

MARK KOPP POSITION STATEMENT

TO: THE FRANKLIN COUNTY BOARD OF EDUCATION ("Board")
FROM: THOMAS W. MILLER AND ELLIOTT C. MILLER
DATE: SEPTEMBER 27, 2019

Mark Kopp, Superintendent of the Franklin County Public Schools, has asked us to provide to the Board a Statement setting forth why the pending criminal charges against him are totally without merit, that he in all respects has acted appropriately and consistent with his legal requirements and why there is no need for the Board to take any action regarding his duties and responsibilities.

BACKGROUND

As Superintendent, Mr. Kopp is responsible for retaining, supervising and, if appropriate, disciplining employees of the Franklin County School System. He is also charged with the welfare of all students. There are statutory duties and responsibilities attendant to those duties, all of which have been complied with.

Ms. Whitney Allison, Principal of Bondurant Middle School ("School"), received a report from a student accusing a teacher of inappropriately "grabbing" her bottom on one occasion in a classroom full of students on March 14, 2019. Ms. Allison has stated that she immediately began to investigate and had the reporting student prepare a written statement, and got written statements from two other students who were purportedly witnesses. One of the two witnesses observed what had occurred, but her version was somewhat different than the complainant. The second witness stated she had not seen the event. Ms. Allison then concluded she needed to do additional investigation before determining whether a report of sexual abuse needed to be made.

Ms. Allison was acting consistent with the requirements of KRS 620.030, which states in pertinent part:

- (1) Any person who knows or has reasonable cause to believe that a child is...abused shall immediately cause an oral or written report to be made to a local law enforcement agency..... Any supervisor who receives from an employee a report of suspected...abuse shall promptly make a report to the proper authorities for investigation.

Because Ms. Allison had conflicting reports which prevented her from having a "reasonable cause to believe" an abuse had occurred, her election to do a further investigation was appropriate in Mr. Kopp's opinion. He was not aware of the incident on March 14, 2019.

On March 15, 2019 Mr. Kopp received a telephone call from Deputy Montey Chappell of the Franklin County Sheriff's Department, who was the School's resource officer. Deputy Chappell informed Mr. Kopp there had been an incident involving inappropriate touching of a student on March 14, 2019 and he had the parent of another student with him at that time who stated she had also been inappropriately touched by the same teacher in October, 2018.

Mr. Kopp called Human Resources Director Holly Adkins and they both went immediately to the School. When he and Ms. Adkins arrived, they went to meet with Ms. Allison.

Because Ms. Allison now had two reports of similar conduct by the same teacher, she then had reasonable cause to believe that a report should be made. On that same day there was a meeting among Ms. Allison, Mr. Kopp and Deputy Chappell. Because Deputy Chappell is a member of a "local law enforcement agency", the reporting requirements of KRS 620.030 were met. Deputy Chappell specifically was asked at that time if he was going to handle the reporting and he said he was.

Mr. Kopp learned for the first time about both events on March 15th when Deputy Chappell contacted him by telephone. The offending teacher was brought into the office and was immediately suspended with pay. He never returned to the classroom.

It is important for the Board to understand that Deputy Chappell is employed by the Franklin County Sheriff's Office. He receives no compensation from the Board. Mr. Kopp has no control – or even influence – over his employment, his compensation or his assignment.

Later, Mr. Kopp had a conversation with Deputy Chappell where there was a discussion of the investigation of the teacher and Mr. Kopp was shocked to learn that "Ms. Allison is in trouble". During the discussion, Mr. Kopp recognized the deputy had the chronology of events incorrect and defended Ms. Allison.

KYIBRS REPORT

Attached is the KYIBRS Report prepared by Deputy Chappell. In his Narrative is his version of events and if true, fully exculpates Mr. Kopp.

During the conference among Ms. Allison, Ms. Adkins and him on March 15, 2019, Mr. Kopp did nothing to discourage or limit the investigation by the Deputy. Evidently, Deputy Chappell completed his investigation, provided the information to Assistant Franklin Commonwealth Attorney, Zach Becker, who presented the facts to the grand jury. A subpoena was issued by the grand jury and delivered to the Deputy on June 18, 2019. After serving the subpoena on June 19, 2019, he had a conversation with Mr. Kopp.

During the conversation, Mr. Kopp purportedly defended Ms. Allison. There was a conversation over documents that the Commonwealth Attorney's Office wanted to see because it was investigating Ms. Allison's actions. The statements by Mr. Kopp that are evidently believed to be supportive of the charges against him are:

“This is the new SRO Contract and I am keeping it the same for this year.”

“I am doing you a solid, now I need you to do me a solid.”

The Deputy then provides a convoluted and nonsensical conclusion that because there was a statement made about an SRO Contract between the Board and the Sheriff’s Office that had not been changed from the previous year, there was an implication that because Mr. Kopp had already made a decision that did not affect the Deputy that Mr. Kopp was trying to make “Ms. Allison’s situation go away.” In other words, presumably, the Deputy construed an action previously taken by Mr. Kopp to somehow influence the Commonwealth’s Attorney’s investigation.

MR. KOPP HAS NOT COMMITTED A CRIMINAL OFFENSE

KRS 521.020 states in pertinent part:

- (1) A person is guilty of bribery when:
 - (a) He offers, confers, or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant’s...action in his official capacity.....

Even if one assumes the Deputy’s recollection of his conversation with Mr. Kopp is entirely accurate, there was no offer of any pecuniary benefit made. The “SRO Contract” was not with Deputy Chappell. He is employed by the Franklin County Sheriff’s Office, not by the Board. Mr. Kopp had no influence or control over Deputy Chappell’s employment or compensation. Deputy Chappell would receive no pecuniary benefit regardless of whether the SRO Contract was executed. There is not even an attempt to explain what pecuniary benefit Deputy Chappell would receive from the execution of a SRO Contract that Mr. Kopp was committed to executing prior to the conversation between the two.

Further, there is no way to construe the statements Mr. Kopp made that could be taken as an “intent to influence” Deputy Chappell’s action. At the time of the conversation the Franklin Commonwealth Attorney’s Office had assumed responsibility for the “action” to be taken regarding the investigation of Ms. Allison and had already presented the matter to the grand jury. Whether Deputy Chappell did, or did not, do “a solid” (whatever that means) to Mr. Kopp would have had absolutely no influence over the “action” to be taken by the grand jury.

Mr. Kopp is charged with a violation of KRS 506.010, which states in pertinent part:

- (1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he:
 - (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or

(b) Intentionally does or omits to do anything which, under the circumstances as he believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.

(2) Conduct shall not be held to constitute a substantial step under subsection (1)(b) unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he is charged with attempting.

Because the statements made by Mr. Kopp (as alleged by Deputy Chappell) offers no pecuniary benefit and could not have influenced the investigation, there is clearly no attempt to commit a crime.

CONCLUSION

Mr. Kopp has an arraignment on the pending charges scheduled for October 15, 2019. On or before that date, we will move to have the charges dismissed and are highly confident that once the Franklin District Court learns the factual basis underlying the Indictment, we will prevail. In no circumstance will Mr. Kopp consider a guilty plea for the very simple reason that he has committed no crime.

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