forward.

September 4, Email Gallien to Briggman.

The meeting directed by Dr. Gallien took place on September 11, 2023. It was attended by Dr. Gallien, Mr. Briggman, Ms. Simmons, Ms. Huggins, and the Complainant. According to the Complainant, Dr. Gallien told her “I am giving literacy back to you”, and then started reading to her from a “script” of questions which he had prepared beforehand, and of which he’d given her no advance notice. He asked her whether she could support the EL curriculum; what her “plan” for literacy was; and he told her that EL should continue to be the core curriculum.

The basics of the Complainant’s account are corroborated by the other witnesses. However, they did not sense her emotional distress. The witnesses acknowledge that the complainant was asked prepared questions. Both Dr. Gallien and Ms. Simmons indicate that Dr. Gallien prepared the questions, and Ms. Simmons may have vetted them somewhat. By all accounts, the Complainant answered all the questions correctly. Those witnesses who were asked by me recall that there was mention of the EL curriculum. There is no question that the meeting was planned to return the Complainant’s job duties to her. At the close of the meeting, Dr. Gallien indicated that he would follow up in writing regarding the Complainant’s duties. That never occurred, and the Complainant filed her Complaint.

When Dr. Gallien was notified of the Complaint, he immediately attempted to schedule a meeting with the Complainant. While he intended to have a human resources person present, he told Mr. Briggman that he was not to be that representative.

As an investigator with considerable experience in employment and labor related legal matters, I find that it was a mistake for Dr. Gallien to try to meet with the Complainant about her Complaint against him. When such a complaint is made about the chief executive officer of an entity, that officer should not be involved in the investigation of the complaint. Complainants and whistleblowers virtually always fear reprisal, and requiring them to meet directly with the subjects of their complaints is inappropriate – and counterproductive, if the employer wants to attempt to resolve the complaint informally. Moreover, even with a witness present, the subject of the complaint is open to being misunderstood or misquoted or otherwise deprived of an appropriate defense by engaging in such a meeting.

Although I am certain Dr. Gallien did not intend the result, the Complainant was made quite upset by the thought of being required to meet with him – especially so soon after making her complaint. She recounts that, initially, she accepted his invitation, but the meeting had to be rescheduled, and at the rescheduled time, she became unable to attend. Her co-workers indicate that they considered obtaining medical assistance for her. Although that was unnecessary, one of the co-workers drove her home while another drove her car.

Some of the background of the Complainant¹⁰ is worthy of mention. She has been employed by the CCSD for more than 40 years. Her accomplishments with CCSD and in the

¹⁰ I must note that the Complainant is not the only person I interviewed who has had a laudable history of employment with the CCSD. When I began my investigation, I asked the

community include: 1986 - Named Teacher of the Year at Brentwood Middle School and was in the top 10 for CCSD County Teacher of the Year; 1995 - Principal of the Year for CCSD (while at Mary Ford Elementary); 2005 - Education Award from the Downs Syndrome Association; 2015 - Recipient of Reading Recovery Advocacy Award; 2018 - Recipient of the Outstanding Alumnus of the Zucker Family School of Education - The Citadel; Rotary Club of Mt Pleasant - served as Treasurer, Secretary, Vice President and President in 2020-21; Development Advisory Board for the Zucker Family School of Education at The Citadel 2018 to present; Teacher's Supply Closet - on the Board of Directors since 2015 and served as Vice Chair 2020- present; Lowcountry Graduate Center K-12 Advisory Board 2017-2020; Reading Recovery Advisory Council at Clemson University 2014- 2021.

Especially pertinent is her work during 9 years at Mary Ford Elementary where, as Principal, she led a team to great success at that Title I school. Literacy improvement was a large factor in that success.

Although it may have served some interest of Dr. Gallien, I find that it was reasonable for the Complainant to have felt it less than appropriate for Dr. Gallien to have given her something like a "pop quiz" on teaching literacy, and to have demanded to know her literacy plan. After all, she had been in charge of literacy before Dr. Gallien moved her, and as she notes in her complaint, the record of literacy improvement which had been presented to the CCSD Board included the period in which Complainant was the leader of literacy initiatives.

As of October 26, 2023, I am advised by the Complainant that she has not been restored to the position she held before Dr. Gallien modified it. Her subordinates continue to report to others.

The Complainant faults Dr. Gallien for not defending her from accusations that she is a "racist". For example, here is text from a September 9, 2023, posting on Pastor Thomas Dixon's Facebook site:

These ignorant Moms for Liberty racists are up to their shenanigans again. It's believed they are going to try to remove Dr. Eric Gallien at the School Board meeting on Monday. Dr. Gallien is a Black man who assumed the position of Charleston County Superintendent of Schools 70 days ago...on July

people I interviewed to provide information about their achievements. Initially, my intention was to prepare a record of each interview, and to accompany it with a summary of the interviewee's achievements. As I worked, I realized that an individual record of each interview was not needed for this investigative report. However, I will note that all of the CCSD employees I have interviewed are highly accomplished. As but one example, I have attached the resume of Michele Simmons. I have selected her because it is obvious that she was interviewed. I should also note that while the employees I interviewed may have professional disagreements about various educational issues, their areas of professional agreement are quite broad.

1st. And I believe they want him gone because he will not support their racist wishes and practices.

So now, it's time to cut off "the head of the snake." It's time for these anti-children, personal agenda people to go...period. It's time for us, as a community, to make these bigots so uncomfortable that they sell their homes and move back to the snake holes they slithered out of. And *Complainant*...we're starting with you. You should have been gone 3 years ago when you harassed a white teacher for supporting Black Lives Matter.

Charleston County parents, teachers, advocates and activists...will you stand with me?

Thomas Dixon Facebook Post September 9, 2023

Similarly, Complainant reports that Pastor Dixon posted a commercial driver's license flyer which advertised the cell phone number of one of Complainant's family members for callers. I am unable to currently locate this post but saw it – and matched the phone number to that provided by the Complainant before the post was removed.

Conclusion

In summary, I find that the actions of Dr. Gallien justify the conclusion set out at the beginning of this report. I leave it to the Board to determine what, if any, remedy it will provide the Complainant. That said, it is obvious that she should not remain in a sort of "employment limbo".

Please let me know if anything more is required.

With kind regards, I am

Respectfully yours,

A handwritten signature in blue ink, appearing to read "A. R. Holmes", with a long horizontal flourish extending to the right.

Allan R. Holmes, Sr.

Enclosures as stated