

STATE OF FLORIDA
DISTRICT SCHOOL BOARD OF CLAY COUNTY

CHARLIE VAN ZANT, Superintendent of Schools, Clay County,
Florida,

Petitioner,

vs.

CASE NO.: 2013-001 CCSB

MICHAEL FORD,

Respondent.

Testimony and Proceedings

DATES: Tuesday, October 1, 2013
Wednesday, October 2, 2013

TIMES: 9:06 a.m. - 1:23 p.m. 2:18 p.m. - 3:43 p.m.
8:35 a.m. - 12:33 p.m.

PLACE: The School Board of Clay County, Florida
900 Walnut Street
Green Cove Springs, Florida 32043

BEFORE: Hearing Officer Carol Studdard

Reported by:

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P R O C E E D I N G S

Tuesday, October 1, 2013 9:06 a.m.

(Also present for start of morning session: Michael Ford, Toni McCabe, Renma Lee Paiva, Mary Ann Steinberg.)

HEARING OFFICER STUDDARD: This hearing will come to order. This is Case No. 2013-001-CCSB, the case of Charlie Van Zant, Superintendent of Schools of Clay County, Florida, Petitioner, versus Michael Ford, Respondent.

Is the petitioner ready to proceed?

MR. HOLSHOUSER: We are.

HEARING OFFICER STUDDARD: Is the respondent ready to proceed?

MR. DEMMA: Yes.

HEARING OFFICER STUDDARD: Mr. Holshouser.

MR. HOLSHOUSER: Yes. I'd like, if I could, to make a brief opening statement.

HEARING OFFICER STUDDARD: Yes.

MR. HOLSHOUSER: Okay. As you are aware, this past May the school board voted to dismiss the respondent Michael Ford from his job as a P.E. teacher at Oakleaf Junior High subject to his right to an evidentiary hearing, which is why we're here today.

He was dismissed because on April 3, he made a

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threatening comment to a student and inappropriately made physical contact with the student and injured. And I'm going to refer to the student just as D.O. to keep the student's privacy. Some witnesses may refer to him by a nickname, Cody, but hopefully not more than that.

Ms. McCabe investigated this incident, so did the police. And indeed, Mr. Ford was arrested for felony child abuse. And what we feel should be dispositive of just cause to dismiss him from employment, he admitted guilt and pled guilty in June to that felony. In fact, the guilty plea is -- which we'll introduce into evidence, is more than just a guilty plea. It's also an admission of guilt.

Mr. Ford in this document says, "I hereby enter my plea of guilty because I am guilty." He also signs the document where he says it's true and correct in all respects. He entered this guilty plea as part of pretrial intervention, where he's currently in. He's been in pretrial intervention for a year, which expires in July of 2014. If he does everything he's supposed to do in a pretrial intervention, they'll dismiss the charge. But that doesn't remove the fact that he's admitted guilt to

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child abuse felony in writing, signed by him.

While we think that should be enough to establish just cause for termination, indeed not only because of the conduct which led to that, but because of the potential of the school district being negligent if they reinstate him to a position where he's pled guilty and if anything happens in the future, but the facts underlying this will also support just cause.

We have testimony that in 2008 Mr. Ford was twice put on notice about being careful with regard to physically restraining students. And in fact, he was -- it was suggested to him that he go to anger management, and also suggested to him in the fall of 2008 that he go through Safe Crisis Management. It's a program where you learn how to properly deal with situations where you might have some need for physical contact. In November of 2008, he got Safe Crisis Management training; although he was -- was not -- at the time of this event, he was not certified.

Now, we're going to introduce evidence that school board policy, and we've got a document that states this, prohibits teachers from physically restraining the student unless it's an emergency

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where there's imminent risk of serious injury or death to the student or others.

And what we have here is on April 3rd of -- of 2013, the student D.O. acted up in the P.E. class of another teacher. This other teacher, Coach Rountree, put him in time-out in a chair on the field outside the school. He was an EBD student, emotional behavior disorder. So he had with him observing him that day an ESE, exceptional student education aide, Jessica Strunz.

D.O. made some offensive remarks to other students as they went by, he tossed a chair, he went ahead and -- and as he was leaving, picked up Coach Rountree's grade book and threw it on the ground. And he then walked back to the P.E. building with Ms. Strunz, and then Mike -- Mr. Ford joined them.

At no time did D.O. ever physically attack anybody or do any harm to himself. He was verbal, he was inappropriate, but he never attacked or was physical with anyone, and Ms. Strunz will testify that that was his situation. He -- he was often very improper in terms of his verbal conduct, but was never known to be physical in nature with anybody.

On the walk from the field up to the P.E.

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1 building, along that covered walkway --

2 HEARING OFFICER STUDDARD: Now, I --

3 MR. HOLSHOUSER: Let me just -- may I?

4 HEARING OFFICER STUDDARD: Yeah, please. Yes,

5 please do.

6 MR. HOLSHOUSER: He -- the evidence will show

7 that D.O. was sitting in time-out here, and then he

8 walked through here, where he threw the chair here.

9 He dropped the -- threw the (indicating) --

10 MR. DEMMA: Mr. Holshouser, may I --

11 MR. HOLSHOUSER: Yes.

12 MR. DEMMA: -- just suggest that we get on the

13 other side of that table or move the table, because

14 every time somebody's up, they're standing there --

15 MR. HOLSHOUSER: Well, I wasn't going to -- I

16 thought the witness would normally stand here.

17 MR. DEMMA: I mean, I do know what you're

18 pointing, but okay. Thank you.

19 MR. HOLSHOUSER: Okay. So anyway, he comes

20 around, and he walks over here, and they're walking

21 back toward the P.E. building. This is the P.E.

22 building (indicating).

23 HEARING OFFICER STUDDARD: Okay.

24 MR. HOLSHOUSER: Mr. Ford is walking backwards

25 in front of D.O. Jessica Strunz is right there

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1 about three feet away from both of them walking face

2 forward. During this walk -- give me my notes. I'm

3 trying to -- Mr. Ford turned to -- told D.O. in

4 clear earshot of Jessica Strunz, who was -- could

5 see Mr. Ford's face, because he was walking

6 backwards, he said, "If I -- if I find any paint on

7 my car, I will look for you and you will end up in

8 the hospital. You don't know what I'm capable of."

9 They walked toward the P.E. building. Mr. Ford

10 allows D.O. to go in front of him. D.O. starts to

11 open the door to the P.E. building, and says, "Shut

12 the F up," to Mr. Ford, clearly inappropriate. But

13 he did not -- at that point, he was not making

14 physical contact with Mr. Ford. He was not

15 attacking another student. He wasn't making any

16 move toward anybody to attack them.

17 At that point, Mr. Ford came up from behind and

18 grabbed D.O. around the neck with his right arm,

19 pulled him over to this temporary building where

20 there was a railing for the stairway --

21 HEARING OFFICER STUDDARD: Would you point to

22 that?

23 MR. HOLSHOUSER: That's right here. This

24 temporary building is right here. The railing's on

25 the other side (indicating). I think a video that

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1 the respondent has will have a picture of that, but

2 it's on that side (indicating). Restrained D.O. and

3 then let him go.

4 At that -- Ms. Strunz witnessed all of that.

5 At the same time students were walking by because it

6 was toward the end of P.E. class. The -- D.O. then

7 was told to stand right there (indicating) next to

8 the P.E. building. And after that, walked off and

9 went to see the assistant principal Bridget Payne

10 with Coach Rountree and Jessica Strunz, who you'll

11 hear from, following, and they met in the assistant

12 principal's office.

13 The assistant principal, Ms. Payne, will

14 testify that at that time she saw a cut on D.O.'s

15 elbow and redness across the neck. She asked him

16 what had happened, got the story that I've just

17 related to you about the verbal threat. Ms. Strunz

18 was there, heard it, she agreed with it, and then

19 Bridge Payne sent D.O. to the nurse for treatment

20 and called his mother.

21 There were three things that were highly

22 improper in what happened here. First, the verbal

23 threat of physical abuse to the student. The second

24 was using physical restraint in a situation where

25 the student was not hurting himself or anybody else

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1 at the time. He was just about to go into a

2 building where there were students, but he wasn't

3 attacking anybody at that time.

4 And the third thing is, when he did do the

5 restraint, it was not a proper restraint. There's

6 no proper restraint under Safe Crisis Management

7 guidelines that calls for bringing an arm across the

8 neck (indicating). The respondent will testify that

9 it was lower than that, but there's still no Safe

10 Crisis technique that calls for bringing the arm

11 across the -- even the chest. But the fact that his

12 neck was red, as witnessed by several, suggests that

13 that hold was a choke hold across the neck, where he

14 pulled him back over to this building (indicating).

15 The police were called and, as I said before,

16 Mr. Ford was arrested for felony child abuse. And

17 he pled guilty on June 4, 2013, after the board had

18 dismissed him summarily, you know, at the -- at the

19 May 16 or 17 meeting. That guilty plea was later,

20 so the board and the packet that Ms. McCabe

21 presented to the board didn't have that information.

22 In his unemployment compensation hearing -- and

23 I'm sure the other side will bring that up because

24 he won the unemployment compensation hearing. That

25 was in July after he pled guilty. He was asked how

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1 he pled to that crime, and he said not guilty. We
 2 did not have the benefit of those documents that
 3 showed he pled guilty at that time, and that wasn't
 4 part of the record in the unemployment case.
 5 But he testified on the record -- and I think
 6 Mr. Demma has as an exhibit the transcript of that
 7 hearing. He said he pled not guilty.
 8 And Mr. Ford is now asking the hearing officer
 9 to recommend to the full board that his dismissal be
 10 overturned and he be reinstated. And we feel,
 11 however, the evidence clearly establishes, by his
 12 own admission, just cause for termination. And it's
 13 also just cause not only because of the conduct that
 14 occurred but because of the jeopardy that may place
 15 the school district in if they continue to employ
 16 somebody who's got that guilty plea as a matter of
 17 written acknowledgement. Thank you.
 18 HEARING OFFICER STUDDARD: Mr. Demma, do you
 19 want to make an opening statement or reserve until
 20 your case?
 21 MR. DEMMA: I'd like to make an opening
 22 statement, Madam Chairman.
 23 HEARING OFFICER STUDDARD: Okay. Thank you.
 24 MR. DEMMA: My name is Tony Demma, representing
 25 Mike Ford. I had some prepared remarks, but I want

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1 to start off with the guilty plea.
 2 The guilty plea was a requirement for a PTI.
 3 It is not a plea that was ever entered in the court.
 4 It's my understanding Mr. Lufkin found it in a file,
 5 but it wasn't entered. It's not on the entry of the
 6 court. The first witness we have today will be
 7 Mr. Ford's probation officer with the DOC, who today
 8 met with him and confirmed that he met all the
 9 requirements. There will be testimony from Mr. Ford
 10 and Stacy Francisco that he has now met all the
 11 requirements, which means that the prosecutor has to
 12 simply be notified and then dismiss the charges.
 13 Again, the plea of guilt in that case is
 14 similar to a plea of convenience, but the only plea
 15 he had ever filed that wasn't simply required by the
 16 prosecutor as a contingency in case he didn't do
 17 what he was supposed to do was his original not
 18 guilty plea. That's what Mr. Ford was testifying
 19 about.
 20 As to that other document, Mr. Ford understood
 21 that it was not a part of the court record. Whether
 22 or not it's some sort of public record, he's not a
 23 lawyer, but it was not a part of the court file. It
 24 was never entered, and Ms. Francisco will tell you
 25 that today. So it's what lawyers do, it's what

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1 lawyers advise clients to do sometimes to move a
 2 matter so that they either don't have to pay a ton
 3 of money for a criminal attorney and a trial, and
 4 they don't run the risk of somebody believing
 5 somebody else when it's a he said/she said.
 6 So that is what it is. Obviously, you'll get
 7 the document and you simply have to take it with a
 8 grain of salt. But as of today, while the charges
 9 still have not been dismissed, the mechanism to get
 10 them dismissed, which by my understanding is roughly
 11 a month, but it -- it varies, it depends on the
 12 prosecutors, how quick the prosecutor moves it, will
 13 be dismissed. And that plea will never be entered.
 14 What will be entered is a dismissal. That's that
 15 matter.
 16 This case on the merits of the conduct -- and
 17 there is a lot of agreement about much of the basic
 18 flow, where things started and where they went.
 19 There's not much disagreement that the student was
 20 very inappropriate. There's some disagreement
 21 about -- there is a lot of disagreement about his
 22 volatility at the time Mr. Ford placed him in a
 23 restraint. There's also a huge dispute about this
 24 whole choke-hold thing.
 25 Ms. Strunz herself wrote "choke" and then stuck

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1 hold in there on her original statement. They'll be
 2 evidence presented that the young man was in the
 3 presence of Ms. Strunz and Mr. Rountree, who didn't
 4 see the hold so he's not really an eyewitness to
 5 much. He has some tangential knowledge. But
 6 Ms. Strunz was in the room when the young man said
 7 this is what happened. She -- we contend he said
 8 choke hold and she repeated it. Now, she saw
 9 something and she might think it's a choke hold, or
 10 she may use any term where somebody's hand is near a
 11 neck.
 12 But as to this whole SCM thing, Mr. Holshouser
 13 cited you to an SCM policy. It is so absurd the
 14 district does not -- the district only asks ESE
 15 paraprofessionals, and I believe starting this year,
 16 all ESE teachers of EBD students and ASD students,
 17 which is autistic spectrum disorder, those are the
 18 only people who have to take the course. There's a
 19 whole manual that he's looking at and he's excerpted
 20 from. The whole manual isn't known to teachers who
 21 don't have SCM training. And -- and you can't even
 22 do SCM if you don't have an update every year.
 23 And in the face of that, that's one thing, to
 24 require people to abide by a policy they either
 25 don't know about or aren't put in the loop to have

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1 the ability to do it. Mr. Ford himself and the P.E.
 2 department have asked for updates since -- in the
 3 last two or three years. And it goes up the chain
 4 somewhere. A principal might ask and they say, "Ah,
 5 they just want the special ed teachers to have it."
 6 So that's one element.

7 The other element is a far more expansive board
 8 policy that matters to all teachers is reasonable
 9 force. It's your reasonable force policy, and let
 10 me read it out, 6GX-10-2.32, and it specifically is
 11 your policy pursuant to a Florida Statute that
 12 requires every board to craft a reasonable force
 13 policy. And so what that policy does is it talks
 14 about the kind of things that might present the sort
 15 of danger that causes a teacher to have to intervene
 16 in a situation. Probably most cases of intervention
 17 are breaking up fights or something of that nature,
 18 moving a child away from some place, and it is
 19 sufficient to divert the student in some way before
 20 they do some potential harm.

21 Right before -- another bit of testimony that
 22 is significant is it's been -- it's all been
 23 truncated into a short period of time, as if it's --
 24 this statement, "F you, Mr. Ford," hold. The
 25 student was cursing Mr. Ford and everybody under the

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1 sun for at least 10 or 15 minutes before this. It
 2 was not that assertion that caused Mr. Ford to put
 3 the hold. What it was was the student, and they'll
 4 be testimony about this from Mr. Ford and the P.E.
 5 teachers he works with, that that hallway back
 6 there -- I'll go up there, too. And you won't see
 7 it -- you won't see what it sort of looks like.
 8 There's a picture where you at least see part of the
 9 door open and see the hallway. The hallway is there
 10 (indicating), and it goes into a hallway that goes
 11 across. And there are entrances into locker rooms
 12 and exits to other -- other points on the campus.

13 In that hallway -- and this matter of the
 14 evidence will indisputably show happened the last
 15 five to seven minutes of a period. That is the time
 16 period when P.E. -- the teachers start bringing
 17 their classes in from all over, from in the gym,
 18 from out on the fields, and kids that are in that
 19 hallway waiting to get in the locker room because
 20 their coach is delayed for some reason and hasn't
 21 opened the door, they're in that hallway, as are
 22 students who may have gotten in on the early side
 23 and are dressed already and are waiting to leave,
 24 they have to wait for the bell to leave. That's
 25 what's going on in that hallway.

Page 20

1 And Mr. Ford as a veteran teacher, and his
 2 colleagues as veteran teachers, know what's going on
 3 in that hallway. Not only are there kids up and
 4 down that hallway, supposedly against the wall, but
 5 oftentimes in various places. Sometimes they're
 6 supposed to have their knees up, but a lot of times
 7 they like to put their legs down, so they're
 8 touching each other in the hallway.

9 At that time, there were a whole bunch of kids
 10 standing near the doorway, which is where the boys
 11 particularly, that's their side of the hall, the
 12 boys like to stand in the hallway, right near the
 13 door, because the bell's going to ring and they can
 14 leave. That's what Mr. Ford, A, knew was there
 15 before the door ever even started to open, and, B,
 16 saw as -- as he got there. Mr. Ford had already
 17 sent his class in at the tail end of dealing with
 18 Cody. They had been in just before this happened.
 19 Excuse me, with D.O. And so he knew his class was
 20 in there waiting for him.

21 And he knew that Ms. -- they'll be testimony
 22 from Ms. Lawrence, the P.E. department chair now,
 23 that her class was waiting for either another coach
 24 to open the locker -- there are all kinds of
 25 coordination processes when they let kids go in the

Page 21

1 locker room. They don't let some in until others
 2 are out. It's -- it's kind of a complicated system,
 3 but it's kind of like a traffic jam, and they're
 4 trying to monitor the traffic.

5 So at that time that's what Mr. Ford saw. And
 6 just before the student grabbed that door, Mr. Ford
 7 will testify that he slammed his left hand on the
 8 door as hard as anybody could slam his hand on a
 9 door and started to sling open the door. And that's
 10 when Mr. Ford said, "I have to keep him out of that
 11 hallway." That's what happened. And there was no
 12 choke hold. There was a restraint hold across his
 13 chest, his torso.

14 Is it an SCM hold? I doubt it. I don't know
 15 whether Mr. Ford knew it was or not, but Mr. Ford
 16 isn't authorized to use SCM and wasn't properly
 17 trained to use SCM, at least since 2008. And it
 18 changes all the time, which is why you have to
 19 have -- why you have to have updated training.

20 Let me -- let me move on. The record will
 21 clearly reflect that the biggest
 22 ships-passing-in-the-night element of this case is
 23 Ms. McCabe immediately made some kind of conclusion
 24 based on, to my knowledge, nothing said by Mr. Ford
 25 that he said he had used an SCM hold. From that

Page 22

1 point, the record will show Ms. McCabe thought about
 2 nothing else. It wasn't a proper SCM hold; he
 3 shouldn't have done it. Somebody's saying it's a
 4 choke hold, which sounds scarier than what Mr. Ford
 5 said it was, and that was the end of it.

6 We contend there was no assessment of
 7 reasonable force factors, things such as pattern of
 8 behavior, severity of offenses, relative size. And
 9 Mr. Ford isn't a tall individual; the student was.
 10 They'll be testimony to that effect. And when you
 11 add up those factors, there was a reasonable need
 12 for Mr. Ford to keep that student out of that
 13 hallway. And the P.E. teachers will talk to you
 14 about the danger of that hallway, similar to the
 15 locker room, which is a bad area, but it's not
 16 involved here.

17 So if Mr. Ford is to be evaluated under the
 18 reasonable force policy as a teacher like any other
 19 teacher who's not authorized to engage in SCM,
 20 either SCM trumps reasonable force and there's no
 21 point for it, or SCM only applies to people who are
 22 trained for SCM and only applies to a certain type
 23 of setting and a certain type of student.

24 And these students are being mainstreamed. EBD
 25 is -- I'm sure there's some diversity, but it's a

Page 23

1 difficult -- it's a difficult group of students who
 2 often engage in behavior like D.O. did. And they're
 3 mainstreamed into classes with P.E. teachers with
 4 sometimes 40 or more students in a room and in the
 5 field, and 150 to 200 kids out on the field that
 6 they have to transition through the locker rooms
 7 and -- and in and out of the hallways.

8 That's what happened. Mr. Ford's a veteran
 9 teacher. He has done much for this community,
 10 particularly in the areas of track and field,
 11 cross-country programs, helping students who
 12 wouldn't otherwise have access to cross-country at
 13 certain grade levels, be able to do them in a club
 14 type of facility, has helped the school and others
 15 in the community win many championships,
 16 high-quality athletes. He is worthy of belief. And
 17 additionally, he's worthy of belief, and he should
 18 at least get the benefit of the doubt under
 19 circumstances where he believed he was acting with
 20 reasonable force.

21 The injuries were extremely minor, if any.
 22 Injuries are never desired, but Mr. Ford concluded
 23 that restraining a student by not letting him go in
 24 the hall and calming him down over against a
 25 building, and -- and it did work. And he let him go

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1 as soon as he calmed down some 25 seconds later.
 2 The last point I will make is I will present
 3 evidence of Ms. Strunz's loose relationship with
 4 specific fact in her various iterations of
 5 testimony, and believe that that should carry the
 6 day as to Mr. Ford's version of events.

7 Thank you for your attention to this, ma'am.
 8 HEARING OFFICER STUDDARD: Okay.

9 Mr. Holshouser, would you like to call your first
 10 witness?

11 MR. HOLSHOUSER: Yes. I'm going to get Jessica
 12 Strunz to testify.

13 MR. BICKNER: Where is she? Is she upstairs?
 14 MS. McCABE: She's sitting in the upstairs
 15 reception. I'll ask the downstairs receptionist to
 16 get her.

17 MR. DEMMA: Mr. Bickner, might I ask a point of
 18 protocol here, Mr. Holshouser.

19 MR. HOLSHOUSER: All right.

20 MR. DEMMA: Oftentimes in administrative
 21 proceedings, if both parties have questions for
 22 witnesses, it is more efficacious to allow for the
 23 cross, the immediate cross, and then -- and then
 24 direct rather than having to keep all the witnesses
 25 on the hook and call them back.

Page 25

1 MR. HOLSHOUSER: I have no problem with that.
 2 MR. BICKNER: Then we don't either. Whatever
 3 works to everybody's advantage.
 4 (Off-the-record discussion.)
 5 HEARING OFFICER STUDDARD: Madam Court
 6 Reporter, would you swear in the witness.
 7 JESSICA STRUNZ,
 8 having been produced and first duly sworn as a witness on
 9 behalf of the petitioner, and after responding "Yes" to
 10 the oath, testified as follows:
 11 DIRECT EXAMINATION
 12 BY MR. HOLSHOUSER:
 13 Q Hello, Ms. Strunz.
 14 A Hi.
 15 Q Could you go ahead and please state your full
 16 name for the court reporter.
 17 A Jessica Strunz.
 18 Q And what's your job with the Clay County School
 19 District?
 20 A I'm an ESE teacher's assistant for EBD.
 21 Q What does ESE stand for it? Is it --
 22 A Exceptional student education.
 23 Q And what does EBD stand for?
 24 A Emotional behavioral disorder.
 25 Q And basically what are your job duties in your

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1 position as an ESE behavioral aide?

2 A Basically, it's to assist the teacher with

3 whatever it is that she needs. From escorting the

4 students to the bus, from the bus, to lunch, from lunch,

5 to the bathrooms, to their out classes, whether it's

6 P.E., history, math, any of those. And also, inside the

7 classroom I help the students usually one-on-one with any

8 of the subjects.

9 Q Okay. And when you say "students," you mean

10 EBD students?

11 A EBD students, yes.

12 Q At what school did you work in the last school

13 year, 2012-2013 school year?

14 A Oakleaf Junior High.

15 Q And what grade levels are at that school?

16 A Sixth, seventh and eighth graders.

17 Q Now, as an ESE behavioral aide, are you trained

18 in Safe Crisis Management?

19 A Yes, I am.

20 Q And when were you trained in that?

21 A I was trained, I believe it was last

22 November.

23 Q And what entity gave the training?

24 A I'm sorry?

25 Q Who -- who gave the training?

Page 27

1 A The school did.

2 Q Okay. Now, is there a certification for that

3 type of training?

4 A Yes, there is.

5 Q And are you certified?

6 A Yes, I'm certified.

7 Q I'm just going to have you quickly look at this

8 book on top there called "Joint Exhibits." Do you see

9 that?

10 A Yes.

11 Q And direct your attention to tab number 3,

12 Exhibit No. 3. Is that a copy of your certification?

13 A Yes, it is.

14 Q And that reflects when you were certified in

15 Safe Crisis Management?

16 A Yes.

17 Q Now, as an ESE behavioral aide, what's your

18 understanding as to when it's appropriate to physically

19 restrain a student?

20 A When they are either physically harming

21 somebody else or physically harming him or herself.

22 Q Are there any other circumstances where it's

23 appropriate to physically restrain --

24 A No.

25 Q -- a student?

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1 MR. DEMMA: I'd object to the --

2 THE WITNESS: No, other circumstances.

3 MR. DEMMA: -- object to the witness'

4 foundation to know that.

5 MR. BICKNER: He's asked for her understanding.

6 I would overrule it.

7 HEARING OFFICER STUDDARD: Overruled.

8 BY MR. HOLSHOUSER:

9 Q Now, did you witness an interaction last spring

10 involving Michael Ford and a student that we'll refer to

11 as D.O.?

12 A Yes, I did.

13 Q Now, who is Mr. Ford?

14 A He's the coach, or was the coach at Oakleaf

15 Junior High, and I believe it was for the sixth

16 graders.

17 Q It was a P.E. teacher?

18 A P.E. teacher.

19 Q And I've got this Google Earth snapshot of the

20 Oakleaf Junior High. Can you just go through what

21 happened last spring when you had the interaction with

22 Mr. Ford and the student named D.O., what happened first

23 in terms of discussion you had with Mr. Ford and where it

24 occurred by pointing on that particular document?

25 A I believe there was three classes going on, one

Page 29

1 here, one here and one here (indicating). The student

2 was out here with his classroom, Coach Rountree

3 (indicating). I was on the other side of this fence

4 right about there (indicating).

5 Q Okay.

6 A And I was watching them.

7 Q And you're pointing to the fence that's at the

8 back of the baseball field there that you're pointing

9 to?

10 A Yes. And I was on the other side of the fence.

11 I wasn't on the actual field. I was on the outside, the

12 outside of the fence.

13 Q Okay. And now where was D.O. at that time?

14 A He was out here in the field (indicating) --

15 Q Later on --

16 A -- with Coach Rountree and the rest of his

17 students.

18 Q Okay.

19 MR. BICKNER: You're going to have the record

20 reflect that he was on the baseball field furthest

21 away from the gym?

22 THE WITNESS: He was on the baseball field

23 furthest -- further out on the field (indicating).

24 Probably around here (indicating).

25 BY MR. HOLSHOUSER:

<p style="text-align: right;">Page 30</p> <p>1 Q Okay. At any point in time did D.O. move from 2 that area?</p> <p>3 A Yes, he did. I'm not sure what happened, but 4 Coach Rountree sat him out in a time-out chair. And the 5 time-out chair, they usually have it right here 6 (indicating).</p> <p>7 Q So that's right near the backstop and dugout on 8 that baseball field toward the P.E. building?</p> <p>9 A Yes, toward the P.E. building.</p> <p>10 Q And what kind of chair was it that he was 11 sitting in?</p> <p>12 A It was a blue chair, student blue chair that 13 you find in the classrooms.</p> <p>14 Q Kind of like what you're sitting in right 15 now?</p> <p>16 A Yes.</p> <p>17 Q Did you have any discussions with Mr. Ford 18 after D.O. had been moved to time-out in that chair?</p> <p>19 A Yes. I was standing on the other side of the 20 fence, and at some point Coach Ford came over to me. And 21 I'm not -- don't remember the exact words that he used, 22 but he was asking me about the student, something along 23 the line as if to ask if he was actually physical -- 24 physically abusive in the classroom.</p> <p>25 Q And what was your response?</p>	<p style="text-align: right;">Page 32</p> <p>1 HEARING OFFICER STUDDARD: Excuse me, I didn't 2 catch your last sentence. What did you just say?</p> <p>3 THE WITNESS: There was another student in his 4 P.E. class that was walking around the field, and he 5 came close to home base. And at that time, D.O. 6 said, "You're gay, your father's gay," to the 7 student. And the student just ignored him and just 8 kept going.</p> <p>9 BY MR. HOLSHOUSER:</p> <p>10 Q What happened next with respect to what D.O. 11 did or said?</p> <p>12 A And D.O. just kept cursing. He wasn't cursing 13 at anybody. He was just verbally -- his aggression, he 14 just verbalizes everything. So he's screaming. He's 15 cursing. He's saying he hates this school. And then at 16 some point, I remember him standing up, picking up the 17 chair and he threw it on the ground.</p> <p>18 Q Now, how far did he throw the chair?</p> <p>19 A Maybe a couple of feet in front of him.</p> <p>20 Q Was Mr. Ford there at that point in time?</p> <p>21 MR. DEMMA: Object to the representation of 22 "there."</p> <p>23 BY MR. HOLSHOUSER:</p> <p>24 Q Well, was Mr. Ford nearby you at that point in 25 time?</p>
<p style="text-align: right;">Page 31</p> <p>1 A And I responded to him, "No, he's not 2 physically abusive. He's just verbally -- he just 3 verbalizes his feelings and he expresses them that way, 4 but physically, no, I've never" ...</p> <p>5 Q Had you been assigned to observe D.O. in the 6 past?</p> <p>7 A Yes, I have.</p> <p>8 Q And had you been assigned several times before 9 this particular incident?</p> <p>10 A Yes.</p> <p>11 Q Had he ever acted physically aggressive toward 12 any other student --</p> <p>13 A No.</p> <p>14 Q -- or any other person?</p> <p>15 A Not physically, no.</p> <p>16 Q Now, tell me what he -- D.O. did or said when 17 he was sitting in that chair in time-out when you were 18 observing him on that day.</p> <p>19 A While the student was sitting there, he was 20 angry. He was cursing. And at the time, there was a 21 student that was part of his P.E. class who was walking 22 around the field. And at some point he got -- I believe 23 this is home base (indicating). He got close to home 24 base. And then the student yelled out to the student 25 saying, "You're gay, your father's gay."</p>	<p style="text-align: right;">Page 33</p> <p>1 A Yes, he was.</p> <p>2 Q Did you have any discussion with Mr. Ford at 3 that point in time?</p> <p>4 A No, not at that point.</p> <p>5 Q So what happened next with respect to D.O.?</p> <p>6 A I tried to tell him to calm down, and he just 7 ignored me. He just kept going on. And I believe he 8 finally got up on and walked over to -- there's an 9 opening over here (indicating).</p> <p>10 Q Okay.</p> <p>11 A There's a -- a gate.</p> <p>12 Q And you're looking at the -- next to the dugout 13 adjacent to those tennis courts, I guess?</p> <p>14 A Yes.</p> <p>15 Q Okay. Now, did Mr. Ford say anything to D.O. 16 before he walked over to that gate?</p> <p>17 A He was basically trying to calm him down, tell 18 him that he needed to make better choices, he needs to 19 get it under control, things like that.</p> <p>20 Q Now, what did -- what happened next with 21 respect to D.O.?</p> <p>22 A So when D.O. got to the gate, on the gate -- 23 coach Rountree places his grade book on the gate, so D.O. 24 went and removed his grade book, walked behind the 25 dugout, and right on the other side of the dugout, around</p>

<p style="text-align: right;">Page 34</p> <p>1 there, he threw it on the ground (indicating). 2 Q Now, when -- 3 A And then -- 4 Q Okay. Go ahead. 5 A D.O. continued walking past the dugout to the 6 bleachers on the other side of the fence. 7 Q Now, when D.O. threw the chair and threw the 8 book, did he throw them at anybody? 9 A No. 10 Q You say he continued on and walked to the 11 bleachers where? 12 A Past the dugout, went behind the dugout 13 (indicating). 14 Q And you're talking about the dugout that's 15 adjacent to the tennis court there? 16 A To the tennis courts, yes. He threw the grade 17 book on the ground and then continued walking past the 18 dugout towards the bleachers which is on the other side 19 of the fence. 20 Q Okay. So just behind home plate on the side 21 toward the P.E. building? 22 A Yes. 23 Q What happened next with respect to D.O.? 24 A At that time, Coach Ford and I walked towards 25 the gate, and I believe Coach Ford called Coach Rountree</p>	<p style="text-align: right;">Page 36</p> <p>1 where he was at that time. He was somewhere behind me. 2 I didn't turn around to look, so I don't know where he 3 was -- 4 Q Okay. 5 A -- at that point. So D.O. and I continued 6 walking this way (indicating). 7 Q And that's on that pathway toward the P.E. 8 building from the -- 9 A Yes. 10 Q -- back of the ball fields? 11 A Yes. Continued walking towards the path. And 12 right where we got under -- there's like a roof, like a 13 roof over the walkway (indicating). 14 Q So at the beginning of the covered walkway 15 you're pointing to? 16 A Yes, the beginning of it. 17 Q Okay. What happened there? 18 A We continued walking, D.O. and myself. And 19 roughly around here (indicating) ... 20 Q Okay. Just past the intersection of the other 21 covered walkway? 22 A Yes. Around there, Coach Ford showed up. And 23 Coach Ford was walking with D.O. side by side, and I was 24 behind them. 25 Q How far behind were you?</p>
<p style="text-align: right;">Page 35</p> <p>1 over, and Coach Rountree came to us. 2 Q Okay. 3 A And I don't remember the whole conversation, 4 but something about giving D.O. a referral because of his 5 behavior and stuff like that, because I was focusing in 6 on D.O., who was sitting on the bleachers. 7 Q Your job was to watch him. 8 A Right. So I was kind of focusing on him, but 9 standing next to the two coaches by the gate at the same 10 time. 11 Q And that's Mr. Ford and Mr. Rountree? 12 A Yes. 13 Q Okay. What happened next? 14 A And then at that time, Coach Rountree went back 15 to his class out in the field, and then Coach Ford and I 16 walked towards the bleachers where D.O. was at. And when 17 we got there, D.O., who was sitting at the bleachers, was 18 still going on and on and on about how he hates the 19 school, dropping the F bomb. And when that was 20 happening, it was towards the end of the P.E. class, so 21 he started walking -- he got up from the bleachers and 22 started walking towards the P.E. building. 23 Q Okay. What did you and Mr. Ford do at that 24 point? 25 A I was following D.O. Coach Ford, I'm not sure</p>	<p style="text-align: right;">Page 37</p> <p>1 A Approximately about three feet behind. 2 Q Okay. 3 A But to an angle, like over to the side to where 4 I was at an angle. I could see them at a angle. 5 Q Okay. 6 A We continued walking. And then further down 7 close to the -- there's a portable. 8 Q Yeah. 9 A Right before you get to the P.E. building, 10 there's a portable right there. 11 Q Right. 12 A At that portable, just about the beginning of 13 that portable, Coach Rountree -- 14 Q Coach Rountree? 15 A I'm sorry, Coach -- Coach Ford. At that time 16 Coach Ford turned around, so he was walking backwards. 17 Q Facing D.O.? 18 A Facing D.O. So D.O. was walking forward; Coach 19 Ford was walking backwards facing D.O. 20 Q Okay. And could you see Mr. Ford's face at 21 that time? 22 A Yes. I was still about three feet away behind 23 them at an angle. 24 Q Okay. 25 A So I could directly see Coach Ford's face, but</p>

<p style="text-align: right;">Page 38</p> <p>1 I couldn't really see D.O.'s face.</p> <p>2 Q Okay. Tell me what happened at that point.</p> <p>3 A At that point I don't know if there was a</p> <p>4 conversation between them. I couldn't hear enough to</p> <p>5 know what they were saying or if they were saying</p> <p>6 anything. All I know is that I saw Coach Ford get angry,</p> <p>7 and then I heard him say, "If I find any paint on my car,</p> <p>8 I will come looking for you and put you in the hospital."</p> <p>9 And then --</p> <p>10 Q Did he say anything else afterwards?</p> <p>11 A He said, "You don't know what I'm capable of."</p> <p>12 Q And you heard that clearly?</p> <p>13 A I heard that clearly.</p> <p>14 Q And you saw Mr. Ford's face when he said</p> <p>15 that?</p> <p>16 A Yes, I saw his face. I was looking at him.</p> <p>17 And I remember clearly what he said, because I was</p> <p>18 completely, completely shocked that an educator would</p> <p>19 talk like that to a student. So I remember exactly what</p> <p>20 he said.</p> <p>21 Q Okay.</p> <p>22 A Because it was just a shock to me.</p> <p>23 Q Tell Chair Studdard what happened next.</p> <p>24 A At that point Ford -- Coach Ford kind of</p> <p>25 stepped to the side, and D.O. continued walking towards</p>	<p style="text-align: right;">Page 40</p> <p>1 halfway in the building, D.O. was halfway in the</p> <p>2 building. So when Coach Ford came in, he came in, took</p> <p>3 his right arm, wrapped it around his neck, pulled him</p> <p>4 back (demonstrating).</p> <p>5 Q When you say "his," you mean D.O.'s neck?</p> <p>6 A D.O.'s neck. Coach Ford grabbed, took his arm</p> <p>7 and pulled D.O.'s neck backwards (demonstrating). And</p> <p>8 that's -- and I had moved backwards, because I knew he</p> <p>9 was coming -- I just knew something was going to happen.</p> <p>10 Pulled him backwards, and Coach Ford's -- Ford's left</p> <p>11 arm, I'm not exactly sure, it might have been up here, it</p> <p>12 might have been pulling the student's arm back, or it</p> <p>13 might have been up holding his right hand (indicating),</p> <p>14 like pulling back like this (demonstrating).</p> <p>15 Q But the right arm across his neck?</p> <p>16 A But the right arm was definitely across the</p> <p>17 neck. The left arm, I can't really recall where the left</p> <p>18 arm was. But definitely the right arm was around the</p> <p>19 neck.</p> <p>20 Q And what did you -- what happened -- well, let</p> <p>21 me ask you this: Did Coach Ford move D.O. in any</p> <p>22 direction after he put his arm around his neck?</p> <p>23 A Yes.</p> <p>24 Q Where did he move him toward?</p> <p>25 A He moved him back, turned him around, and right</p>
<p style="text-align: right;">Page 39</p> <p>1 the P.E. building right here (indicating). And right</p> <p>2 there there's a door. There's double doors (indicating).</p> <p>3 Q Okay.</p> <p>4 A And they're thick; they're big; they're heavy.</p> <p>5 It has a small window that you can see inside. And D.O.</p> <p>6 goes to open the door with his right hand, and as he's</p> <p>7 opening the door, he says, "Shut the F up."</p> <p>8 Q To whom?</p> <p>9 A To Coach Ford.</p> <p>10 Q Did he make a big noise slapping the door or</p> <p>11 hitting the door that you observed?</p> <p>12 A I don't remember seeing or hearing any sounds</p> <p>13 or anything.</p> <p>14 Q Okay. So he -- he used the F bomb directed</p> <p>15 toward Coach Ford. What happened next?</p> <p>16 A At that time, I just -- I knew, I felt -- or I</p> <p>17 knew something was going to happen, so I was preparing</p> <p>18 myself. I stepped back to give them room because I knew</p> <p>19 something was going to happen. And at that point, Coach</p> <p>20 Ford was somewhere on my left. I wasn't looking back or</p> <p>21 anything, so I don't know exactly where he was, but he</p> <p>22 was -- he came in from my left. And when he came in from</p> <p>23 my left, he went in, took his right arm across D.O.'s</p> <p>24 neck and pulled him, because D.O. was at the door and I</p> <p>25 believe his foot was like in the building, so he was like</p>	<p style="text-align: right;">Page 41</p> <p>1 next to that portable right there there's a railing.</p> <p>2 There's a ramp and there's like a railing (indicating).</p> <p>3 Q And you're pointing to the portable building</p> <p>4 that's just outside the entrance to the P.E. building on</p> <p>5 that graphic?</p> <p>6 A Yes.</p> <p>7 Q And the P.E. building is the big building with</p> <p>8 the green roof?</p> <p>9 A Yes. So he moves him back, turns him around</p> <p>10 towards the railing and pushes D.O. face forward towards</p> <p>11 the railing.</p> <p>12 Q Did he push his face into the railing or just</p> <p>13 toward the railing?</p> <p>14 A All I remember is that D.O.'s face was turned</p> <p>15 to his left, because I remember him looking at me because</p> <p>16 I was on his left. And I remember D.O. looking at me and</p> <p>17 I was looking back at him. So I remember D.O.'s face</p> <p>18 turned left like this (demonstrating).</p> <p>19 Q Was this toward the end of the class period you</p> <p>20 said?</p> <p>21 A Yes.</p> <p>22 Q Were there other students in the vicinity at</p> <p>23 that time?</p> <p>24 A Yes, there was.</p> <p>25 Q So other students could observe what was going</p>

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1 on?

2 A Yes. They were all talking and making comments

3 and --

4 Q Well, now, what happened -- you say Mr. Ford

5 had D.O. restrained with his right arm around the neck up

6 against -- face forward toward the railing --

7 A The railing.

8 Q -- to the portable building.

9 A (Witness nods head.)

10 Q What happened next?

11 A Coach Ford said, "I am going to release you,

12 and when I do, you need to stay calm and stand against

13 the P.E. building."

14 Q Okay.

15 A Which right outside the P.E. building, it was

16 like right adjacent to the portable.

17 Q Okay. Now, did Coach Ford at that time release

18 D.O.?

19 A Yes.

20 Q And what did D.O. do at that point?

21 A He calmly went and stood against the outside

22 wall of the P.E. building.

23 Q And tell me what happened after that.

24 A At some point Coach Rountree showed up.

25 Q Okay.

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1 A So it was Coach Rountree and Coach Ford that

2 were trying to talk to D.O. while D.O. was standing

3 against the P.E. building.

4 Q But you were still in the vicinity?

5 A I was still there.

6 Q Okay.

7 A At one point I did leave the two coaches and

8 D.O. and I did go into the P.E. building towards the same

9 double doors. I went back in to let my assistant --

10 because I have another teacher's assistant that works

11 with me, to let her know that -- because normally what

12 happens is after P.E. classes, we come together. I meet

13 the other students with the other assistant and then we

14 go to the bathroom so the students can change, our EBD

15 students can change. So I normally meet her.

16 So what I did is I went inside the building and

17 I told the other assistant that I had an incident going

18 on and not to wait for me, to go ahead. And then I came

19 right back out, right back out those double doors and

20 back out where Coach Rountree, Coach Ford and D.O. were

21 standing.

22 Q Let me go back a little bit to when Mr. Ford

23 restrained D.O. Was D.O. making any sort of move to go

24 at Coach Ford?

25 A No.

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1 Q Was he attacking Coach Ford at all?

2 A No.

3 Q Was he attacking any other student at that

4 time?

5 A No.

6 Q Was there any student right there that --

7 anywhere during that walk did D.O. threaten to attack

8 any -- anyone?

9 A No.

10 Q So let me get back to where you had the --

11 you're standing outside after you had come -- after you

12 notified your assistant that you had an incident, you

13 went back outside. What happened next?

14 A I went back outside, and when I went back out

15 there, I went to the corner of the P.E. building

16 (indicating).

17 Q The corner near the portable you're talking

18 about?

19 A Right. I went to that corner, and I was

20 watching them.

21 Q Okay.

22 HEARING OFFICER STUDDARD: Excuse me now.

23 Where -- point to where they are standing right

24 now.

25 THE WITNESS: They're standing right here

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1 (indicating), between the portable and the P.E.

2 building.

3 HEARING OFFICER STUDDARD: Okay.

4 THE WITNESS: That's where they're standing,

5 Coach Rountree, Coach Ford and D.O.

6 HEARING OFFICER STUDDARD: Okay.

7 THE WITNESS: I -- after I come out of the

8 building, I go behind them and I'm standing right

9 here (indicating), which is the corner of the P.E.

10 building between the portable and the building. And

11 while I'm standing there, D.O. looks over at me,

12 comes towards me, and he's cursing, and he shows me

13 his elbow, and he goes, "Look at this, look at this.

14 Look what he did to me" (indicating).

15 BY MR. HOLSHOUSER:

16 Q And what's he pointing to?

17 A He's pointing to his elbow. There was blood on

18 there. And at that point he continued going down the

19 side of the P.E. building towards the front of the

20 school.

21 Q Let me back up again. Based on your Safe

22 Crisis Management training, were the circumstances such,

23 based on your training, that it was appropriate to

24 restrain D.O. when he was walking into the P.E.

25 building?

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1 A No. According to my training, no.
 2 Q And why is that?
 3 A He would have to be physically hurting somebody
 4 or physically hurting himself in order to use Safe Crisis
 5 Management.
 6 Q Now, the hold that Coach Ford used, was that an
 7 appropriate Safe Crisis Management hold based on your
 8 training?
 9 A No, it was not.
 10 Q Is there any hold in the Safe Crisis Management
 11 training you received that allows a teacher to bring
 12 their arm across somebody's neck or upper chest?
 13 A Absolutely not.
 14 Q Now, what sort of restraining hold was
 15 appropriate in that sort of circumstances?
 16 MR. DEMMA: I'm going to object. He's asking
 17 this witness as if she's an expert in Safe Crisis
 18 Management.
 19 MR. HOLSHOUSER: Well, she's trained in Safe
 20 Crisis Management, certified in it, and I want to
 21 know what she understands to be an appropriate way
 22 to restrain someone.
 23 MR. BICKNER: Based upon her education,
 24 training and experience?
 25 MR. HOLSHOUSER: Yeah, yeah. She's

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1 certified.
 2 MR. BICKNER: Allow it.
 3 BY MR. HOLSHOUSER:
 4 Q Can you describe --
 5 MR. BICKNER: She needs to rule on it, not
 6 me.
 7 HEARING OFFICER STUDDARD: So overruled.
 8 BY MR. HOLSHOUSER:
 9 Q Can you just describe -- and maybe it would be
 10 okay to have somebody demonstrate -- to have her do it
 11 on. Can you do it on me to show how --
 12 A Yes.
 13 Q -- how a restraint would be appropriate?
 14 MR. BICKNER: Any objection, Mr. Demma?
 15 MR. DEMMA: This is one -- one hold, one of
 16 many holds?
 17 MR. HOLSHOUSER: This is what she's been
 18 trained to do if there's a need to restrain somebody
 19 physically.
 20 MR. DEMMA: Okay.
 21 HEARING OFFICER STUDDARD: I'd like to see
 22 that.
 23 MR. HOLSHOUSER: Okay.
 24 BY MR. HOLSHOUSER:
 25 Q Can you demonstrate what it would be, if it --

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1 if it were appropriate to restrain D.O. in that
 2 circumstance?
 3 A If it was appropriate to restrain him, I would
 4 have gone in like this (demonstrating), wrapped my arms
 5 over his shoulder --
 6 Q Shorter.
 7 A -- and brought him back like this and pulled
 8 him back (demonstrating).
 9 Q Okay. And he --
 10 A Restrain him. And then I'd be able to pull him
 11 and go backwards in order to pull him away from whatever
 12 situation he was in (demonstrating).
 13 Q So there would be no hand or arm across the
 14 front of the body --
 15 A No.
 16 Q -- or upper body?
 17 HEARING OFFICER STUDDARD: Mr. Holshouser, I
 18 would like to ask the witness a question.
 19 Is the student quite a bit taller than Mr. Ford
 20 or --
 21 THE WITNESS: He's taller than Mr. Ford.
 22 HEARING OFFICER STUDDARD: A lot taller?
 23 THE WITNESS: I'm not exactly sure of his
 24 height, but he is taller than Mr. Ford.
 25 HEARING OFFICER STUDDARD: Okay.

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1 BY MR. HOLSHOUSER:
 2 Q How old is --
 3 HEARING OFFICER STUDDARD: But in your Safe
 4 Crisis Management --
 5 THE WITNESS: He's shorter -- I know that he's
 6 shorter than him (indicating Mr. Holshouser.)
 7 HEARING OFFICER STUDDARD: Yeah. What made me
 8 think about it is because you're so much shorter
 9 than he is, and I was thinking --
 10 THE WITNESS: Right. But I can tell when I
 11 grab him that --
 12 HEARING OFFICER STUDDARD: But on the Safe
 13 Crisis Management training, that hold that you just
 14 demonstrated is the only one that you're taught to
 15 do during Safe Crisis Management training?
 16 THE WITNESS: No. I am taught multiple
 17 different positions.
 18 HEARING OFFICER STUDDARD: So you were just
 19 exhibiting what you would have done in that
 20 situation.
 21 THE WITNESS: Right.
 22 HEARING OFFICER STUDDARD: Okay.
 23 THE WITNESS: Because that hold would actually
 24 pull him away from whatever situation we were in.
 25 HEARING OFFICER STUDDARD: Thank you. Proceed.

<p style="text-align: right;">Page 50</p> <p>1 BY MR. HOLSHOUSER:</p> <p>2 Q So that's the hold that you were trained in in</p> <p>3 terms of pulling somebody away from a scene?</p> <p>4 A One of the holds, yes.</p> <p>5 Q And what's the -- and just for the record, I</p> <p>6 want to describe that she had her arms over my arms and</p> <p>7 pulling back over the shoulders from behind.</p> <p>8 Now, what happened -- I guess we left off where</p> <p>9 D.O. started cursing again and was talking to you. What</p> <p>10 happened next with respect to D.O.?</p> <p>11 A D.O. continued to the side of the P.E.</p> <p>12 building, cursing and saying the school's going to be in</p> <p>13 trouble, "I'm going to sue the school," and he continued</p> <p>14 walking toward the other side of the P.E. building, and</p> <p>15 continued down the hallway through the seventh grade</p> <p>16 building.</p> <p>17 Q And that's the --</p> <p>18 A And that actually takes you to the front</p> <p>19 office --</p> <p>20 Q Okay.</p> <p>21 A -- which is where he headed.</p> <p>22 Q On that particular graphic that's the other</p> <p>23 green-roofed building that's partially shown in the</p> <p>24 picture?</p> <p>25 A Uh-huh, that's the seventh grade hallway</p>	<p style="text-align: right;">Page 52</p> <p>1 A Ms. Payne.</p> <p>2 Q And what happened then? When did you next see</p> <p>3 D.O.?</p> <p>4 A When Coach Rountree and I got to Ms. Payne's</p> <p>5 office, D.O. was already sitting there talking to her,</p> <p>6 telling her what had occurred.</p> <p>7 Q And you went into the doorway of that office?</p> <p>8 A Yes.</p> <p>9 Q And what did you observe in there?</p> <p>10 A I remember D.O. talking to Ms. Payne, and then</p> <p>11 Coach Rountree said a few words, which I can't recall</p> <p>12 exactly what was said. And then Coach Rountree left and</p> <p>13 I stayed. And D.O. continued telling his side of the</p> <p>14 story.</p> <p>15 And then Ms. Payne tried to get D.O. to go to</p> <p>16 the clinic because he was bleeding. He refused to go to</p> <p>17 the clinic. He kept saying, "I'm going to sue the</p> <p>18 school. I'm not going anywhere. You need to call my</p> <p>19 mother. My mother needs to be here, because she's going</p> <p>20 to sue you. You guys are in big trouble." He just kept</p> <p>21 repeating that over and over and over again. But finally</p> <p>22 Ms. Payne was able to talk him into going to the clinic.</p> <p>23 Q Now, did -- in your presence, did D.O. relate</p> <p>24 to Ms. Payne what Coach Ford had said to him prior to</p> <p>25 the hold?</p>
<p style="text-align: right;">Page 51</p> <p>1 (indicating).</p> <p>2 Q And then what -- were you with him when he went</p> <p>3 there?</p> <p>4 A Yes, I was actually following him. And at that</p> <p>5 point I was -- I was towards the other side of the P.E.</p> <p>6 building, which -- where Coach Rountree came behind me</p> <p>7 and asked me if I needed assistance. And I told him yes,</p> <p>8 that I needed assistance at that time, because my EBD</p> <p>9 teacher was absent that day, and normally I would radio</p> <p>10 her and ask her to come assist me, and she would come</p> <p>11 help me, but that day she was out. So Coach Rountree</p> <p>12 asked if I needed assistance, and I said yes. So then we</p> <p>13 both followed him to the front office. And he was way</p> <p>14 ahead of us.</p> <p>15 Q And why was he way ahead of you?</p> <p>16 A He was angry. He walks really fast. I'm not</p> <p>17 sure if he was running or not, but I know he's a fast</p> <p>18 walker. And there's turns in the hallways, there's turns</p> <p>19 that you take, so for a few seconds I had lost him</p> <p>20 because of the turns.</p> <p>21 Q Okay.</p> <p>22 A So Coach Rountree and I started running to</p> <p>23 catch up to him. So D.O. actually got to the assistant</p> <p>24 principal's office before we did.</p> <p>25 Q Who's the assistant principal?</p>	<p style="text-align: right;">Page 53</p> <p>1 A Yes.</p> <p>2 Q And what was it that D.O. told Ms. Payne in</p> <p>3 that time?</p> <p>4 MR. DEMMA: I'm going to object to testimony of</p> <p>5 D.O. He's not on anybody's witness list, and he is</p> <p>6 not -- he's -- this is all hearsay, what D.O. is</p> <p>7 talking about.</p> <p>8 MR. HOLSHOUSER: I think that it is appropriate</p> <p>9 to show what the notification to the employer was</p> <p>10 concerning the allegation and then following up with</p> <p>11 some communication between Ms. Strunz and Ms. Payne</p> <p>12 after that was said to Ms. Payne.</p> <p>13 (Hearing Officer and Mr. Bickner conferring.)</p> <p>14 MR. BICKNER: So it's not offered to prove the</p> <p>15 truth of the matter?</p> <p>16 MR. HOLSHOUSER: No.</p> <p>17 MR. BICKNER: Then not hearsay. Any other</p> <p>18 objection other than hearsay?</p> <p>19 MR. DEMMA: What are you offering to prove?</p> <p>20 MR. HOLSHOUSER: Well, I think the testimony</p> <p>21 will reflect what -- what I wanted to establish is</p> <p>22 whether or not at that point in time Ms. Strunz had</p> <p>23 agreed with the version of events regarding the</p> <p>24 threat that she witnessed firsthand.</p> <p>25 MR. BICKNER: Agreed with what was told to</p>

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1 Mrs. Payne?
 2 MR. HOLSHOUSER: Correct.
 3 MR. DEMMA: I'll continue the hearsay
 4 objection.
 5 (Hearing Officer and Mr. Bickner conferring.)
 6 MR. HOLSHOUSER: And I think in a --
 7 HEARING OFFICER STUDDARD: Overruled.
 8 BY MR. HOLSHOUSER:
 9 Q What did you hear D.O. relate to Ms. Payne
 10 relative to what Coach Ford said to him before the
 11 restraint?
 12 A D.O. said to Ms. Payne that Coach Ford
 13 threatened him, to put him in the hospital, and that he
 14 doesn't know what he's capable of, is what he -- Ford
 15 told D.O. And that D.O. also said that he is not
 16 allowed, meaning Coach Ford, to put his hands on him.
 17 Q Now, when D.O. told Ms. Payne about the verbal
 18 threat, did -- what was Ms. Payne's reaction, that you
 19 observed?
 20 A Ms. Payne just looked at me.
 21 Q Okay. And what --
 22 A And without any words, I -- I knew what she
 23 was --
 24 MR. DEMMA: Object. The witness is speculating
 25 now.

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1 BY MR. HOLSHOUSER:
 2 Q Well, let me ask what your reaction was to
 3 Ms. Payne after she looked at you when D.O. said that.
 4 What was your reaction to Ms. Payne looking at you?
 5 A I shook my head yes.
 6 Q So you nodded?
 7 A Yes.
 8 Q Now -- and ultimately, Ms. Payne was able to
 9 convince D.O. to go to the clinic?
 10 A Yes. But before he went to the clinic, I
 11 remember Ms. Payne asked D.O. to write down the incident,
 12 and D.O. wrote down the incident. And once he was done
 13 writing that down, then he went to the clinic.
 14 Q And were you instructed to do anything at that
 15 point in time?
 16 A Yes, I was instructed to write a statement.
 17 Q Let me -- look at the other notebook, the one
 18 with the little orange sticker on it, the petitioner's
 19 exhibit. And I want to direct your attention to tab
 20 Exhibit 13. Do you recognize Exhibit 13 that's before
 21 you?
 22 A Yes, I do.
 23 Q And what is Exhibit 13?
 24 A It's my statement.
 25 Q It's a statement that you wrote upon

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1 Ms. Payne's request?
 2 A Yes.
 3 Q Is it factually accurate?
 4 A Yes.
 5 Q Was it -- when you wrote this statement, were
 6 the events fresher in your mind than they are today?
 7 A Yes.
 8 MR. HOLSHOUSER: I'd like to offer this into
 9 evidence, Exhibit 13.
 10 MR. BICKNER: Any objection, Mr. Demma?
 11 HEARING OFFICER STUDDARD: Any objections?
 12 MR. DEMMA: No. No, sir.
 13 BY MR. HOLSHOUSER:
 14 Q And also --
 15 MR. BICKNER: That will be admitted into
 16 evidence as Exhibit No. 1.
 17 HEARING OFFICER STUDDARD: Exhibit 1.
 18 MR. HOLSHOUSER: Oh, gosh. We're going to
 19 renumber them here? I was --
 20 HEARING OFFICER STUDDARD: 13?
 21 MR. HOLSHOUSER: Yeah, I was going to say --
 22 HEARING OFFICER STUDDARD: Exhibit No. 13.
 23 MR. HOLSHOUSER: -- stick with the numbers so
 24 you don't get --
 25 HEARING OFFICER STUDDARD: Yeah. That will

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1 keep it easier for all of us.
 2 MR. HOLSHOUSER: Yeah, especially if we
 3 don't --
 4 MR. BICKNER: Exhibit No. 13 will be admitted
 5 into evidence.
 6 HEARING OFFICER STUDDARD: Right. We'll start
 7 off with 13, I suppose.
 8 (Petitioner's Exhibit No. 13 received in evidence.)
 9 BY MR. HOLSHOUSER:
 10 Q Now, Ms. Strunz, did you ever have any
 11 discussions with the authorities --
 12 A Yes.
 13 Q -- concerning this incident?
 14 Did you provide the authorities with a
 15 statement as well?
 16 A Yes.
 17 Q Can you turn to Petitioner's Exhibit 14, and
 18 identify that particular document?
 19 A Yes, I remember this.
 20 Q Is this the statement you provided to the Clay
 21 County Sheriff's Office?
 22 A Yes.
 23 Q And it's identical to the statement you gave to
 24 the -- to Ms. Payne other than you have a signature and
 25 the date you signed it?

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1 A Yes.

2 MR. HOLSHOUSER: I'd like to offer Exhibit 14

3 into evidence.

4 MR. DEMMA: No objection. I just want to put

5 on the record now, and we can continue it, then, in

6 the future, that many of these statements to law

7 enforcement have names on them and they've been

8 redacted.

9 MR. HOLSHOUSER: Yeah.

10 MR. DEMMA: That's --

11 HEARING OFFICER STUDDARD: Right.

12 MR. DEMMA: We all have both copies.

13 MR. HOLSHOUSER: We redacted the name of the

14 student for privacy purposes.

15 HEARING OFFICER STUDDARD: So put this into

16 evidence, Item No. 14.

17 (Petitioner's Exhibit No. 14 received in evidence.)

18 BY MR. HOLSHOUSER:

19 Q Now, Ms. Strunz, up until this -- and this

20 event, is it consistent with your recollection and your

21 statement, this incident occurred on April 3 of 2013?

22 A Yes.

23 Q And what -- up until that point in time, had

24 you had any issues or problems or conflicts with

25 Mr. Ford?

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1 A None whatsoever.

2 MR. HOLSHOUSER: I have no further questions at

3 this time.

4 HEARING OFFICER STUDDARD: Okay. Mr. Demma.

5 MR. DEMMA: Yes.

6 CROSS EXAMINATION

7 BY MR. DEMMA:

8 Q Ms. Strunz, how long have you been in the

9 education system in Clay County?

10 A Since 2006.

11 Q What were you doing before that?

12 A I was a cafeteria assistant.

13 Q Was that with the school district?

14 A With the school.

15 Q What were you doing before working with the

16 school district?

17 A I was accounts payable, accounts receivable

18 position in a different state.

19 Q And so you worked in the cafeteria for how

20 long?

21 A Three years.

22 Q And how long have you been in a

23 paraprofessional position?

24 A This is my fifth year.

25 Q How long have you been working with EBD

Page 60

1 students?

2 A This is my second year.

3 Q And how long have you been, as part of your

4 duties working with EBD students, required to escort them

5 around to their mainstream classes, out of -- out of the

6 EBD room?

7 A This is my second year.

8 Q And you've got -- this is your second year?

9 A Yes.

10 Q So 2012-13 was your first year?

11 A Yes.

12 Q You didn't have a -- were you a

13 paraprofessional before that?

14 A Yes.

15 Q What kind of students were you working with

16 then?

17 A Language impaired.

18 Q So the year involving D.O. was your first as a

19 EBD paraprofessional, is that what you're saying?

20 A My first class as EBD.

21 Q Who was your teacher?

22 A My teacher last year was Ms. Lohman.

23 Q Is she still your teacher?

24 A She is not an EBD teacher anymore.

25 Q I've looked at your -- your certificate was

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1 entered into evidence, and I believe it was a November

2 date that you received the certificate for SCM,

3 correct?

4 A Yes, it is.

5 Q Were you escorting Cody around before that

6 without the training?

7 A Yes, I was.

8 Q Do you have any knowledge of whether regular

9 classroom teachers in Clay County are required to take

10 SCM training?

11 A I'm not aware.

12 Q "Not aware," meaning you don't think they do?

13 A I don't know if they are required to or not.

14 Q Have you ever been a teacher?

15 A No, I have not.

16 Q Have you ever been a physical education

17 teacher?

18 A No, I have not.

19 Q Have you ever been responsible for a class of

20 40 students in a phys ed area like that?

21 A No, I have not.

22 Q Your responsibility was to watch him out on the

23 field that day, watch D.O.?

24 A Yes, it was.

25 Q Why were you standing on the other side of the

Page 62

1 fence?

2 A Before I approached the fence, I had to go help

3 assist the other assistant. She needed assistance with

4 another situation, so I went to go assist her. And then

5 I came back. And that's how I ended up on the other side

6 of the fence.

7 Q When you saw D.O. sitting in the chair in

8 time-out, I'm taking it from your testimony you didn't go

9 out there to talk to him and find out what was going

10 on?

11 A I did not at that point, no.

12 Q Is it your job to monitor what's going on with

13 him?

14 A It's my job to monitor, yes.

15 Q At that time you -- is it your testimony you

16 didn't know why he was sitting in the chair in time-out

17 when you first noticed him?

18 A No.

19 (Hearing Officer and Mr. Bickner conferring.)

20 BY MR. DEMMA:

21 Q Would you look at Petitioner's Exhibit 13,

22 please.

23 (Hearing Officer and Mr. Bickner conferring.)

24 MR. DEMMA: Do I need to stop for a moment?

25 HEARING OFFICER STUDDARD: Yes, just a moment.

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1 (Hearing Officer and Mr. Bickner conferring.)

2 MR. BICKNER: I'm sorry.

3 HEARING OFFICER STUDDARD: I'm sorry.

4 MR. DEMMA: All right. Did you hear the

5 last --

6 HEARING OFFICER STUDDARD: No. If you would

7 repeat it for us.

8 MR. DEMMA: Would you read it back, Madam

9 Court Reporter.

10 (The portion requested was read back by the reporter.)

11 BY MR. DEMMA:

12 Q On your statement 13, Exhibit 13, I see down

13 near the bottom right the word "choke" and then the word

14 "hold" written on top of the line. When did you put that

15 in there?

16 A When I was sitting in Ms. Payne's office

17 re-reading my statement.

18 Q Does the term "choke hold" mean anything

19 particular to you or did it then?

20 A A choke hold to me is a type of choke where you

21 can't be released from. And that's why -- why I put a

22 choke hold, because he wasn't able to release himself

23 from the hold.

24 Q So I understand you today to have testified,

25 and correct me if I'm wrong, that you're not exactly sure

Page 64

1 what Mr. Ford did with his left hand when he had him in

2 the hold?

3 A I don't recall exactly where his left hand

4 was.

5 Q Haven't you said other things about where

6 Mr. Ford's left hand was in prior proceedings?

7 A According to my -- according to the other

8 information, I believe I said he had his left arm holding

9 on to his -- his left hand holding on to his right hand

10 (indicating).

11 Q Is that in the unemployment comp hearing?

12 A I believe so.

13 Q Where did you come up with that?

14 A That's what I recall seeing at the time, but

15 it's been so long that now I'm not 100 percent sure where

16 that left arm was. But I'm definitely sure the right arm

17 was around the student's neck.

18 Q Well, do you get to change your testimony

19 whenever you feel like it, ma'am?

20 MR. HOLSHOUSER: I'd just object as

21 argumentative.

22 HEARING OFFICER STUDDARD: I'll -- that is --

23 MR. BICKNER: Sustained.

24 HEARING OFFICER STUDDARD: That's sustained.

25 BY MR. DEMMA:

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1 Q Did you -- do you recall me taking your

2 deposition on September 18th before a court reporter and

3 under oath?

4 A Yes.

5 Q Isn't it true that you told me then what

6 Mr. Ford was doing with his left hand and -- excuse me,

7 with his -- with his left hand, and it wasn't the same as

8 what you told the unemployment comp hearing officer?

9 A Yes.

10 Q Then you said, isn't it true, that Mr. Ford had

11 his hand -- had his left hand behind Cody?

12 A Yes.

13 Q So first it was wrapped around grabbing the

14 other arm, at unemployment comp, then it was behind him,

15 and now you're not sure; is that correct?

16 A I'm not sure because I don't recall. It's been

17 a while. I don't recall exactly where that left hand

18 was, but I'm 100 percent sure that that right arm was

19 wrapped around the student's neck.

20 Q Was this time -- I believe you said it was near

21 the end of a period. Was it the fifth period or sixth

22 period; do you recall?

23 A I can't recall the exact period, but I know it

24 was towards the end of the day.

25 Q Haven't you testified previously that it was

Page 66

1 the end of the day and that's why you just wanted Cody to
 2 get out of there, to go walk to the bus?
 3 A No.
 4 Q Do you know -- do you know why the EBD students
 5 need someone like you to monitor them and escort them?
 6 A Because of their behavior, and it's different
 7 with every child.
 8 Q And you escort them every place that's outside
 9 of the EBD room, you or your colleague, correct?
 10 A Yes.
 11 Q Was D.O. -- did D.O. dress in the locker room
 12 during the years we're talking about, 2012-13?
 13 A No, he did not dress in the locker room.
 14 Q Where did he dress for P.E.?
 15 A In the sixth grade boy's bathroom.
 16 Q Do you know why that was?
 17 A EBD students cannot have a locker in the locker
 18 room because I cannot go in there with them.
 19 Q Ms. Strunz, did you tell law enforcement
 20 officers that the hold lasted about a minute?
 21 A I don't recall saying that to them.
 22 Q Let me show you what's been entered into
 23 evidence as Joint Exhibit 5. Do you have the joint
 24 exhibits in front?
 25 MR. BICKNER: What's the number?

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1 MR. DEMMA: 4, I believe 4. Joint Exhibit 4.
 2 BY MR. DEMMA:
 3 Q Do you have -- do you have that in front of you
 4 in this other book?
 5 A Yes.
 6 Q Let me ask a preliminary question. How long
 7 did the incident involving the alleged choke hold take?
 8 A I'm not exactly sure. I wasn't timing it. It
 9 could have been seconds, up to a minute. I -- I don't
 10 know.
 11 Q Do you recall saying in your deposition it was
 12 so quick you couldn't put a time on it?
 13 A Yes, I do remember saying that.
 14 Q And here, this article, this news article,
 15 Joint Exhibit 4, at least indicates that -- a witness who
 16 is a female, an eyewitness to the event have to be you?
 17 A Are you asking if that's -- if that's me
 18 that --
 19 Q Well, would you be the only female witness who
 20 could have been quoted?
 21 A Yes.
 22 Q And so someone apparently thought you said it
 23 lasted about a minute?
 24 A It's not my statement. It's not what I said.
 25 Q Okay. So -- all right. And let's -- do you

Page 68

1 know Officer Sosa? Is that the deputy you spoke with?
 2 A I don't recall his name, but I do remember
 3 meeting with an officer.
 4 Q Have you looked at his arrest warrant ever?
 5 Have you ever had that in front of you?
 6 A Coach Ford's arrest?
 7 Q No -- well, the arrest warrant written about
 8 this incident by Sheriff Sosa.
 9 A Have I ever seen this before?
 10 Q Yes. Well, we're moving on to another
 11 document. Okay. Let me show you the document.
 12 MR. DEMMA: It is the arrest warrant. I
 13 believe it's the 8th or 9th. The exhibits were a
 14 little bit out of order when (tendering) -- they're
 15 a little out of order when we moved some joint ones
 16 out of it. Have you found it?
 17 MR. HOLSHOUSE: Yeah.
 18 MR. BICKNER: Has this been --
 19 MR. DEMMA: No, I'm showing the witness --
 20 MR. BICKNER: -- numbered or --
 21 MR. DEMMA: We'll call it -- it's been --
 22 excuse me. I'll mark it for identification as
 23 Respondent's Exhibit 1.
 24 MR. BICKNER: Okay.
 25 HEARING OFFICER STUDDARD: Okay. This will

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1 be --
 2 MR. BICKNER: It's just for identification at
 3 this point.
 4 HEARING OFFICER STUDDARD: Okay.
 5 (Respondent's Exhibit No. 1 marked for identification.)
 6 BY MR. DEMMA:
 7 Q Ms. Strunz, you can take all the time you want
 8 to read it, but I only want to direct your attention to
 9 one place, so let me tell you where it is. About
 10 two-thirds of the way down on the first page, this report
 11 says -- I'll read it so you maybe can find it while I'm
 12 reading.
 13 "J. Strunz advised that as (name redacted)
 14 entered the building, he told Mr. Ford, 'Shut the fuck
 15 up,' and at that the time Mr. Ford restrained (name
 16 redacted) in a choke hold and shoved him up against the
 17 railing attached to a portable classroom. J. Strunz
 18 stated that Mr. Ford then let (name redacted) go after
 19 approximately one minute."
 20 Did you tell Officer Sosa --
 21 A I don't recall saying "one minute." I do
 22 recall saying it could have been a few seconds, up to one
 23 minute. I wasn't exactly sure of the time, because I
 24 wasn't looking at the time, is what I recall saying.
 25 Q Do you agree that somewhere between "It could

Page 70

1 have been up to a minute" and "It happened so fast I
 2 can't give it a time" are two completely different
 3 scenarios?
 4 MR. HOLSHOUSER: Let me object to the form.
 5 THE WITNESS: It could have been a few seconds,
 6 up to a minute.
 7 (Hearing Officer and Mr. Bickner conferring.)
 8 BY MR. DEMMA:
 9 Q Today you testified that there was a period of
 10 time in the hall where you didn't hear what Coach Ford
 11 and Cody were saying to each other, is that correct, in
 12 the walkway, covered walkway?
 13 A Are you saying before the incident happened?
 14 Q Let me --
 15 MR. DEMMA: Might I approach? I'm not going to
 16 approach the witness. I just --
 17 BY MR. DEMMA:
 18 Q I was asking if you, along this way, didn't
 19 know what they were saying to each other (indicating)?
 20 A No, I don't recall them -- what they were
 21 saying to each other. All I recall was what Coach Ford
 22 said.
 23 Q And your statement, which is Exhibit 14 -- let
 24 me strike that question.
 25 Had you earlier said that you did know what

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1 they were saying and Coach Ford was trying to calm him
 2 down in that period?
 3 A No, I don't recall if they were even carrying a
 4 conversation.
 5 Q Let me show you what I'll mark for
 6 identification as Respondent's Exhibit 2, which is a
 7 reporting officer narrative.
 8 (Respondent's Exhibit No. 2 marked for identification.)
 9 MR. DEMMA: I'm sorry, Madam Hearing Officer.
 10 Might I take a moment or two break? We've been
 11 going quite a while. I need to get these documents
 12 in order.
 13 MR. BICKNER: Five minutes.
 14 HEARING OFFICER STUDDARD: Five minutes?
 15 MR. DEMMA: Five minutes. Thank you.
 16 (Recess from 10:32 a.m. until 10:40 a.m.)
 17 BY MR. DEMMA:
 18 Q Ms. Strunz, I'll call your attention back to
 19 your -- the statement you gave to the sheriff that's
 20 already been admitted into evidence as Petitioner's 14,
 21 the one that starts with -- just a page, that says, "See
 22 attached statement." I'm sorry, your statement, not --
 23 No. 14.
 24 A Yes.
 25 Q I just wanted to point out, in the middle of

Page 72

1 the first page I see where it says, "D.O. started walking
 2 toward the P.E. building. They continued talking. D.O.
 3 was getting angrier as Coach Ford told him he needed to
 4 calm down, and how he needed to make better choices in
 5 life."
 6 Is it your recollection that Mr. Ford was
 7 trying to calm D.O. down throughout this incident?
 8 A I remember that before the incident occurred.
 9 Q Okay. But in that particular sentence -- or
 10 weren't you talking about talking to D.O. as he's walking
 11 toward the P.E. building in the hallway?
 12 MR. HOLSHOUSER: Where is this on the --
 13 MR. DEMMA: I directed her back to her
 14 statement, because I was making --
 15 MR. HOLSHOUSER: Okay.
 16 MR. DEMMA: -- a comparison, I'm sorry.
 17 MR. HOLSHOUSER: I was looking at the --
 18 MR. DEMMA: Understandable. Sure.
 19 BY MR. DEMMA:
 20 Q Go ahead.
 21 A The part where it says, "Coach Ford and D.O.
 22 started walking towards the P.E. building. They
 23 continued talking. D.O. was getting angrier as Coach
 24 Ford told him he needed to calm down."
 25 Q And walking toward the P.E. building is in that

Page 73

1 covered hallway, correct?
 2 A I do recall that before the incident happened,
 3 yes.
 4 Q And now let me draw your attention to the
 5 exhibit -- the reporting officer's narrative.
 6 MR. DEMMA: I thought I put it up there.
 7 BY MR. DEMMA:
 8 Q Well, let me ask you this: Do you recall a
 9 time talking to an officer? Did you get interviewed by a
 10 sheriff's officer?
 11 A Yes.
 12 Q And do you recall telling him, initially
 13 telling him that you didn't really remember that part
 14 because you didn't hear it?
 15 A The conversation that's on my statement?
 16 Q Yes.
 17 A That conversation, I recall the conversation
 18 before the incident occurred. There might have been -- I
 19 remember there might have been more to it that I did not
 20 hear.
 21 Q Did you at some time just assume what Mr. Ford
 22 was talking to D.O. about?
 23 A No, I heard him say that.
 24 MR. DEMMA: Can I show the witness -- I don't
 25 want to give her mine -- the reporting officer's

Page 74

1 narrative?

2 Oh, you have two of them?

3 MR. FORD: You gave it to Mr. Bickner.

4 MR. DEMMA: Okay. I'm sorry. I'm referring

5 the witness to the third page, one, two -- the

6 little paragraph four, fifth paragraph in the

7 middle -- this paragraph there (indicating).

8 BY MR. DEMMA:

9 Q My question for you: Have you read the part

10 that talks about you really couldn't hear the

11 conversation so you assumed he was trying to calm him

12 down?

13 A I do see that here.

14 Q Did you tell the officer that?

15 A No, I don't recall telling the officer that. I

16 do recall saying that while they were walking to the P.E.

17 building, Coach Ford was telling him to calm down and

18 make better choices. But at some point while they were

19 walking towards the P.E. building and Coach Ford was

20 facing D.O. and D.O. was going forward and Coach Ford was

21 walking backwards, something went on. There was a

22 conversation there that I could not hear. But before

23 that happened, I did hear Coach Ford trying to calm him

24 down.

25 Q When you say "before that happened," are you

Page 75

1 talking about before they got into the covered walkway?

2 A No, it was under the covered walkway.

3 Q But then there was some point farther down in

4 the walkway you lost --

5 A It was further down the walkway when Coach Ford

6 turned around and started walking backwards, there were

7 some words exchanged which I could not hear. They

8 weren't speaking loud or anything. I don't know if they

9 were whispering. There was something said, I don't know

10 what it was, before Coach Ford said the inappropriate

11 words that he said.

12 Q Were there -- when that walk was going on down

13 the hall, were there other students out on the walk --

14 the hallways lining up to go to class, like Coach

15 Rountree's group and Mr. Ford's group?

16 A The students were lining up.

17 Q Where would they be lining up? Just point, if

18 you know -- if you --

19 A The same path as we were taking, the same path

20 (indicating).

21 Q Did they usually line up under the covered

22 walkway or farther out?

23 A No, under -- under the covered walkway. They

24 come from different directions, but eventually they all

25 meet under the covered walkway to go into the P.E.

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1 building (indicating). That's the way all the classes go

2 in.

3 Q Is there noise in the area, lots of students

4 around getting ready to go into the gym?

5 A I noticed all the noise and a lot of talking

6 from the students as soon as Coach Ford put his right arm

7 against -- around D.O.'s neck. As soon as that happened,

8 I heard a lot of noise behind me. I did not turn around

9 to look, but I could tell there were tons of students

10 behind me.

11 Q And you couldn't tell that before that? They

12 weren't there?

13 A I don't know if they weren't there or not

14 because I was focused in on Cody -- on D.O., because I

15 knew something was about to happen. So I was focused on

16 what was going on in front of me. I wasn't paying

17 attention who was behind me until I heard a whole bunch

18 of yelling out loud, making comments, the students behind

19 me. That's when I noticed the students were all behind

20 me.

21 Q So you contend that sometimes with your level

22 of experience, you can have a sense that something is

23 about to happen; is that true?

24 A No, I knew there was -- something was going to

25 happen because of the question that Coach Ford had asked

Page 77

1 me before the whole entire incident occurred.

2 Q I heard you testify that Cody started to open

3 the door and he was part way in when Mr. Ford pulled him

4 back. Is that -- is that true?

5 A He was part way in, yes.

6 Q So he got the door partly open, correct?

7 A Yes, correct.

8 Q Was Cody standing when he was up against the

9 portable -- excuse me -- up against the school building

10 as you described, was that a brick building?

11 A Yes.

12 Q Is it kind of a rough sort of brick?

13 A Yes.

14 Q Cody was up against the wall?

15 A Yes.

16 Q This was -- Mr. Ford wasn't restraining him in

17 any way when he's up against the wall, was he?

18 A Not at that point, no.

19 Q Let me just give you -- is Cody roughly my

20 height?

21 A No, he's taller.

22 Q Taller than me?

23 A Uh-huh.

24 Q I'm five foot eight and a half, for the record.

25 All right.

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1 HEARING OFFICER STUDDARD: Let me ask something
 2 of the witness. Would you stand up, Mr. Holshouser.
 3 Is he that tall?
 4 THE WITNESS: Do you mind standing next to him?
 5 MR. DEMMA: No, I don't mind.
 6 THE WITNESS: I would say he's in between the
 7 two of them.
 8 HEARING OFFICER STUDDARD: Kind of halfway in
 9 between?
 10 THE WITNESS: Yes.
 11 HEARING OFFICER STUDDARD: So you're saying --
 12 how tall are you?
 13 MR. HOLSHOUSER: I'm -- I'm six feet tall, and
 14 a half inch.
 15 HEARING OFFICER STUDDARD: So maybe five-ten,
 16 something like that. Okay.
 17 MR. HOLSHOUSER: Used to be taller.
 18 MR. DEMMA: I would have thought you were
 19 taller, but I'm wrong. Thank you.
 20 BY MR. DEMMA:
 21 Q Do you know how -- how much do you know about
 22 the protocol, the way the P.E. teachers go about moving
 23 kids in and out -- in and out of the gym and in and out
 24 of the locker room and all the activities that the
 25 regular students undergo every period?

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1 A All I know is what I see.
 2 Q And you usually see what you're doing with Cody
 3 and other peripheral things, correct?
 4 A Right. When I'm -- when I'm with Cody, I see
 5 that -- I'm with his class, and when I look around, all
 6 the P.E. teachers are in separate groups in their own
 7 classes.
 8 Q Have you ever seen a district policy about the
 9 use of reasonable force?
 10 A I don't understand your question.
 11 Q Are you familiar whether or not there's a
 12 district policy that authorizes teachers and staff to use
 13 reasonable force to prevent harm or injury to students?
 14 A I don't think so.
 15 Q You're aware of SCM because you were trained in
 16 that, correct?
 17 A Yes.
 18 Q I want to be clear. When exactly did you leave
 19 the area to go talk to your colleague, or when exactly in
 20 terms of what was going on at that time with the
 21 incident?
 22 A When I left, D.O. was with Coach Rountree and
 23 his class at the time. Nothing had occurred. I walked
 24 away, and then when I returned, I saw Coach Rountree
 25 pointing towards the blue chair, telling D.O. to go and

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1 sit down at that chair.
 2 Q So you're talking about something that happened
 3 almost at the beginning of the whole problem; is that
 4 what you're saying?
 5 A Say that again.
 6 Q Let me -- I thought you were saying -- correct
 7 me if I'm wrong. I thought I heard you say that
 8 somewhere near the end of the whole incident you
 9 described you had to go report to your colleague.
 10 A That was at -- that was at the end, but I also
 11 had to leave at the beginning of class.
 12 Q So what was going at the end part when you had
 13 to leave again?
 14 A The only time I left Coach Rountree's class was
 15 at the beginning of P.E., when D.O. was participating
 16 with his P.E. class. Nothing had occurred then. I left,
 17 I came back, and when I came back, that's when Coach
 18 Rountree told D.O. to sit at the chair. And then the
 19 whole entire incident occurred. And then I didn't leave
 20 again until after Coach Ford released him, and Coach
 21 Rountree showed up, and the three of them were against
 22 the wall, and that's when I left for the second time to
 23 go into the P.E. building to let my assistant know that I
 24 wouldn't be needing her right after P.E. class, and then
 25 I returned.

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1 Q Do you have some understanding or knowledge of
 2 some vandalism that was going on with spray painting of
 3 places around the school or in the community around this
 4 time?
 5 A Yes.
 6 Q What's your understanding of what -- what had
 7 happened?
 8 A I know the information that I know from the
 9 student. The student would do things over the weekend.
 10 He would come in Monday morning, he would tell me all
 11 about it. He would brag about it.
 12 Q D.O.?
 13 A So the things -- D.O. So D.O. would come to
 14 me, and the assistant, and the teacher at that time, and
 15 all his friends within the EBD classroom, and all his
 16 other friends outside of the EBD classroom, the general
 17 education, he would tell the whole entire school. Also
 18 parents in the neighborhood knew of his incidents over
 19 the weekend. So I knew firsthand what he was doing over
 20 the weekend.
 21 Q And those incidents involved vandalism using
 22 spray paint?
 23 A Yes.
 24 Q Were they all in the community or were some at
 25 the school, if you know?

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1 A As far as I know, they were all in the
 2 community.
 3 Q Did Cody have a little symbol on his arm, like
 4 a makeshift tattoo that said MS?
 5 A He would write it with a pen all the time on
 6 his arms.
 7 Q Did you ever see the MS or MS?
 8 A Yes.
 9 Q That's capital M, like Mary, and capital S,
 10 like Sally?
 11 A Yes.
 12 Q Did you know what that was?
 13 A He called it something like his mystery
 14 something. I can't remember exactly what the word is.
 15 Q Mystery machine? Mystery machine ring a
 16 bell?
 17 A That rings a bell because I remember it didn't
 18 match the initials.
 19 Q I believe you said that Cody threw the chair a
 20 couple of feet?
 21 A Yes.
 22 Q Are you referring to actually picking the chair
 23 up and just throwing it two feet, or are you referring to
 24 some kind of kick of the chair or knocking down of the
 25 chair?

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1 A I remember him picking it up and kind of
 2 throwing it back down, like slamming it back down on the
 3 ground.
 4 Q Were you -- were you ever present or near
 5 enough to hear a conversation prior to the day of this
 6 incident, shortly prior, between Coach Ford and D.O.
 7 about the vandalism?
 8 A Not that I'm aware of, no. I do not remember
 9 the conversation.
 10 Q And where were you when you -- well, let me say
 11 it a different way. Did you enter Ms. Payne's office
 12 when you went to see where D.O. was?
 13 A I stood at the doorway.
 14 Q You didn't go in?
 15 A I didn't step into the office until Ms. Payne
 16 asked me to step in.
 17 Q And then what did you do once you stepped in?
 18 A I stood behind D.O., who was sitting at the
 19 chair.
 20 Q How long were you standing at the -- outside
 21 the door at the edge of the doorway?
 22 A I don't know. Maybe a few seconds. Not very
 23 long at all.
 24 Q And why did you stop there?
 25 A Because I was waiting to see if Ms. Payne

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1 wanted me to come into her office or not. I was waiting
 2 for her instructions.
 3 Q And she could see you there, but you just
 4 didn't walk in, is that what you're saying?
 5 A Yes, she saw me standing at the doorway.
 6 MR. DEMMA: That's all the questions I have at
 7 this time.
 8 HEARING OFFICER STUDDARD: Any rebuttal?
 9 MR. HOLSHOUSER: I have no further questions.
 10 HEARING OFFICER STUDDARD: Okay. May this
 11 witness be excused?
 12 MR. HOLSHOUSER: Yes, as far as we're
 13 concerned.
 14 MR. DEMMA: I'd like to potentially keep her.
 15 MR. HOLSHOUSER: For today? You mean to stay
 16 here or just to have her available to recall?
 17 MR. DEMMA: No, to perhaps have her recalled,
 18 yes.
 19 MR. HOLSHOUSER: Okay.
 20 MR. DEMMA: I don't need her here.
 21 HEARING OFFICER STUDDARD: Okay. You may --
 22 you're excused.
 23 THE WITNESS: Am I excused for the day?
 24 MR. BICKNER: For the day, unless you're
 25 recalled.

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1 MR. DEMMA: Unless you're recalled. Are you
 2 going back to the school?
 3 THE WITNESS: No.
 4 MR. DEMMA: Does Mr. Holshouser know how to get
 5 in touch with you?
 6 HEARING OFFICER STUDDARD: Is there
 7 somewhere --
 8 MR. HOLSHOUSER: I think Ms. McCabe does.
 9 MR. DEMMA: Okay. Thank you.
 10 HEARING OFFICER STUDDARD: Just stay near your
 11 phone.
 12 THE WITNESS: Thank you.
 13 MR. DEMMA: Thank you, ma'am.
 14 (Witness excused.)
 15 MR. BICKNER: You need No. 2?
 16 MR. DEMMA: Yeah, it's -- I didn't -- by the
 17 way, I didn't admit those into evidence.
 18 MR. BICKNER: I understand.
 19 MR. HOLSHOUSER: I've got --
 20 HEARING OFFICER STUDDARD: There's two
 21 different ones.
 22 MR. HOLSHOUSER: Okay. Then two different --
 23 I've got to make sure I've got the right --
 24 MR. DEMMA: One was an arrest warrant.
 25 MR. HOLSHOUSER: Oh, I got it. I'm just trying

Page 86

1 to keep it straight. This is just an extra copy I
 2 have.
 3 MR. DEMMA: This is R-2 for identification
 4 only.
 5 MR. BICKNER: Call your next witness.
 6 HEARING OFFICER STUDDARD: Okay. Call your
 7 next witness.
 8 MR. BICKNER: Who are we calling?
 9 MR. HOLSHOUSER: Ms. Payne, assistant
 10 principal.
 11 HEARING OFFICER STUDDARD: Bridget Payne.
 12 MR. BICKNER: Bridget Payne.
 13 (Off-the-record discussion.)
 14 HEARING OFFICER STUDDARD: Okay. Mr. Lufkin.
 15 MR. BICKNER: Swear the witness.
 16 (Witness sworn by the court reporter.)
 17 HEARING OFFICER STUDDARD: Thank you.
 18 You may proceed.
 19 MR. LUFKIN: Thank you.
 20 BRIDGET JEAN PAYNE,
 21 having been produced and first duly sworn as a witness on
 22 behalf of the petitioner, and after responding "Yes, I
 23 do" to the oath, testified as follows:
 24 DIRECT EXAMINATION
 25 BY MR. LUFKIN:

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1 Q Please state your full name for the record.
 2 A Bridget Jean Payne.
 3 Q And who is your current employer?
 4 A The Clay County School Board.
 5 Q And what is your position with the school
 6 board?
 7 A Assistant principal.
 8 Q And where are you assistant principal at?
 9 A Oakleaf Junior High.
 10 Q How long have you been in that position?
 11 A This is my fifth year.
 12 Q What grades attend Oakleaf Junior High
 13 School?
 14 A Sixth, seventh and eighth.
 15 Q Are you familiar with the term "EBD"?
 16 A Yes.
 17 Q And can you please describe what EBD means?
 18 A Emotional behavior disorder.
 19 Q Is that term used in the education field?
 20 A Yes, it is.
 21 Q How so?
 22 A To identify students in the exceptional student
 23 area that have behavioral problems that prevent them from
 24 performing as a regular student would in a class.
 25 Q Have you had to interact with EBD students

Page 88

1 while employed by the school district?
 2 A Yes.
 3 Q And how so?
 4 A As an administrator, as a guidance counselor
 5 and as a teacher.
 6 Q Now, you mentioned teacher. How many years
 7 were you a classroom teacher?
 8 A 14.
 9 Q And out of that 14 years, how many years did
 10 you teach EBD students?
 11 A Seven.
 12 Q Are you currently certified in special
 13 education?
 14 A Yes.
 15 Q Are you also familiar with a program called
 16 Safe Crisis Management?
 17 A Yes.
 18 Q And if I use the abbreviation SCM, will you
 19 understand that we're referring to Safe Crisis
 20 Management?
 21 A Yes.
 22 Q What is SCM?
 23 A It is the sanctioned by the school district
 24 method for intervening with students who are in imminent
 25 danger of hurting themselves or someone else.

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1 Q And how do you know about SCM?
 2 A As an administrator, knowing that we have to
 3 have EBD teachers, autistic teachers and the behavioral
 4 health assistants must be certified in those in order to
 5 work in those classrooms.
 6 Q Does the school district have a policy
 7 concerning SCM use?
 8 A Yes.
 9 Q And under what circumstances can a person use
 10 SCM restraints?
 11 A When a student is going to physically -- in
 12 danger of physically hurting themselves or someone
 13 else.
 14 Q And who is allowed to employ SCM restraints?
 15 A Only those that have been certified.
 16 Q Does the certification have to be current at
 17 the time the restraint is employed?
 18 A Yes.
 19 MR. DEMMA: I just want to object to the extent
 20 he's setting her up as an expert in it as opposed to
 21 just based on what she knows from her not
 22 insignificant but not authoritative understanding.
 23 MR. LUFKIN: Well, she's already testified that
 24 she's aware of SCM as her role as an administrator,
 25 and as an administrator, she also has knowledge of

Page 90

1 school policies.

2 MR. BICKNER: Are you tendering her as an

3 expert at this point?

4 MR. LUFKIN: No. Just foundation for her being

5 able to testify about what SCM is, what her

6 understanding is and why she understands that.

7 MR. BICKNER: Overruled.

8 HEARING OFFICER STUDDARD: Okay. It's

9 overruled.

10 MR. LUFKIN: Okay. And I'm sorry, I don't know

11 if there was an answer to that last question.

12 HEARING OFFICER STUDDARD: Repeat your

13 question, please.

14 BY MR. LUFKIN:

15 Q Does a person have to have their certification

16 current when they employ an SCM restraint?

17 A Yes.

18 Q Was the school district's SCM policy in effect

19 on April 3rd, 2013?

20 A Yes.

21 Q Are you familiar with the respondent Michael

22 Ford?

23 A Yes.

24 Q And how so?

25 A As his supervising -- one of the supervising

Page 91

1 administrators at Oakleaf Junior High.

2 Q And were you involved in an incident that

3 ultimately led to Mr. Ford's termination?

4 A Yes.

5 Q How so?

6 A The student -- can I refer to him by name?

7 Q D.O.

8 A The student D.O. entered my office on that date

9 and -- with a complaint against Coach Ford.

10 Q What was that complaint?

11 A He entered my office and said, "Look at what

12 one of your teachers did to me."

13 Q Did the student do anything else at that

14 time?

15 A He held up his arm.

16 Q Did you see anything on the arm that he held

17 up?

18 A He had a cut with blood on it.

19 Q Was the blood fresh?

20 A Yes.

21 Q What did you do in response to the student's

22 statement and him raising his arm?

23 A Asked him to come in and sit down to let me

24 know what happened.

25 Q And did the student tell you what happened?

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1 A Yes.

2 Q What did D.O. say?

3 A He said that Coach Ford had put him in a choke

4 hold.

5 MR. DEMMA: I have the same objection about

6 hearsay from D.O.

7 MR. BICKNER: Overruled.

8 HEARING OFFICER STUDDARD: It's overruled.

9 MR. BICKNER: You're not offering this to prove

10 the fact itself; am I correct?

11 MR. LUFKIN: No, just essentially go over the

12 events as they took place and to why certain later

13 events occurred.

14 MR. BICKNER: My understanding is he's offering

15 it to show why she acted the way that she acted

16 rather than to prove the truth of the matter that's

17 stated. Am I correct or incorrect?

18 MR. LUFKIN: Correct.

19 MR. DEMMA: I understood that with

20 Mr. Holshouser because he was going in a particular

21 direction, but this witness is going to just testify

22 everything he said Mr. Ford did.

23 MR. LUFKIN: Well, sequentially there are some

24 things that she does at a later point in time that

25 she wouldn't have done if the student didn't come

Page 93

1 into her office and tell her what happened

2 concerning the incident. Now, I can jump to that,

3 but I think chronologically it makes a little more

4 sense to continue on the line of questioning as it's

5 going.

6 MR. BICKNER: I'm going to it, but I think you

7 need to move pretty quickly through it.

8 MR. LUFKIN: Fair enough.

9 MR. BICKNER: You need to overrule it.

10 HEARING OFFICER STUDDARD: I'll overrule it,

11 but ...

12 BY MR. LUFKIN:

13 Q In addition to the student's elbow, did you

14 observe any other signs of injury?

15 A He had a red mark on his neck.

16 Q I'm sorry. Could you speak up?

17 A He had a red mark on his neck.

18 Q Can you describe that red mark, please?

19 A It was about four inches, located around the

20 collarbone area (indicating).

21 Q And was it above or below where the student's

22 Adam's apple was?

23 A It was in between the collarbone and the Adam's

24 apple.

25 Q So in that fleshy part between the Adam's apple

Page 94

1 and the collarbone?
 2 A Correct.
 3 Q Was the student's face flush?
 4 A No.
 5 Q Were any other parts of the student's body red
 6 or discolored?
 7 A No.
 8 Q The student -- did D.O. make any other
 9 statements concerning his encounter with Mr. Ford?
 10 A He said that Coach Ford told him that he would
 11 put him in the hospital.
 12 Q Did anyone corroborate what D.O. -- D.O.'s
 13 statement?
 14 A Yes.
 15 Q Who?
 16 A Jessica Strunz.
 17 Q What happened next?
 18 A About a minute after Cody came in my office,
 19 Coach Rountree and Ms. Strunz showed up. Coach Rountree
 20 came in and sat down in my office. Ms. Strunz was
 21 standing in the doorway, and Cody and Coach Rountree told
 22 me what had happened. At --
 23 Q I'm sorry. Go ahead.
 24 A At that point I sent Cody to the nurse to be
 25 looked at.

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1 Q Did there come a point in time when you
 2 contacted the student's parent?
 3 A Yes, when he was in the clinic.
 4 Q And how did the student's parent react after
 5 she learned that her son had been threatened and -- and
 6 restrained?
 7 MR. DEMMA: Objection as to relevance.
 8 MR. BICKNER: I'd sustain it.
 9 HEARING OFFICER STUDDARD: Sustained.
 10 BY MR. LUFKIN:
 11 Q Did you ever speak to Mr. Ford about the
 12 incident?
 13 A Yes.
 14 Q When?
 15 A That afternoon.
 16 Q And why did you go speak to Mr. Ford?
 17 A Just to let him know that the police were
 18 coming to the school.
 19 Q Did you tell them why the police were coming to
 20 the school?
 21 A Not specifically.
 22 Q Did Mr. Ford ever ask why the police were
 23 coming?
 24 A No.
 25 Q Did Mr. Ford ever try to defend any of his

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1 conduct towards D.O.?
 2 A No.
 3 Q Did Mr. Ford ever deny any wrongdoing?
 4 MR. DEMMA: Objection. She didn't have any
 5 conversation except to tell him the police were
 6 coming. And "ever" is certainly a --
 7 MR. FORD: That's ridiculous.
 8 MR. LUFKIN: I'll withdraw the question.
 9 MR. FORD: Yeah, you should.
 10 MR. BICKNER: You need to hush.
 11 MR. FORD: I will hush.
 12 HEARING OFFICER STUDDARD: I'm not going to put
 13 up with this.
 14 MR. DEMMA: I didn't do anything, Ms. Studdard.
 15 I'll talk to Mr. Ford.
 16 HEARING OFFICER STUDDARD: Okay. Yes.
 17 MR. DEMMA: He -- Mr. Bickner has asked him,
 18 and he said he would. Thank you.
 19 HEARING OFFICER STUDDARD: We're not going
 20 to -- we're not going to get into this, though. You
 21 keep -- keep your client under control.
 22 Proceed.
 23 BY MR. LUFKIN:
 24 Q Was Mr. Ford D.O.'s teacher?
 25 A No.

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1 Q Who was?
 2 A Coach Rountree.
 3 MR. LUFKIN: I have no further questions.
 4 HEARING OFFICER STUDDARD: Okay. Mr. Demma.
 5 MR. DEMMA: Thank you, Ms. Studdard.
 6 CROSS EXAMINATION
 7 BY MR. DEMMA:
 8 Q Ms. Payne, other than what you heard and what
 9 you described seeing in your office on Cody, I'm correct
 10 in assuming you didn't observe any part of the restraint
 11 outside?
 12 A That is correct.
 13 Q And you didn't hear Mr. Ford make any threat,
 14 correct?
 15 A No.
 16 Q Why was Ms. Strunz standing in the doorway, if
 17 you know?
 18 A That's where she walked -- I mean, my office is
 19 relatively small. That was not even two feet away
 20 from --
 21 Q And she -- I'm sorry. Go ahead. Finish.
 22 A It's not even two feet away. I have -- I mean,
 23 it's not a big office. The chairs that were seated in
 24 front of my desk were occupied by D.O. and Coach
 25 Rountree, and she was standing in the doorway right

Page 98

1 behind them.

2 Q Did she subsequently come in and stand with

3 Cody, with D.O --

4 A No.

5 Q -- while he was talking?

6 A Huh-uh.

7 Q She stayed out there in the hallway the whole

8 time?

9 A Right in the doorway.

10 Q Could she hear what Coach Rountree and D.O.

11 were saying when she was standing in the doorway?

12 A Yes.

13 Q And D.O. stated what he said happened before

14 you asked Ms. Strunz, correct?

15 A Before I asked Ms. --

16 Q Before you asked Ms. Strunz what happened.

17 Isn't that -- isn't that the case?

18 A That is correct.

19 Q Do you have any personal knowledge, other than

20 what D.O. told you and Ms. Strunz told you, of how Cody

21 could get a red -- a red mark on his neck?

22 A No.

23 Q He just was out at -- do you understand what

24 was going on out at P.E. from subsequent discussions?

25 A From subsequent discussions that occurred in my

Page 99

1 office immediately after Cody came.

2 Q For example, that he was very upset the whole

3 period. He was using the F word multiple times. He

4 threw a chair; he threw a coach's grade book. Did you

5 know all of that?

6 A I knew that he had threw a chair and that he

7 threw the grade book.

8 Q You didn't -- you didn't hear about the profane

9 language?

10 A No.

11 Q And similar to the cut, did -- did you take any

12 immediate first aid? Did you put a Band-Aid on it or

13 anything like that, or did he sit there and talk?

14 A I sent him to the clinic.

15 Q That was several minutes later, correct?

16 A Correct.

17 Q So he wasn't in danger of bleeding to death,

18 was he?

19 A No, he was not.

20 Q He had a -- he had a cut.

21 Would it be similar to the amount of blood you

22 might get if a scab got busted off?

23 MR. LUFKIN: Objection, speculation.

24 MR. BICKNER: Sustained.

25 HEARING OFFICER STUDDARD: Sustained.

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1 MR. DEMMA: She's a person with common

2 knowledge about cuts.

3 MR. BICKNER: Sustain the objection.

4 HEARING OFFICER STUDDARD: I sustained.

5 Let's move along.

6 BY MR. DEMMA:

7 Q Are you familiar -- you've talked about the SCM

8 program, the crisis management program. Are you familiar

9 as a school administrator that all school staff are

10 protected by a policy that allows them to use reasonable

11 force to prevent student injury or injury to

12 themselves?

13 A In the event that we were to have a fight, yes,

14 we are able to intervene.

15 Q Does the policy say this only applies to

16 fights?

17 A And the danger of another student hurting

18 themselves or hurting someone else.

19 Q Well, does -- does the injury to a student have

20 to happen before you can intervene?

21 A Yes. You have to have -- they have to be in

22 the process of moving towards another student or moving

23 towards an adult in order for you to intervene.

24 Q Under the reasonable force guidelines?

25 A Under our guidelines, yes.

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1 Q What do you mean by "our guidelines"?

2 A Our guidelines that we have been directed by

3 the district. We don't intervene if a student is not

4 approaching another individual.

5 Q Have you read the reasonable force guidelines

6 that are policies 6GX-2.32?

7 A Not recently.

8 Q Are you -- are you familiar enough to know that

9 there is a sequence of criteria you would look into to

10 apply to see whether -- whether an unbalanced action was

11 justified?

12 A Yes.

13 Q Things like the extent of the danger, the

14 patterns of behavior, those types of things

15 are included?

16 A If a student is in the process of hurting

17 themselves or someone else, we would intervene.

18 Q Have you been a P.E. teacher in your career?

19 A No.

20 Q Were you aware at the time that D.O. came to

21 your office that he had recently been removed from P.E.

22 for a temporary period of time upon a referral that came

23 to you?

24 A Yes.

25 Q You were the one that acted on that, correct?

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1 A Yes.

2 Q Do you recall that it was rather close in time

3 to this incident?

4 A No, I do not recall the dates.

5 Q You don't recall the date?

6 A I don't recall the dates.

7 Q Did Coach Rountree offer his take on what

8 happened prior to Ms. Strunz?

9 A Yes.

10 Q Is it the case that he didn't actually see the

11 restraint?

12 A You know, I don't recall.

13 Q Did he tell you about other things that had

14 happened in the phys ed period that day?

15 A He told me about the chair, he told me about

16 the book and that he had placed Cody in time-out.

17 Q Is it your understanding that regular classroom

18 teachers in Clay County are typically trained in SCM?

19 A It is my understanding that it would be for the

20 ESE teachers, the behavioral health assistants and also

21 administrators on campus.

22 Q So would you -- based on your knowledge of the

23 school and your understanding of teachers, is it the case

24 that there are very few, if any, regular teachers who

25 have SCM training?

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1 A That is correct.

2 MR. DEMMA: I don't have any further questions

3 for the witness.

4 HEARING OFFICER STUDDARD: Okay. Any rebuttal?

5 MR. LUFKIN: No, ma'am.

6 HEARING OFFICER STUDDARD: May this witness be

7 excused?

8 MR. DEMMA: Yes.

9 (Witness excused.)

10 MR. HOLSHOUSER: Can we just take a short

11 break, because we have witnesses right across the

12 street, but --

13 HEARING OFFICER STUDDARD: Okay. Need what, a

14 couple minutes, ten minutes?

15 MR. DEMMA: I have --

16 MR. HOLSHOUSER: Yeah, just --

17 MR. DEMMA: And I don't necessarily need to

18 interrupt now, but I do have the -- the probation

19 officer lady is here with a very small window of

20 time. And I asked her to get her at 11:00. It's

21 probably a ten-minute inquiry. If you want to go

22 one more witness or something, but I'd ask if you've

23 got two or more witnesses, if I could get her --

24 MR. HOLSHOUSER: Yeah. Why don't we go ahead

25 and take her, if it's okay with the chair --

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1 MR. DEMMA: Yeah. I'm just asking them --

2 MR. HOLSHOUSER: -- that we go ahead and take

3 her while we're getting our next witness. So go

4 ahead and get her over here.

5 MR. DEMMA: Well, I have to make sure she's

6 here, but I just didn't want to let it go too far

7 before -- I believe she is. She said 11:00.

8 She can come in then, Ms. Studdard?

9 HEARING OFFICER STUDDARD: Yes. That seems to

10 be agreeable to both parties.

11 MR. HOLSHOUSER: Anything to speed up the

12 process.

13 HEARING OFFICER STUDDARD: If you will swear in

14 the witness, please.

15 (Mr. Ford exited conference room.)

16 STACY FRANCISCO,

17 having been produced and first duly sworn as a witness on

18 behalf of the respondent, and after responding "Yes, I

19 do" to the oath, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DEMMA:

22 Q Please state your name, your complete name for

23 the record and spell it.

24 A Stacy, S-t-a-c-y, Francisco, F-r-a-n-c-i-s-c-o.

25 Q And are you presently employed, Ms. Francisco?

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1 A Yes, I am.

2 Q Who is your employer?

3 A The State of Florida, Department of

4 Corrections, Probation and Parole.

5 Q What do you do?

6 A I'm a correctional probation officer.

7 Q How long have you served in that capacity?

8 A Nine years.

9 Q What are your primary duties on a day-to-day

10 basis?

11 A I supervise individuals that have been placed

12 on felony probation, as well as those that have been

13 placed in a pretrial intervention program on a daily

14 basis, to include them coming into my office to report

15 once a month, administering drug tests and going out and

16 verifying residence and employment, and making sure

17 they're abiding by the laws of the state.

18 Q Do you know Mike Ford?

19 A Yes, I do.

20 Q How did you come to know him?

21 A He signed the pretrial intervention program

22 offered to him. He reported to me, and I am currently

23 supervising that contract.

24 Q Is that a one-year contract?

25 A It is a one-year contract. He signed the

Page 106

1 contract on July 11th, 2013. He is in the program
 2 through July 10th, 2014, unless he completes all
 3 conditions, at which time he can early terminate. And as
 4 of today, he is in full compliance with that contract and
 5 the status letter has already been processed and sent
 6 over to the state attorney's office.
 7 Q By whom?
 8 A By me.
 9 Q Just give a brief summary for the hearing
 10 officer what a PTI is in its essence.
 11 A Pretrial intervention is -- basically, what I
 12 explain to all individuals that come in and see me, it's
 13 their get-out-of-jail-free card. They are offered this
 14 program because they do not have a criminal background
 15 and the state attorney's office feels that it's in the
 16 state attorney's best interest as well as the
 17 individual's best interest to offer them a contract,
 18 where the time frame is generally one year, and they have
 19 to abide by the conditions of that contract; meaning they
 20 cannot pick up any new law violations, they have to
 21 report to me, they have to maintain or attempt to look
 22 for employment, as well as do certain special conditions.
 23 (Mr. Ford reenters conference room.)
 24 THE WITNESS: In Mr. Ford's case, his special
 25 conditions were to complete an anger management

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1 program, have no contact with the victim, and to pay
 2 his monetary obligations. Everybody that is in the
 3 program has monetary obligations. Generally, they
 4 are a lot less than somebody that would actually
 5 enter into a plea in the criminal courts division.
 6 And his conditions, like I said, was the anger
 7 management program, which he has completed, and
 8 having no contact with the victim. And once --
 9 BY MR. DEMMA:
 10 Q And what, in your experience, is the end of the
 11 PTI process after the prosecutor gets it?
 12 A Once -- you mean once I do the letter to --
 13 Q Yes.
 14 A -- tell them they're in full compliance?
 15 Q Yes.
 16 A Approximately a week later I get a letter back
 17 from the state attorney's office advising me -- it's a
 18 form letter and it's actually made out to the individual
 19 themselves, it's just a letter for our file, saying that,
 20 "Congratulations. Upon receiving a status letter from
 21 your probation officer, you have successfully completed
 22 your contract and we are hereby dismissing the charges
 23 against you." And that's pretty much the end of it.
 24 Q And do you, as part of your job, check court
 25 dockets concerning your cases from time to time?

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1 A Yes.
 2 Q Have you done that in Mr. Ford's case
 3 recently?
 4 A Yes, we did a records check this morning to
 5 verify that there were no new arrests.
 6 Q Did you ever -- have you seen a guilty plea
 7 entered on the court docket?
 8 A No.
 9 Q Did you see a not guilty plea?
 10 A No plea. The only paperwork that I saw that is
 11 on the clerk's screen, as well as what was provided to us
 12 by the state attorney's office, is their diversion
 13 referral notice advising that he has been placed in the
 14 diversion program and that the state will file a final
 15 disposition at the time of successful completion.
 16 So to our knowledge, there's no admission of
 17 guilt. And I asked my supervisor this morning. He
 18 advised that because the state filed this diversion note,
 19 there would not be a plea sheet, which is also known as a
 20 blue form.
 21 MR. DEMMA: That's all I have. Thank you.
 22 CROSS EXAMINATION
 23 BY MR. HOLSHOUSER:
 24 Q I'm Eric Holshouser. I represent the school
 25 district.

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1 You indicated what you have in your file. Have
 2 you seen a document signed by Mr. Ford that says, "I
 3 hereby enter my plea of guilty because I am guilty"?
 4 A No. It was not provided to us by the state,
 5 and it is not on the clerk's screen.
 6 Q But you don't deny that that exists, that he
 7 signed a document that says that, do you?
 8 A I don't have anything to that except for what
 9 you're showing me.
 10 Q Okay. So -- but you can't dispute that
 11 Mr. Ford signed such a document where he admitted guilt?
 12 A No. He signed that, but it's not been provided
 13 to us. And as far as this program goes, that at the time
 14 that he completes this, their charges have been dropped.
 15 He is not guilty, he is not not guilty, because the case
 16 is being dismissed.
 17 Q Right. I understand that. I'm not asking what
 18 the legal effect of the guilty or not guilty plea is.
 19 A Uh-huh.
 20 Q I'm just asking you if you have knowledge of
 21 him making a factual admission that he's guilty of a
 22 child abuse felony.
 23 A Not except what you just showed me.
 24 Q Have you ever seen what -- this document at
 25 all, ever?

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1 A That specific one, no.

2 Q Okay. So you don't have knowledge one way or

3 the other whether this --

4 A Exists.

5 Q -- existed before today?

6 A Correct.

7 Q Okay.

8 MR. DEMMA: One follow-up question.

9 MR. HOLSHOUSER: Well, I'm not done yet.

10 MR. DEMMA: I'm sorry. I thought you said

11 okay, and it sounded like an ending.

12 MR. HOLSHOUSER: No.

13 BY MR. HOLSHOUSER:

14 Q You said you sent in a status letter. Have the

15 charges been dismissed against Mr. Ford?

16 A No, we just completed the status letter today.

17 It goes to the state attorney, and it generally takes her

18 about a week to process that letter. And then it will be

19 sent to him, as well as a copy is provided to me, that

20 the charges will be dismissed.

21 Q Okay. But that hasn't happened yet, right?

22 A Not yet, no.

23 MR. HOLSHOUSER: I have no further questions.

24 (Hearing Officer and Mr. Bickner conferring.)

25 REDIRECT EXAMINATION

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1 BY MR. DEMMA:

2 Q If one of your probation people signs some kind

3 of a plea that's entered with the court, does it appear

4 on the -- as an entry on the court docket?

5 A Correct.

6 Q And you have checked and you haven't seen --

7 A No, and I checked this morning as well.

8 MR. DEMMA: Thank you. No further questions.

9 MR. BICKNER: Is this going to be entered as an

10 exhibit?

11 MR. HOLSHOUSER: Yeah, I've got three exhibits

12 here which are certified copies from the court,

13 which means they're self-authenticated, and it's

14 Exhibit -- let me see which ones. I know 20 is the

15 one, but there are three -- two others that go with

16 it, I believe. Hang on a minute. I believe Exhibit

17 19 is a certified copy of the information, Exhibit

18 20 is the plea of guilty, and I believe 22 is what I

19 think the witness has testified to that shows the

20 one-year contract under the felony pretrial

21 intervention program. And I'd just offer those to

22 go into the record as self-authenticated certified

23 copies.

24 HEARING OFFICER STUDDARD: Okay. This No. 20,

25 Mr. Holshouser --

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1 MR. HOLSHOUSER: Yes.

2 HEARING OFFICER STUDDARD: -- this -- was this

3 document in the state -- I'm trying to figure where

4 this document -- was this in the state attorney's

5 office or --

6 MR. HOLSHOUSER: It was in the -- it was in

7 the -- at the courthouse, in the clerk's office.

8 HEARING OFFICER STUDDARD: And is this

9 something that has to be done before they get

10 pretrial intervention?

11 MR. HOLSHOUSER: I believe so. But our --

12 THE WITNESS: No, it's not.

13 MR. HOLSHOUSER: -- the purpose for our --

14 well, not necessarily -- I mean, I think pretrial

15 intervention can occur without a guilty plea.

16 THE WITNESS: Generally in the Fourth Judicial

17 Circuit there is no plea agreement entered in.

18 There are circuits in the state that do do that, but

19 in the fourth circuit there generally is no

20 admission of guilt. They're allowed to give -- do

21 the contract. If they do not complete the contract

22 at 12 months, we kick it back to the state attorney,

23 then they file new charges, they're brought back

24 into the court system, and at that point they

25 proceed with getting a plea or a trial.

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1 MR. HOLSHOUSER: But in this case there was a

2 guilty plea. And we're offering it not necessarily

3 for the legal impact of it down the -- whenever down

4 the road, but for the factual admission of guilt

5 signed by the respondent that makes clear in the

6 first sentence that he signed, "I enter my plea of

7 guilty because I am guilty," and then in the last

8 part of it he said, "I've entered into and signed

9 this plea of guilty and negotiated sentence freely

10 and voluntarily. This plea of guilty and negotiated

11 sentence form is true and correct in all respects,"

12 signed by the respondent.

13 So as just as an admission of fact, we're

14 entering it into admission against interest, we're

15 entering it into evidence on that basis. And in

16 civil proceedings, guilty pleas are admissible.

17 MR. BICKNER: I understand. Mr. Demma any --

18 HEARING OFFICER STUDDARD: Okay. Mr. Demma, do

19 you have anything you --

20 MR. DEMMA: I'm objecting to the document

21 because it's -- my position, it's not an active

22 document. It never was, unless he didn't do what he

23 was supposed to do. It was something he was

24 required to sign simply to be in the program.

25 HEARING OFFICER STUDDARD: You're saying he was

Page 114

1 required to sign it to be in the program?

2 MR. DEMMA: Yes.

3 MR. HOLSHOUSER: We just heard from a witness

4 that they're not always required to sign that

5 document to be in the program, and normally not.

6 THE WITNESS: No. But that would be -- you

7 would need to actually ask the state attorney in

8 this specific case if that was required for him to

9 sign it.

10 MR. HOLSHOUSER: All right.

11 THE WITNESS: If it was, then basically what it

12 means is that if he failed to do this, they already

13 have his plea, they don't need to go through the

14 whole process all over again, and even possibly a

15 trial.

16 MR. HOLSHOUSER: But -- well, my point is,

17 though, that regardless of the ultimate legal

18 impact, it's a factual admission that he signed

19 saying it's true and correct.

20 HEARING OFFICER STUDDARD: I'm going to -- I'm

21 going to allow this in, but --

22 MR. BICKNER: Whatever you make of it. I

23 would --

24 HEARING OFFICER STUDDARD: The hearing officer

25 is a bit confused about what is allowed and not

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1 allowed and what's required and not required, so I

2 do hope that the two attorneys can clarify this to

3 me before we finish this up.

4 MR. DEMMA: Would you like to have this --

5 HEARING OFFICER STUDDARD: I mean, I'm getting

6 two attorneys telling me opposite things. And I'm

7 not an attorney.

8 MR. HOLSHOUSER: Right. And, again, my -- my

9 purpose for offering is not with respect to the

10 legal impact. We aren't using a ground for

11 termination guilty of a felony.

12 MR. BICKNER: You're using it as an admission

13 simply against interest.

14 MR. HOLSHOUSER: An admission -- that's it.

15 And it's a document, whether it was kept -- wherever

16 it was kept, he signed it. It's just a plain

17 admission; that's it.

18 MR. BICKNER: And I think it's admissible for

19 that purpose, and that's what I'm advising. It is a

20 statement against interest.

21 HEARING OFFICER STUDDARD: But was he required

22 to sign this to get PTI?

23 MR. BICKNER: I don't think it makes a

24 difference.

25 HEARING OFFICER STUDDARD: Well, it is when

Page 116

1 he's -- it is when he is --

2 THE REPORTER: I'm sorry. If you want this on

3 the record, I can't hear.

4 HEARING OFFICER STUDDARD: Okay. Just -- I'll

5 admit it and then we'll proceed on.

6 MR. HOLSHOUSER: And we have the two other -- I

7 guess the other two exhibits. We have three

8 exhibits total that were self-authenticating, and

9 I --

10 MR. BICKNER: 19, 20 and 22.

11 HEARING OFFICER STUDDARD: Yes, so Exhibits 19,

12 20 and 22.

13 (Petitioner's Exhibits No. 19, No. 20 and No. 22

14 received in evidence.)

15 MR. DEMMA: Is the witness free to go?

16 MR. HOLSHOUSER: Yes.

17 MR. DEMMA: Thank you for your time.

18 HEARING OFFICER STUDDARD: The witness is

19 excused.

20 MR. DEMMA: Appreciate it.

21 (Witness excused.)

22 HEARING OFFICER STUDDARD: The next witness.

23 Is the person here?

24 MR. LUFKIN: Yes, I believe so.

25 HEARING OFFICER STUDDARD: And who --

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1 MR. LUFKIN: Jennifer Zimmerman.

2 (Recess from 11:35 a.m. until 11:37 a.m.)

3 HEARING OFFICER STUDDARD: Madam Court

4 Reporter, if you'll swear in this witness, please.

5 JENNIFER ZIMMERMAN,

6 having been produced and first duly sworn as a witness on

7 behalf of the petitioner, and after responding "I do" to

8 the oath, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. LUFKIN:

11 Q Please state your full name for the record.

12 A Jennifer Zimmerman.

13 Q And who is your current employer?

14 A Clay County School District.

15 Q And what is your position in the school

16 district?

17 A I'm the ESE program specialist for EBD,

18 emotional behavioral disabilities.

19 Q What does the term "ESE" mean?

20 A Exceptional student education.

21 Q And what is the EBD program?

22 A The EBD program is for students who have either

23 behavioral disabilities or emotional disabilities. They

24 may have mental health diagnoses. But it's a very

25 behaviorally oriented program to improve their

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1 behavior.

2 Q And how long have you been in your position as

3 curriculum specialist for the EBD program?

4 A As curriculum specialist, since March of

5 2013.

6 Q Were you employed by the school district before

7 March of 2013?

8 A Yes.

9 Q In what capacity?

10 A I was a staffing specialist, also for ESE.

11 Q And how long were you a staffing specialist for

12 ESE?

13 A Five years.

14 Q Generally, what are your duties as ESE

15 curriculum specialist?

16 A I go out to schools and observe students,

17 whether they're ESE or non-ESE, to assist the teacher

18 with interventions, help staff students into the

19 self-contained program, and then I work with the

20 self-contained teachers to provide them curriculum and

21 anything that they need to help them teach the

22 students.

23 Q Are you familiar with a program known as Safe

24 Crisis Management?

25 A Yes, I am.

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1 Q And will you understand if I use the

2 abbreviation SCM that we're referring to Safe Crisis

3 Management?

4 A Absolutely.

5 Q What is Safe Crisis Management?

6 A Safe Crisis Management is the crisis management

7 curriculum that Clay County has chosen. It consists of a

8 lot of preventive strategies, verbal and nonverbal

9 intervention strategies. And then there is a physical

10 component, if the students are in danger of harming

11 themselves or harming somebody else, physical assists are

12 taught.

13 Q And what is the purpose of teaching someone

14 SCM?

15 A The purpose would be to keep students safe.

16 Q Have you ever been trained in SCM?

17 A Yes, I have.

18 Q And when were you trained in SCM?

19 A 17 years ago.

20 Q Is your certification current?

21 A Absolutely.

22 Q Have you ever trained others in SCM?

23 A Yes, I have.

24 Q How often do you train others in SCM?

25 A We do -- there's about five initial

Page 120

1 certification courses, which is for people who have never

2 been trained in Safe Crisis Management or are not current

3 with Safe Crisis Management, some for administrators,

4 some for teachers and some for assistants. So we're

5 training, and then we recertify folks. I'd say twice a

6 month on average, we hold recertification classes.

7 Q When was the last SCM training or certification

8 class you held?

9 A I'm right in the midst of it. We held an

10 initial certification class September 7th, 14th and 21st.

11 We held a recertification class on September 28th. And

12 last Wednesday, Thursday and Friday was an initial

13 certification for teachers of EBD self-contained and ASD

14 self-contained.

15 Q And who do you conduct this SCM training on

16 behalf of?

17 A On behalf of Clay County School District.

18 Q Is SCM part of your job duties as ESE

19 curriculum specialist?

20 A It -- it doesn't necessarily fall under that

21 job title, because I've been a trainer for much longer

22 than that. So it's just kind of something that evolved

23 from me being a participant to me becoming a trainer.

24 Q Can you please generally describe what a person

25 learns during Safe Crisis Management training?

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1 A We obviously teach the de-escalation

2 strategies, the -- anything to prevent the student

3 getting to an out-of-control period. We have

4 encouragement strategies, discussion strategies,

5 directive strategies, nonverbal strategies. We teach

6 about the reality of the individuals that we serve, and

7 then liability protection, things of that nature. And

8 then we do have the physical component, where we teach a

9 variety of physical assists.

10 Q How long have you been training Safe Crisis

11 Management overall?

12 A This would be my 11th year.

13 Q Has the school district's SCM training program

14 changed since 2008?

15 A The -- the basic information has not changed.

16 The prone and supine were taken away. Prone being the

17 student laid out face down; supine being the student laid

18 out face up. We've taken away those floor techniques,

19 and then we've added some multiple person interventions,

20 standing and seated.

21 Q Why were the supine and the prone restraints

22 removed from the training program?

23 A There's much more risk of injury with those

24 restraints, so we as a county took those away.

25 Q Does SCM training teach individuals to employ a

Page 122

1 restraint in response to profane language from a
 2 student?
 3 A No.
 4 Q Does SCM training also cover responses to
 5 student noncompliant behavior?
 6 A Yes.
 7 Q And what does SCM training teach when a student
 8 is displaying noncompliant behavior?
 9 A Can I ask you to be a little more specific with
 10 "noncompliant"? Would it be --
 11 Q What would -- what would SCM training teach a
 12 person to do in response to a student's verbal
 13 noncompliant behavior?
 14 A Okay. We -- we teach them strategies for
 15 letting the student vent, letting the student get out
 16 their emotions rather than cutting them off, using a
 17 soothing demeanor when talking with the student, not
 18 judging the student or cutting them off. So just really
 19 working with the student to try to de-escalate the
 20 behavior. There are no physical assists that would be
 21 appropriate for verbal aggression.
 22 Q Do you know what a choke hold is?
 23 A I do.
 24 Q And why do you -- why do you say that?
 25 A Because we teach staff members how to escape

Page 123

1 from a choke hold. If they were being choked by a
 2 student, either with a forearm, two hands from behind or
 3 two hands from the front, we teach how to escape from
 4 that.
 5 Q And you said there's three types of choke holds
 6 that you teach?
 7 A Yes.
 8 Q And then one, just for the record, being --
 9 well, could you describe the three choke holds in detail
 10 for the record, please?
 11 A Yes. We train people to escape from what we
 12 call a forearm choke hold, where the student would be
 13 behind the staff member, we teach how to escape out of
 14 that; a two-handed rear choke, a student choking a staff
 15 member from behind with two hands, we teach how to escape
 16 from that; and then a two-handed front choke, we also
 17 teach how to escape from that.
 18 Q Are any of the choke holds you just described a
 19 SCM approved method of restraint?
 20 A Absolutely not.
 21 MR. DEMMA: Can we interrupt just a minute?
 22 I'm going to ask the witnesses -- the people out in
 23 the hall --
 24 MR. BICKNER: I can do that.
 25 HEARING OFFICER STUDDARD: Let me add a note:

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1 Years ago this was our school board meeting room.
 2 The dais was up here, and we would have to stop the
 3 meeting when the train went by. So this is
 4 nothing.
 5 MR. DEMMA: It's always nice to hear.
 6 MR. BICKNER: They were arguing over the center
 7 fielder dropping the ball in the game last night.
 8 HEARING OFFICER STUDDARD: We've got them
 9 calmed down now.
 10 Okay. Let's proceed.
 11 BY MR. LUFKIN:
 12 Q Are there approved SCM restraints?
 13 A Yes.
 14 Q Approximately how many, to your knowledge?
 15 A There are four standing techniques that an
 16 individual can use, two of those can be used with
 17 multiple persons standing. In the seated techniques,
 18 there are two individual holds for seated techniques and
 19 two additional holds with multiple persons.
 20 Q Do any of the approved SCM restraints allow for
 21 a person to restrain another by reaching their arm across
 22 the other person's upper chest?
 23 A No.
 24 Q Do any of the approved SCM restraints allow for
 25 restraint from behind across a person's throat?

Page 125

1 A No.
 2 Q Do any of the approved SCM restraints allow for
 3 restraint from behind across a person's shoulders?
 4 A No.
 5 Q Was there any such type of restraint, either
 6 across the neck, across the shoulder or across the upper
 7 chest, approved in 2008?
 8 A No.
 9 Q Is there a general rule of thumb of when a
 10 person can employ an SCM restraint?
 11 A It -- it comes down to harm to self or harm to
 12 others. If somebody -- if a student is being
 13 self-injurious and can cause harm or if a student is
 14 harming somebody else.
 15 HEARING OFFICER STUDDARD: Is harming?
 16 THE WITNESS: Yes, ma'am.
 17 BY MR. LUFKIN:
 18 Q Can an SCM restraint be employed to prevent
 19 future harm?
 20 MR. DEMMA: Object to it. He's asking for
 21 speculation about what future harm would be.
 22 HEARING OFFICER STUDDARD: Okay. I'm going to
 23 overrule that.
 24 THE WITNESS: So answer?
 25 HEARING OFFICER STUDDARD: I'd like to hear the

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1 answer, yes.

2 THE WITNESS: Can you ask the question again?

3 BY MR. LUFKIN:

4 Q Can an SCM restraint be used to prevent future

5 harm or anticipated harm?

6 A Some judgment does come into play. It would

7 have to be imminent risk of serious injury. If -- if we

8 thought there was going to be serious injury to a student

9 or staff member, judgment would come into play. And it

10 would be having knowledge of the students as well.

11 Q So would the purpose of SCM be to stop harm

12 from taking place?

13 A I mean, it -- yes, to ...

14 Q How long has the school district recognized SCM

15 as its method of de-escalation and intervention?

16 A I don't know the exact date, but I know it was

17 brought into the county in the '80s.

18 Q And does the school board have a policy

19 concerning use of Safe Crisis Management?

20 A We follow the Safe Crisis Management policy,

21 which is for restraints, harm to self, harm to others.

22 Q And do you know how long the school district

23 has followed that policy?

24 A Since the -- since they first brought Safe

25 Crisis Management to the county.

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1 Q Do you know for a fact if that policy was in

2 effect during the 2012-2013 school year?

3 A Absolutely.

4 Q Who's permitted to use Safe Crisis Management

5 under the school district's policy?

6 A Only folks that are certified and current with

7 their certification.

8 Q Is SCM certification required for certain

9 school district employees?

10 A It is. It is part of the job description for

11 the ESE behavioral health assistants.

12 Q Does the school district facilitate SCM

13 training?

14 A Yes.

15 Q And is SCM training precluded to general

16 teachers?

17 A Precluded, meaning leaving them out?

18 Q Yeah. Are general education teachers prevented

19 from taking SCM training if they choose to?

20 A No.

21 Q And how would a general school teacher go about

22 arranging for SCM training?

23 A The typical pattern that it follows is, I send

24 out an e-mail that goes to administrators, teachers of

25 ASD self-contained, teachers of EBD self-contained and

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1 the assistants, and in the e-mail it asks for folks to

2 respond to me to sign up for training, because I

3 coordinate all the training. So then they would e-mail

4 me and I would add them to the list.

5 Q Do you know who the respondent Mr. Ford is?

6 A No.

7 Q Has Mr. Ford ever contacted you requesting SCM

8 training?

9 A Not that I recall.

10 MR. LUFKIN: I have no further questions.

11 HEARING OFFICER STUDDARD: Okay. Mr. Demma.

12 CROSS EXAMINATION

13 BY MR. DEMMA:

14 Q I take it that not that you recall means maybe

15 he did and you don't recall it, correct?

16 MR. LUFKIN: Objection, speculation.

17 MR. DEMMA: I'm trying to clarify what she

18 means by "not that I recall." A lot of people use

19 that and it doesn't -- it isn't clear.

20 MR. LUFKIN: It's argumentative as well.

21 HEARING OFFICER STUDDARD: It's clear -- it's

22 clear to me that she doesn't remember.

23 MR. DEMMA: Can she answer my question,

24 Ms. Studdard?

25 HEARING OFFICER STUDDARD: Okay. Answer it.

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1 THE WITNESS: I don't recall.

2 BY MR. DEMMA:

3 Q To the best of your knowledge, what percentage

4 of regular classroom teachers are trained in current in

5 SCM?

6 A I don't know the percentage. Very few contact

7 me to sign up.

8 Q And I take it they're not required to,

9 correct?

10 A Right, they're not required to. Very few

11 contact me. When they do contact me, I have to take into

12 account the space in the classroom, I have to accommodate

13 those whose job descriptions require it first, and then

14 if there's space in the class, which there always is,

15 then I allow those folks into the classes.

16 Q Who knows -- you mentioned something about an

17 SCM policy, and I wasn't quite clear whether that's a

18 district policy or a policy the district's adopted from

19 some company that provides SCM. Can you clarify that?

20 A We follow -- the creators of Safe Crisis

21 Management are JKM, Incorporated. We follow their

22 guidelines, and that's what the county has adopted.

23 Q If you know, why do you need retraining if it

24 doesn't change much from year to year?

25 A Because we have to refresh people's memories

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1 and provide them additional preventive strategies.

2 Q In your experience, have you seen EBD students

3 lose control in your -- in your career?

4 A Yes.

5 Q And I want to be clear: Teachers, regular

6 teachers don't have to take the program, correct?

7 A It is not required.

8 Q And you're saying -- you're telling me very few

9 do?

10 A Correct.

11 Q And in this particular case, your testimony

12 here is in part about what Mr. Ford would have been asked

13 to do under Safe Crisis Management; isn't that correct?

14 MR. LUFKIN: Objection.

15 HEARING OFFICER STUDDARD: Repeat that.

16 MR. LUFKIN: It misstates testimony.

17 BY MR. DEMMA:

18 Q Isn't -- isn't part of the purpose of your

19 testimony here today to talk about what Mr. Ford would or

20 would know -- excuse me -- would or should know if he was

21 properly trained in Safe Crisis Management that he didn't

22 have to take?

23 MR. LUFKIN: Objection. I don't believe that's

24 why the witness was offered at all. The only

25 relation that the witness had to Mr. Ford was --

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1 MR. BICKNER: I think you have a double

2 negative in there.

3 MR. DEMMA: Let me rephrase it then, please.

4 HEARING OFFICER STUDDARD: Please. Because I

5 am confused.

6 MR. DEMMA: I'm going to do it in little

7 pieces.

8 HEARING OFFICER STUDDARD: Okay.

9 BY MR. DEMMA:

10 Q To your understanding, a P.E. teacher is not

11 required to take Safe Crisis Management, correct?

12 A Correct.

13 Q A P.E. teacher is not required to read the JKM

14 manual on any regular basis, correct?

15 A Correct.

16 Q It's possible a teacher, a regular teacher

17 doesn't even know about SCM; is that a possibility?

18 A That's a --

19 MR. LUFKIN: Speculation. Object to

20 speculation.

21 BY MR. DEMMA:

22 Q Well, where do you -- where do you have to go

23 to get that policy, the JKM manual?

24 A You come to training.

25 Q What if you don't come to training, you don't

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1 know it's there?

2 MR. LUFKIN: Objection, speculation.

3 MR. DEMMA: I think she can answer.

4 HEARING OFFICER STUDDARD: I'm going to

5 overrule this, because you're asking her opinion

6 on --

7 MR. DEMMA: I'll move on, Ms. Studdard.

8 HEARING OFFICER STUDDARD: Okay.

9 BY MR. DEMMA:

10 Q Ms. Zimmerman, you're a teacher and your actual

11 position title right now is an administrator?

12 A Correct, I'm instructional.

13 Q Are you familiar with a separate set of -- a

14 separate policy that the district has concerning

15 teachers' use of reasonable force separate from SCM?

16 A From college, I do recall the use of reasonable

17 force.

18 Q You've never seen the policy here in the

19 district?

20 A (Witness shakes head.)

21 Q If a regular --

22 A I'm sorry, no. I know if you can't see my

23 head, you can't --

24 Q If a classroom teacher hasn't had SCM training

25 and perceives him or herself in a situation where in

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1 their judgment reasonable force is needed, is it a

2 violation of SCM that they use it?

3 A Yes, because we're talking about two different

4 things.

5 Q Well, how can you require a teacher who hasn't

6 had SCM training to only do those things that are

7 consistent with SCM training?

8 MR. LUFKIN: I'm going to object. She's not

9 the one making the school board policies.

10 MR. DEMMA: If she's the person that trains

11 teachers on what they have to do in out-of-control

12 situations or dangerous situations, I think it's

13 reasonable to ask her -- and she's also a teacher,

14 reasonable to ask her about --

15 HEARING OFFICER STUDDARD: But you're talking

16 about the SCM policy versus the school board policy

17 on reasonable force, two different --

18 MR. DEMMA: Correct.

19 HEARING OFFICER STUDDARD: -- two different

20 animals.

21 THE WITNESS: Uh-huh.

22 MR. DEMMA: But they both involve judgment

23 calls about what has to happen in a -- in a

24 potential crisis situation, that's what I'm getting

25 at.

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1 MR. BICKNER: She's already testified she's not
 2 familiar with the reasonable force standard
 3 policies.
 4 HEARING OFFICER STUDDARD: She said she's not
 5 familiar with the school board policy on reasonable
 6 force. That's what I just ...
 7 BY MR. DEMMA:
 8 Q You've been -- you've been a special ed teacher
 9 or a special ed trainer person all your life?
 10 A I've worked with ESE students my entire
 11 career.
 12 Q So you've never been a regular classroom
 13 teacher?
 14 A No, I have not.
 15 Q And I take it you've never been a P.E. teacher,
 16 then, correct?
 17 A No.
 18 Q Have you ever taught at Oakleaf Junior High
 19 School?
 20 A No.
 21 Q I believe you said this, I just want to make it
 22 clear and be sure that I understood you, that even under
 23 the SCM guidelines, as strict as they are about the use
 24 of force, there is still a place somewhere there where
 25 there may have to be a judgment call about how imminent

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1 harm is, correct?
 2 A Yes.
 3 Q Who is your immediate supervisor?
 4 A Terry Roth.
 5 Q Is she the director of ESE?
 6 A Yes, she is.
 7 Q Would you be personally aware of every request
 8 for SCM training that could come up from a teacher to a
 9 principal or be sent to Ms. Roth or to any of the other
 10 trainers?
 11 A I would not be aware of that because that's not
 12 the policy we follow.
 13 Q And are you -- are you not familiar with
 14 teachers having been told, that have made requests, that
 15 either there's a funding problem or we're not doing it
 16 for regular ed teachers? Is that not something you've
 17 ever heard of?
 18 A No, I've not heard of that. Typically, the
 19 requests come to me.
 20 Q How long has that been going on, all the
 21 requests coming to you?
 22 A Approximately seven years.
 23 Q If for some reason Ms. Roth told someone that
 24 sorry, for whatever reason, we can't give you the
 25 training now, would she come to you and tell you about

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1 it?
 2 A Not necessarily.
 3 Q You don't -- and you don't speak for her,
 4 correct?
 5 A I don't, no.
 6 MR. DEMMA: That's all I have for this
 7 witness.
 8 HEARING OFFICER STUDDARD: Okay. Any rebuttal
 9 on this?
 10 MR. LUFKIN: No, ma'am.
 11 HEARING OFFICER STUDDARD: Okay. May this
 12 witness be excused?
 13 MR. LUFKIN: Yes, ma'am.
 14 HEARING OFFICER STUDDARD: Okay. You may be
 15 excused.
 16 THE WITNESS: Thank you.
 17 (Witness excused.)
 18 HEARING OFFICER STUDDARD: Call your next
 19 witness.
 20 MR. DEMMA: I want to step out in the hallway
 21 and tell whatever witnesses I see that it's going to
 22 be a while so they don't have to --
 23 HEARING OFFICER STUDDARD: Okay.
 24 MR. DEMMA: -- they can come back in an hour or
 25 two.

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1 MS. McCABE: May I take a quick break?
 2 HEARING OFFICER STUDDARD: I'll give you a few
 3 minutes.
 4 (Recess from 12:02 p.m. until 12:05 p.m.)
 5 HEARING OFFICER STUDDARD: You can call your
 6 next witness. Oh, please swear in the witness. I
 7 didn't know she was the witness. I thought she was
 8 in the wrong seat.
 9 TONI ANN McCABE,
 10 having been produced and first duly sworn as a witness on
 11 behalf of the petitioner, and after responding "I do" to
 12 the oath, testified as follows:
 13 DIRECT EXAMINATION
 14 BY MR. HOLSHOUSER:
 15 Q Ms. McCabe, could you state your full name and
 16 your job title for the record, please.
 17 A Toni Ann McCabe, assistant superintendent for
 18 human resources.
 19 Q And is that with the Clay County School
 20 District?
 21 A Yes.
 22 Q And as assistant superintendent, what basically
 23 are your job duties?
 24 A I'm in charge of all aspects of labor
 25 relations, to include, hiring, preemployment, on boarding

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1 of employees, both instructional, administrative,
 2 support. I'm one of the chief negotiators of the school
 3 district. I also am in charge of investigations for the
 4 superintendent.
 5 Q Now, what about, does your job responsibilities
 6 include supervising training on the code of ethics for
 7 new teachers?
 8 A Yes.
 9 HEARING OFFICER STUDDARD: Excuse me, just a
 10 minute. We're trying to get the noise level down.
 11 (Off-the-record discussion.)
 12 BY MR. HOLSHOUSER:
 13 Q I think I just asked whether you -- part of
 14 your job responsibilities is to oversee new teacher
 15 training on the code of ethics.
 16 A Yes.
 17 Q And we've heard a lot about the school board's
 18 policy on physical restraint of students. Does the code
 19 of ethics training cover that?
 20 A Yes.
 21 Q And what does it cover in terms of physical
 22 restraints of students?
 23 A Code of ethics training, for example, when
 24 we've hired new teachers, they're required to attend that
 25 training, and it's there that they learn that they should

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1 not engage in a situation of excessive or unreasonable
 2 force.
 3 Q And is there any sort of guidelines given to
 4 the new teachers about when to use physical restraint and
 5 when not to?
 6 A Yes, that's a part of school board policy
 7 that's also in the employee handbook.
 8 Q But what is it that they're told in the code of
 9 ethics -- code of ethics training about whether -- when
 10 they can use physical restraint?
 11 A They are basically told that there are very
 12 limited conditions under which a teacher should employ
 13 restraint of a student.
 14 Q And what are those conditions?
 15 A If there is a situation where a teacher -- for
 16 example, if a fight is breaking out among students and
 17 there is a condition that's harmful and the student could
 18 become injured as a result of that engagement.
 19 Q Let me look at the -- have you look at the
 20 petitioner's exhibit, and I'll direct your attention to
 21 Exhibit 4, Petitioner's Exhibit 4, and ask if you can
 22 identify that.
 23 And can you identify what that is?
 24 A Yes, this is an excerpt from the Admissions and
 25 Placement Manual guiding exceptional student education

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1 and student services in the school district.
 2 Q And in that -- in that let me direct your
 3 attention to page 254, which is right after the heading
 4 Safe Crisis Management, and where it says in the middle
 5 of the page Description of Crisis Situations. See there
 6 where it says, "Manual physical restraint shall be used
 7 only in an emergency when there's imminent risk of
 8 serious injury death to a student or others."
 9 Is that the same as the policy that new
 10 teachers are educated on in the code of ethics training?
 11 A Yes. This -- this excerpt is from the
 12 Admissions and Placement Manual again. But when
 13 educators are trained under the code of ethics, there's a
 14 very important precept in the code of ethics relative to
 15 when a teacher can physically engage with a -- with a
 16 student.
 17 Q Is that statement I just read to you consistent
 18 on what is taught to new teachers when they come to work
 19 at the school district?
 20 A Yes, it is.
 21 MR. DEMMA: Can I ask what page that is on?
 22 MR. HOLSHOUSER: 254.
 23 MR. DEMMA: In Exhibit 4?
 24 MR. HOLSHOUSER: Yeah.
 25 MR. DEMMA: Okay. Thank you.

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1 BY MR. HOLSHOUSER:
 2 Q And now let me flip your -- to the next page,
 3 the very top of that, Certification Procedure for
 4 Training and Trained Users. It says there, "Manual
 5 physical restraint is to be used only by school personnel
 6 who are qualified and certified to use the
 7 district-approved program for the appropriate application
 8 of specific restraint techniques."
 9 Is that current school board policy?
 10 A Yes, it is.
 11 Q And was that school board policy in the
 12 2012-2013 school year?
 13 A Yes.
 14 Q Has that been school board policy for some
 15 time?
 16 A For quite some time, yes.
 17 Q And how long do you estimate?
 18 A Decades, dating back to the 1980s.
 19 MR. HOLSHOUSER: I'm going to offer Exhibit 4
 20 into evidence.
 21 HEARING OFFICER STUDDARD: Okay. That will be
 22 number --
 23 MR. BICKNER: Just Exhibit 4.
 24 MR. DEMMA: I want to voir dire this --
 25 HEARING OFFICER STUDDARD: Do you have any --

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1 MR. DEMMA: I want to voir dire this particular
 2 document.
 3 MR. BICKNER: I'm sorry?
 4 MR. DEMMA: I want to voir dire on this
 5 particular document --
 6 MR. BICKNER: Allow him to do that.
 7 MR. DEMMA: -- before I --
 8 HEARING OFFICER STUDDARD: Okay.
 9 VOIR DIRE EXAMINATION
 10 BY MR. DEMMA:
 11 Q Ms. McCabe, the document No. 4, Petitioner's 4,
 12 you've talked about it being Admissions and Placement
 13 Manual. Haven't the parts you've been talking about
 14 simply been the Safe Crisis Management documents that
 15 were being talked about by prior witnesses, the Safe
 16 Crisis Management standards, page 254?
 17 MR. HOLSHOUSER: I'm objecting to the question
 18 as compound.
 19 HEARING OFFICER STUDDARD: Would you --
 20 MR. DEMMA: Yeah.
 21 BY MR. DEMMA:
 22 Q You were testifying, were you not, about page
 23 254, and isn't that the page that comes after the
 24 heading, 253, Safe Crisis Management?
 25 A Yes.

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1 MR. DEMMA: No objection to the document. I
 2 understand what it is.
 3 HEARING OFFICER STUDDARD: Okay. Then it's
 4 admitted.
 5 (Petitioner's Exhibit No. 4 was received in evidence.)
 6 DIRECT EXAMINATION (Continued)
 7 BY MR. HOLSHOUSER:
 8 Q Ms. McCabe, do you know -- as head of human
 9 resources for the school district, do you know
 10 approximately when Michael Ford was hired into the school
 11 system here?
 12 A August of 2004.
 13 Q And what position was he hired into?
 14 A Physical education teacher.
 15 Q And has he been a physical education teacher
 16 throughout his tenure with the school district?
 17 A Yes, he was.
 18 Q And what school did he last work at?
 19 A He last worked at Oakleaf Junior High School.
 20 Q Now, have you received Safe Crisis Management
 21 training?
 22 A I have.
 23 Q And in what capacity did you receive that?
 24 A I received it when I was principal of Orange
 25 Park Junior High School.

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1 Q Did that training -- when you went --
 2 approximately when was that?
 3 A I received my certification in 2000.
 4 Q Did that -- when you were trained in Safe
 5 Crisis Management, did that also cover what we've
 6 addressed in Exhibit 4 about when to use restraint
 7 techniques and when not to?
 8 A Yes.
 9 Q And was there an occasion when Mr. Ford was
 10 advised to obtain Safe Crisis Management training?
 11 A Yes, there was.
 12 Q And when was that?
 13 A The time frame was 2008, following an incident
 14 at the school, at Oakleaf Junior High School.
 15 Q And was he -- did he actually receive the Safe
 16 Crisis Management training back then?
 17 A He -- he did, in the fall of 2008.
 18 Q So he received that type of training, but
 19 when -- in the 2012-2013 school year, was he certified in
 20 Safe Crisis Management?
 21 A He was not considered certified at that time
 22 because he had not received the update training.
 23 Q But he was in fact trained in Safe Crisis
 24 Management in 2008, which would cover what we've talked
 25 about in terms of when to use physical restraint?

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1 A Yes, that was his initial certification in
 2 2008.
 3 Q And it also would have covered the use of
 4 proper types of restraint to use?
 5 A Correct.
 6 Q Now, was Mr. Ford ever put on notice about the
 7 importance of being careful in terms of physical
 8 restraints back in 2008?
 9 MR. DEMMA: I'm objecting to testimony about
 10 any prior matters that weren't disciplinary
 11 actions.
 12 MR. HOLSHOUSER: I'm not offering it -- I'm not
 13 offering it to show that there's any kind of
 14 progressive discipline or anything in this realm.
 15 I'm just offering it -- this testimony and
 16 documentary evidence to show that Mr. Ford
 17 personally was placed on notice of the importance of
 18 being careful in the terms of physical restraint and
 19 Safe Crisis Management.
 20 HEARING OFFICER STUDDARD: Overruled.
 21 BY MR. HOLSHOUSER:
 22 Q Okay. Ms. McCabe, can -- let me direct your
 23 attention to Exhibit 30, and ask if you can identify this
 24 as a document out of the school district's file.
 25 A Yes, it is.

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1 Q And -- and what is it?

2 A This is a memorandum that was written to Mike

3 Ford from then Principal Larry Davis. He was principal

4 of Oakleaf Junior High School at the time.

5 Q And do you see the last sentence on the bottom

6 of that page?

7 A Yes.

8 Q Do you see where it says, "By way of this

9 correspondence, you are directed to be careful on

10 restraining students and using inappropriate words which

11 may cause unnecessary stress or embarrassment of a

12 student"?

13 A Yes.

14 Q So that was part of the files applying to

15 Mr. Ford that the school system has -- or the school had

16 retained?

17 A Yes.

18 MR. HOLSHOUSER: I'm going to offer that into

19 evidence.

20 HEARING OFFICER STUDDARD: Okay.

21 MR. DEMMA: Voir dire again, Your Honor --

22 Ms. Studdard, voir dire? I want to ask the witness

23 a question.

24 HEARING OFFICER STUDDARD: Certainly.

25 VOIR DIRE EXAMINATION

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1 BY MR. DEMMA:

2 Q Ms. McCabe, where was this -- was this document

3 located in the central personnel file that is maintained

4 by the district at the county office?

5 A No.

6 Q Where was it?

7 A It was maintained as a memorialization of

8 Mr. Larry Davis, then principal of Oakleaf Junior High

9 School, providing notice to Mr. Ford, and it was

10 maintained at the school level, in a file at the

11 school.

12 Q And one more question. As I understand, that's

13 not a disciplinary action per se; is that correct? It's

14 a warning of some kind?

15 A He was put on notice. It's not disciplinary.

16 MR. DEMMA: I know what the response is going

17 to be, but I have the same objection for the

18 record.

19 MR. HOLSHOUSER: And my point is that it's

20 simply being offered to -- as evidence that Mr. Ford

21 was put on notice of the importance of being careful

22 in physical restraints.

23 HEARING OFFICER STUDDARD: Overruled.

24 DIRECT EXAMINATION (Continued)

25 BY MR. HOLSHOUSER:

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1 Q Do you know if there was any sort of action, as

2 human -- head of human resources for the school district,

3 any action taken after that particular notice that

4 Mr. Ford received concerning action he should take?

5 A As a result of this situation in 2008, DCF was

6 contacted, and there was communication from DCF through

7 the principal to Mr. Ford.

8 Q And do you know what that communication

9 entailed?

10 A It indicated that -- that there was some

11 suggestion of abuse, and that anger management and

12 training and Safe Crisis Management, or some similar type

13 of training should be pursued.

14 Q Well, let me just ask you: Did Mr. Ford ever

15 tell you that he had gone through anger management

16 training back then as a result of that situation?

17 A He did share that with me, yes.

18 Q And let me show you Exhibit 31. Are these the

19 communications that you were talking about in terms of

20 what Mr. Ford was expected to do at that time?

21 A Yes, it is.

22 MR. HOLSHOUSER: I'm just going to offer that

23 into evidence, again to show that Mr. Ford was

24 put on notice --

25 MR. DEMMA: Same objection for the record.

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1 MR. BICKNER: Overrule it.

2 HEARING OFFICER STUDDARD: Overruled on that.

3 BY MR. HOLSHOUSER:

4 Q Okay. Let me -- was there a subsequent point

5 in time when Mr. Ford was actually put on notice that he

6 should use proper Safe Crisis Management techniques?

7 A Yes, there was.

8 Q And I want to direct your attention to

9 Petitioner's Exhibit 32. Can you identify that

10 particular document?

11 A Yes. In October of 2008, then Vice Principal

12 Nancy Crowder of Oakleaf Junior High School memorialized

13 that in a memorandum to Coach Ford.

14 Q And that's what you've got in Exhibit 32?

15 A Yes.

16 Q And that was -- the first, Exhibit 30, dealt

17 with notice given to Mr. Ford in April 2008, correct?

18 A Yes.

19 Q Okay. And this was the following fall of

20 2008?

21 A Yes.

22 Q And if you could, is this the document, and I

23 think you may have had testimony before, that had

24 indicated that Mr. Ford was to undertake Safe Crisis

25 Management training?

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1 A Correct.

2 Q And I think you already testified that after

3 this particular document, he did take Safe Crisis

4 Management training?

5 A He took the training in November of 2008.

6 MR. HOLSHOUSER: I'm going to offer this into

7 evidence as additional notice of the importance to

8 use proper techniques.

9 MR. DEMMA: Voir dire again?

10 HEARING OFFICER STUDDARD: Overruled.

11 MR. BICKNER: No.

12 MR. DEMMA: No, I get to ask --

13 HEARING OFFICER STUDDARD: Excuse me.

14 VOIR DIRE EXAMINATION

15 BY MR. DEMMA:

16 Q Ms. McCabe, is this document also contained in

17 that school file and not in Mr. Ford's central personnel

18 file?

19 A This was maintained in the school file.

20 Q And you were speaking as the HR director as to

21 the content of this document based on -- based on your

22 being asked to review his school file?

23 A Yes. As the head of human resources, one of my

24 functions is to work with local school-based

25 administration, and so I was aware of the documents at

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1 the time of their creation.

2 Q Is there any reason why it's not copied to

3 you?

4 MR. HOLSHOUSER: Object to the -- calls for

5 speculation.

6 MR. DEMMA: If she has a reason.

7 HEARING OFFICER STUDDARD: I don't understand

8 the --

9 MR. BICKNER: Sustained.

10 HEARING OFFICER STUDDARD: Just sustain that.

11 I don't understand. But this is to be admitted.

12 What number?

13 MR. BICKNER: As soon as he's finished asking

14 questions.

15 HEARING OFFICER STUDDARD: Are you through?

16 MR. DEMMA: I'll ask the same objection. I

17 understand the ruling, for the record.

18 MR. HOLSHOUSER: Offering Exhibit 32. So if my

19 notes or my memory is correct, we've offered now 30,

20 31 and 32.

21 MR. BICKNER: Correct.

22 (Petitioner's Exhibits No. 30, No. 31 and No. 32

23 received in evidence.)

24 DIRECT EXAMINATION (Continued)

25 BY MR. HOLSHOUSER:

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1 Q Now, Ms. Ford [sic], I'm going to direct your

2 attention back to this past April. Could you please tell

3 Chair Studdard how you got involved with the situation

4 concerning Mr. Ford.

5 A Yes, it was the afternoon of April 3rd, and

6 Principal Janice Tucker called me to tell me that they

7 had an incident really currently going on at the school,

8 something had transpired where a student had made

9 allegations against a teacher, had a complaint. The

10 parent had been contacted, and she told me that law

11 enforcement had also been contacted by the parent. And

12 so I knew that it was then my role to open the

13 investigation on -- on behalf of the school district.

14 Q How did you proceed once you got that

15 information?

16 A I informed Mrs. Tucker that in the best

17 interest of the teacher, of Coach Ford, as well as in the

18 interest of the school district, given what she had

19 shared with me about the allegation from the student and

20 the fact that law enforcement was responding and would

21 be -- I knew that they would be opening an investigation,

22 we needed to place him on suspension with pay pending the

23 outcome of our investigation.

24 Q And did you in fact suspend him with pay at

25 that point in time?

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1 A Yes.

2 Q And I'm going to direct your attention to

3 Exhibit 25, Petitioner's Exhibit 25, and ask if you can

4 identify that.

5 A This is the letter, April 4th, 2013, to

6 Mr. Ford advising him that he would be suspended with pay

7 until such time that he would either be returned to work

8 or be given information pertaining to a recommendation

9 via the superintendent to the school board.

10 Q And this was delivered to Mr. Ford and put on

11 paid suspension at that point?

12 A Yes.

13 MR. HOLSHOUSER: I just want to offer that into

14 evidence.

15 MR. DEMMA: Surprisingly, I have no

16 objection.

17 HEARING OFFICER STUDDARD: Well --

18 MR. DEMMA: I thought Ms. Studdard would

19 laugh.

20 HEARING OFFICER STUDDARD: I would say "Yea."

21 Then this will be Exhibit 25.

22 MR. HOLSHOUSER: 25.

23 (Petitioner's Exhibit No. 25 received in evidence.)

24 BY MR. HOLSHOUSER:

25 Q Ms. McCabe, so the first thing you did was you

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1 suspended Mr. Ford with -- with pay pending your
 2 investigation. What did you do next in terms of dealing
 3 with this situation?
 4 A The next morning the sheriff's office actually
 5 came to visit me in human resources. I spoke with them.
 6 And then, again, as I indicated, I was in charge of the
 7 investigation for the school district, and it was that
 8 very next afternoon, afternoon of April 4th, that I went
 9 to the school to speak to the witnesses to the event.
 10 Q All right. Did you speak -- with whom did you
 11 speak?
 12 A I spoke with Assistant Principal Payne. I
 13 spoke with Ms. Strunz. I spoke with Coach Rountree, the
 14 school nurse.
 15 Q Did you gather any information from those
 16 persons in written form as to your -- connected with your
 17 investigation?
 18 A That particular day I -- I interviewed them and
 19 spoke with them, but as part of my investigation, I
 20 ultimately came in possession of the statements that they
 21 wrote at the school level.
 22 Q Let me first direct your attention to
 23 Petitioner Exhibit 9, and ask if you can identify that.
 24 What is that document?
 25 A This is -- this is the School District of Clay

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1 County student accident report form.
 2 Q And does this reflect -- is this a document
 3 that's maintained and kept in the ordinary course of
 4 business by the school clinic at that facility?
 5 A Yes.
 6 Q And is this the one that relates to the
 7 incident we're here today about?
 8 A Yes, it is.
 9 MR. HOLSHOUSER: I'd like to offer this into
 10 evidence.
 11 HEARING OFFICER STUDDARD: Mr. Demma?
 12 MR. DEMMA: I want to voir dire on this one, if
 13 Ms. Blazek is not coming to testify. I don't know
 14 if she is. I assume she's not, or --
 15 MR. HOLSHOUSER: Yeah, I'm not offering her as
 16 a witness. I'm offering this --
 17 MR. DEMMA: I want to voir dire, yes.
 18 HEARING OFFICER STUDDARD: Okay. So proceed,
 19 then.
 20 VOIR DIRE EXAMINATION
 21 BY MR. DEMMA:
 22 Q Ms. Blazek is a school district attorney --
 23 excuse me -- employee --
 24 A She was --
 25 Q -- at the time?

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1 A She was the school nurse at the time.
 2 Q She works for the school district, correct?
 3 A She used to.
 4 Q Yeah, I'm just -- I'm just trying to clarify
 5 she didn't work for the health department then.
 6 A She was -- at the time of the incident, she was
 7 the school nurse at Oakleaf Junior High School.
 8 Q And that's an employee of the school
 9 district?
 10 A Yes.
 11 Q And did -- where are these types of documents
 12 housed over time?
 13 A Student accident report forms are housed at the
 14 school clinic.
 15 MR. DEMMA: No objection.
 16 MR. HOLSHOUSER: Okay.
 17 HEARING OFFICER STUDDARD: Okay. So Exhibit 9
 18 will be admitted.
 19 (Petitioner's Exhibit No. 9 received in evidence.)
 20 DIRECT EXAMINATION (Continued)
 21 BY MR. HOLSHOUSER:
 22 Q Now, I'm going to now direct your attention --
 23 and you got other written information during your
 24 investigation; is that correct?
 25 A I did.

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1 Q Okay. I'm going to direct your attention to
 2 Petitioner's Exhibit 11, and ask if you can identify that
 3 particular document.
 4 A This is the statement that Bridget Payne
 5 prepared relative to the events of April 3rd.
 6 Q And you collected this as part of your
 7 investigation into this matter?
 8 A Yes, I did.
 9 MR. HOLSHOUSER: I'd like it offer this into
 10 evidence.
 11 HEARING OFFICER STUDDARD: Any objection,
 12 Mr. Demma?
 13 MR. DEMMA: No objection.
 14 HEARING OFFICER STUDDARD: Okay. So Exhibit
 15 No. 11 will be admitted.
 16 (Petitioner's Exhibit No. 11 received in evidence.)
 17 BY MR. HOLSHOUSER:
 18 Q And let me flip now to Petitioner's Exhibit 13,
 19 which is already in evidence. Is that the statement you
 20 took -- got from Ms. Strunz?
 21 A Yes, it is.
 22 Q And next, Petitioner's Exhibit 15, can you
 23 identify what that is?
 24 A Coach Rountree's statement.
 25 Q And you obtained this as part of your

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1 investigation into the allegation against Mr. Ford?
 2 A Yes, I did.
 3 MR. HOLSHOUSER: I'd like to offer this into
 4 evidence as well.
 5 MR. DEMMA: Had you already offered 13 and 14?
 6 MR. HOLSHOUSER: Well, 13 is already in
 7 evidence through Ms. Strunz.
 8 MR. DEMMA: Okay.
 9 MR. HOLSHOUSER: And 14 I haven't talked about
 10 yet.
 11 MR. BICKNER: 14 was also --
 12 MR. HOLSHOUSER: It's also in evidence.
 13 MR. DEMMA: 15 is ...
 14 MR. HOLSHOUSER: Is Coach Rountree's
 15 statement.
 16 HEARING OFFICER STUDDARD: Are we talking 15
 17 and 9?
 18 MR. HOLSHOUSER: Correct.
 19 MR. BICKNER: We already did 9 and 11.
 20 HEARING OFFICER STUDDARD: 9 and 11.
 21 MR. DEMMA: No objection.
 22 HEARING OFFICER STUDDARD: 9, 11, 15 are all
 23 admitted.
 24 (Petitioner's Exhibit No. 15 received in evidence.)
 25 HEARING OFFICER STUDDARD: Okay. Proceed on.

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1 BY MR. HOLSHOUSER:
 2 Q Now, as part of this process of investigating,
 3 did you get Mr. Ford's side of the story?
 4 A Yes, I did.
 5 Q And tell me about what you did in that
 6 regard?
 7 A I conducted two fact-finding meetings with
 8 Coach Ford.
 9 Q And did you relate to him what the allegations
 10 were in this matter?
 11 A Yes, I did.
 12 Q And what was his response in terms of reacting
 13 to those allegations?
 14 A With regard to the -- the allegation of the
 15 threat, Coach Ford told me that -- first, he told me that
 16 there was no way that Mrs. Strunz could have heard what I
 17 told him that she said she heard, and then he further
 18 went on to say that -- that that was baloney.
 19 And with regard to the restraint or the hold,
 20 through word and through action, he described both
 21 verbally and through demonstration the hold that he put
 22 Cody in.
 23 Q Now, his version of the hold, what was that?
 24 A He -- he utilized his union representative,
 25 Mrs. Butler, and demonstrated that -- with his right arm,

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1 he came across the student's upper chest area. And he
 2 demonstrated through taking his left arm and hand and
 3 said that he grabbed the student by the student's left
 4 arm, and demonstrated that, again, using Ms. Butler. And
 5 then demonstrated how he moved the student from the door
 6 to the railing of the portable (indicating).
 7 Q But the right arm as he demonstrated to you was
 8 across the top of the chest?
 9 A Yes.
 10 Q Is that, in your -- from your training of Safe
 11 Crisis Management, an approved type of hold?
 12 A No, it is not.
 13 HEARING OFFICER STUDDARD: We're going to have
 14 a calm-down moment with the people in the ...
 15 Thank you, Mr. Bickner.
 16 Proceed.
 17 BY MR. HOLSHOUSER:
 18 Q Now, you've heard witnesses describe the mark
 19 across -- between the collarbone, right under the Adam's
 20 apple on the neck. Was that where Mr. Ford indicated
 21 that the hold was, where that -- where we heard testimony
 22 about redness on the neck?
 23 A No. Mr. Ford indicated it was in the upper
 24 chest area of the student.
 25 Q But you were --

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1 HEARING OFFICER STUDDARD: Would you--all just
 2 stop a minute. I'm distracted by this. We've got
 3 to get this stopped.
 4 MR. DEMMA: I'm going to tell them to go up in
 5 the upstairs.
 6 MR. FORD: It's not them. There's people
 7 actually doing business, which is what that room is
 8 usually used for.
 9 (Off-the-record discussion.)
 10 HEARING OFFICER STUDDARD: Let's try to proceed
 11 again.
 12 BY MR. HOLSHOUSER:
 13 Q And I think I left off where you just testified
 14 that where Mr. Ford said he put his arm across the upper
 15 chest of D.O. was not where we've heard testimony about
 16 where the red mark was on D.O.'s neck?
 17 A Correct.
 18 Q Now, obviously you concluded that Ms. Strunz's
 19 version of events and based on -- and D.O.'s allegations
 20 were more credible than Mr. Ford's explanation. What led
 21 you to conclude that?
 22 A I did. I -- as I indicated, I went the next
 23 day after the event and first met with Ms. -- Ms. Strunz.
 24 She demonstrated on me that day the hold. She, of
 25 course, had told me the threat that she heard Mr. Ford

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1 make to the student. She described to me that Coach Ford
 2 was walking backwards and Cody was walking -- excuse
 3 me -- D.O. was walking towards the -- the building. And
 4 she indicated to me, told me that she could see his face
 5 and hear his words.

6 But after I met with her the first time, I
 7 conducted a fact-finding meeting with Coach Ford. He
 8 asked me to clarify some information, to ask Ms. Strunz
 9 some additional information. I went back to Ms. Strunz a
 10 second time and asked her some additional questions about
 11 proximity, how she could hear what she said she could
 12 hear. He asked me to ask her regarding a conversation
 13 that he said took place the day before the incident in
 14 question. And when I did that, Mrs. Strunz told me that
 15 she was not aware of any conversation that included her
 16 the day before.

17 Q So did anything in what Ms. Strunz told you at
 18 the time indicate to you that she was -- misperceived
 19 anything that went on at that time?

20 A No. She was actually very careful about how
 21 she reported to me what she saw and what she heard. And
 22 she actually stated to me that she wanted to be very
 23 careful about giving me the facts as they happened as she
 24 witnessed them and nothing more.

25 Q Did you uncover any evidence whatsoever in your

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1 investigation, including in your discussions with
 2 Mr. Ford, of a motive that Ms. Strunz would have to
 3 falsify what had happened?

4 A Absolutely not. They were colleagues,
 5 co-workers.

6 Q And now, you said that the day after the
 7 incident, when it was presumably much fresher in
 8 everybody's mind, that Ms. Strunz demonstrated to you how
 9 the hold was. Can you describe to Chair Studdard what
 10 Ms. Strunz said at that time, the day after the
 11 incident?

12 A Yes. When I was interviewing her, I was seated
 13 and she was next to me, and I told her that it would be
 14 okay with me if she physically touched me and
 15 demonstrated the hold. So in order to facilitate that, I
 16 remember sitting on the edge of my chair, and I asked her
 17 to come behind me. And she told me that what she
 18 witnessed was Coach Ford taking his right arm around D.O.
 19 and then around his neck. And she said that with Coach
 20 Ford's left arm and hand, that Coach Ford grabbed his
 21 right wrist and pulled the student away from the door,
 22 and then moved the student over to the railing
 23 (demonstrating).

24 Q Did you also receive information from
 25 Mr. Strunz about the verbal threat that you heard about

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1 earlier today from her?

2 A Yes, I did.

3 Q Now, you also obtained statements from --
 4 excuse me -- information from the sheriff's office
 5 concerning their investigation into this incident?

6 A Yes, I did.

7 Q And I want to direct your attention to
 8 Petitioner's Exhibits 10 -- or Exhibit -- yeah, 10. Can
 9 you identify what that is?

10 A Bridget Payne's sworn statement to the
 11 sheriff's office.

12 Q And that's something you obtained before you
 13 concluded your investigation?

14 A Yes.

15 MR. HOLSHOUSER: I'd like to offer that into
 16 evidence.

17 MR. DEMMA: Voir dire, please?

18 HEARING OFFICER STUDDARD: Okay. You may ask
 19 your question.

20 VOIR DIRE EXAMINATION

21 BY MR. DEMMA:

22 Q When did you obtain this, Ms. McCabe?

23 A I don't recall the exact date that I came into
 24 possession of the statement.

25 Q And how did you obtain it?

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1 A Through a request to the -- to the sheriff's
 2 office.

3 Q Was it an active investigation at the time?

4 A By the school district?

5 Q By the sheriff's office?

6 A I'm not certain. I don't know.

7 Q Did you just make the call?

8 A It's very common for me, when a teacher has
 9 been arrested, to contact the sheriff's office. And at
 10 such time that the sheriff's office can release documents
 11 to me, they do such. And I took possession at some point
 12 of this statement from Assistant Principal Payne.

13 Q And you would say it was before you concluded
 14 your investigation?

15 A I don't recall the exact date, but yes.

16 Q You believe before, is that what you're
 17 saying?

18 A I'm sorry?

19 Q You believe it was before you concluded your
 20 investigation?

21 A Yes.

22 (Hearing Officer and Mr. Bickner conferring.)

23 MR. DEMMA: No objection.

24 DIRECT EXAMINATION (Continued)

25 BY MR. HOLSHOUSER:

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1 Q Okay. And the same with Exhibit 12. Have
 2 you -- is that something else you obtained during your
 3 investigation?
 4 MR. BICKNER: Let me interrupt you just a
 5 moment.
 6 What was your response with --
 7 MR. DEMMA: After the voir dire, I did not
 8 object.
 9 MR. BICKNER: No objection. So No. 10 will be
 10 admitted.
 11 HEARING OFFICER STUDDARD: Admitted.
 12 (Petitioner's Exhibit No. 10 received in evidence.)
 13 BY MR. HOLSHOUSER:
 14 Q Same question about No. 12, is that something
 15 else you obtained during your investigation?
 16 A Yes, it is.
 17 Q And Exhibit 16, is that also something that you
 18 obtained in your investigation?
 19 A Yes, it is.
 20 MR. HOLSHOUSER: I'd like to offer 12 and 16 as
 21 well.
 22 HEARING OFFICER STUDDARD: Okay. Mr. Demma?
 23 MR. DEMMA: No objection.
 24 BY MR. HOLSHOUSER:
 25 Q Well, is what you obtained from the --

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1 HEARING OFFICER STUDDARD: Just a minute. 12
 2 and 16 admitted.
 3 (Petitioner's Exhibits No. 12 and No. 16 received in
 4 evidence.)
 5 BY MR. HOLSHOUSER:
 6 Q The information that you obtained from the
 7 sheriff's office concerning their investigation, was it
 8 consistent with the -- factually with the information you
 9 had obtained?
 10 A Yes.
 11 Q And what specific determination did you
 12 recommend as to Mr. Ford's employment with the Clay
 13 County School District?
 14 A I recommended to the superintendent that he in
 15 turn recommend to the school board the termination of his
 16 employment contract.
 17 Q And what did you determine that he had done to
 18 warrant termination?
 19 A There were several violations. First, Coach
 20 Ford's failure to protect the student from conditions
 21 that could be harmful to his -- to the student's --
 22 Q Okay.
 23 A -- physical or mental health.
 24 Q Let me not get into the grounds right now.
 25 What I want to do is what evidence you relied on in

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1 determining to terminate his employment, what he did
 2 wrong.
 3 A I'm sorry. I concluded that Coach Ford had in
 4 fact made a threat to the student and employed a hold or
 5 a restraint of the student when the situation did not
 6 call for such restraint, and that the restraint was not
 7 appropriate at any rate.
 8 Q And was -- did you look to see whether or not
 9 Mr. Ford was certified in Safe Crisis Management at the
 10 time of the incident?
 11 A I knew that he had been certified in the past
 12 at the time of the incident, but I knew that he was not
 13 current in his certification.
 14 Q And did you determine from that -- what you
 15 concluded had occurred, did you determine that Mr. Ford
 16 violated school board policies?
 17 A Yes.
 18 Q Are those policies memorialized in materials
 19 given to teachers?
 20 A Yes.
 21 Q And where are they memorialized?
 22 A The policies that we give to teachers are in
 23 the employee handbook.
 24 Q Anywhere else?
 25 A They also fall in the information regarding the

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1 code of ethics for the State of Florida, and teachers are
 2 also given that as well.
 3 Q Let me just get this -- look at, if you would,
 4 Joint Exhibit 2.
 5 A Petitioner's Exhibit 2?
 6 Q Joint Exhibit 2.
 7 A I'm sorry.
 8 Q I mean, well, Petitioner's Exhibit 2 also, but
 9 one at a time.
 10 MR. DEMMA: I am going to refer her to the
 11 extra pages that are joint so if you want to just --
 12 if you want to do it separately, that's fine.
 13 MR. HOLSHOUSER: Well, I --
 14 MR. DEMMA: The joint has two extra pages, that
 15 I'm going to cross with her on both.
 16 MR. HOLSHOUSER: That's fine.
 17 MR. DEMMA: All right.
 18 BY MR. HOLSHOUSER:
 19 Q Can you identify Joint Exhibit 2?
 20 A Joint Exhibit 2 is the cover page table of
 21 contents and excerpts from the employee handbook
 22 policy.
 23 Q The employee hand -- this is Joint Exhibit 2
 24 now. So that is -- and are these the policies that
 25 you're referring to memorialized in that employee

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1 handbook, or at least the excerpt that you have in front
 2 of you?
 3 A Yes.
 4 Q And also, look at Petitioner's Exhibit 2. And
 5 I'm going to ask if you can identify those pages.
 6 A Petitioner's Exhibit 2 is the school board
 7 policy on discipline that's also contained in the
 8 employee handbook.
 9 Q So both these places have the policies that you
 10 looked at in determining what to do with Mr. Ford's
 11 employment?
 12 A Yes.
 13 MR. HOLSHOUSER: I'd like to offer these into
 14 evidence, Joint Exhibit 2 and Petitioner's Exhibit
 15 2.
 16 MR. DEMMA: No objection to either.
 17 HEARING OFFICER STUDDARD: Okay. Then they're
 18 admitted.
 19 (Petitioner's Exhibit No. 2 and Joint Exhibit No. 2
 20 received in evidence.)
 21 BY MR. HOLSHOUSER:
 22 Q Now, as a teacher in the Clay County School
 23 District, did Mr. Ford receive both of these documents?
 24 A Yes.
 25 Q I want you to go and look at Petitioner's

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1 Exhibit 5, and ask if you can identify that.
 2 (Ms. Briggs enters conference room.)
 3 HEARING OFFICER STUDDARD: Who -- who is this?
 4 MR. DEMMA: I don't know who she is.
 5 MS. BRIGGS: Hi, I'm Teri Briggs.
 6 HEARING OFFICER STUDDARD: Who is this?
 7 MR. FORD: Teri, just give the court reporter
 8 your name. She just needs a name for the record.
 9 MS. BRIGGS: Teri Briggs, T-e-r-i, last name
 10 Briggs, B-r-i-g-g-s.
 11 MR. HOLSHOUSER: I presume she's not with you?
 12 MR. DEMMA: She's not, correct.
 13 THE WITNESS: I'm sorry, Mr. Holshouser, I
 14 didn't catch --
 15 BY MR. HOLSHOUSER:
 16 Q I was -- I was trying to direct you to
 17 Petitioner's Exhibit 5, and ask if you can identify that.
 18 A Petitioner's Exhibit 5 is a signature page that
 19 principals have employees sign when they review and
 20 distribute the employee handbook, and this is from '12-13
 21 employee handbook.
 22 Q And then Petitioner's Exhibit 6, can you
 23 identify what that is?
 24 A When teachers are hired in Clay County, they
 25 attend code of ethics and principles of professional

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1 conduct training, and this is an acknowledgement that
 2 Coach Ford attended in 2004.
 3 Q So these two documents indicate that Mr. Ford
 4 had received both the employee handbook and the code of
 5 conduct policy that we've already got into evidence?
 6 A Yes.
 7 MR. HOLSHOUSER: I'd like to move to offer
 8 Petitioner's Exhibits 5 and 6 into evidence.
 9 HEARING OFFICER STUDDARD: Okay. Mr. --
 10 MR. DEMMA: No objection.
 11 HEARING OFFICER STUDDARD: Then Petitioner's
 12 Exhibits 5 and 6 will be admitted.
 13 (Petitioner's Exhibits No. 5 and No. 6 received in
 14 evidence.)
 15 BY MR. HOLSHOUSER:
 16 Q Now I'll get to what it is that you were I
 17 think about to testify to before. When you looked at the
 18 conduct that you determined that Mr. Ford had engaged in
 19 against the policies that he had been provided with, you
 20 made a determination that he violated those policies.
 21 Can you please explain to Chair Studdard which policies
 22 you felt that he had violated?
 23 A Correct. Once I reached that conclusion, the
 24 policies were several. The first was that Coach Ford
 25 failed to protect the student from conditions that may be

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1 harmful to the student's physical and emotional safety,
 2 also that Coach Ford failed to protect the student from
 3 embarrassment or disparagement; that he had engaged in
 4 misconduct in his office of classroom teacher/educator,
 5 and that he had violated the rules of the Clay County
 6 school system, State Board of Education rules and Florida
 7 law.
 8 Q Now, in your investigation, did you determine
 9 that when the incident occurred that we've heard about
 10 that there were other students in the vicinity when --
 11 when that occurred?
 12 A Yes.
 13 Q And did you write up your findings in a packet
 14 that you presented to the Clay County School Board?
 15 A Yes, I did.
 16 Q I'd like to direct your attention to
 17 Petitioner's Exhibit 26, and ask if you can identify
 18 that, or go ahead and identify each page of that if you
 19 would, for the record.
 20 A The first page is the cover page, the Special
 21 Action A of the school board meeting on May 16th, where
 22 the board was asked to approve the superintendent's
 23 recommendation to terminate the employment of Coach Ford
 24 effective May 17th based on just cause.
 25 Q Okay. And this is -- the recommendation of the

<p style="text-align: right;">Page 174</p> <p>1 superintendent is really the recommendation that you had 2 made after your investigation? 3 A Correct. 4 Q And what's page 2 of this particular exhibit? 5 A This is a memorandum to the school board 6 members from Superintendent Van Zant regarding the 7 charges and recommended action. Once I had made a 8 determination, spoken with the superintendent, what is on 9 this page are the policies that had been violated, the 10 just cause determination basis for that just cause 11 determination. 12 Q And the next page? 13 A The next page is a letter from the 14 superintendent, and it goes to the chairman, in this case 15 Chairman Studdard, and to Coach Ford, advising Coach Ford 16 of when the matter was going to come before the school 17 board. 18 The next page is a memorandum to Superintendent 19 Van Zant from me, Toni McCabe, assistant superintendent 20 for human resources, indicating that fact-finding had 21 been concluded, and that the recommendation was for 22 termination of Coach Ford's employment contract. 23 And the last page of the exhibit is a 24 fact-finding that I created, and it was made part of this 25 packet.</p>	<p style="text-align: right;">Page 176</p> <p>1 outlet that reported, so yes. 2 Q And what was that other media outlet that 3 reported? 4 A It's a similar article, but what you have here 5 is the Times-Union, the Florida Times-Union, and the Clay 6 Today, and I believe there was an almost identical 7 article in the Clay Leader. 8 Q Now, those -- and those are already admitted 9 into evidence. 10 Was Mr. Ford a professional services contract 11 teacher? 12 A Yes. 13 Q And what does that mean? 14 A As a professional service contract teacher, it 15 meant that in the state of Florida, in Clay County, he 16 had -- at that juncture had more than three years of 17 experience, he was no longer annual contract, and he 18 enjoyed more privileges associated with that contract. 19 Q Now, is he covered by the collective bargaining 20 agreement that's in evidence as Joint Exhibit 1? 21 A Yes, he is. 22 Q I'd like to direct your attention to page 38 of 23 that particular document, Article XIX, entitled Teacher 24 Discipline. 25 HEARING OFFICER STUDDARD: Tell me where you</p>
<p style="text-align: right;">Page 175</p> <p>1 Q And that's a summary of the results of your 2 investigation and your determination? 3 A Correct. 4 Q Now, one thing is, in the second page of the 5 exhibit I think there's a policy that you didn't 6 reference in your earlier testimony. It says, "Action 7 which brings the school system into disrepute." Was 8 there any sort of publicity surrounding this event? 9 A I did determine that that policy was also 10 violated by Coach Ford, because the actions of Coach Ford 11 on the 3rd of April did bring the school system into 12 disrepute. There was multiple media outlets' attention 13 to the -- to the matter. 14 Q In front of you, in Joint Exhibits 4 and 5, is 15 that some of the publicity that's occurred as a result of 16 this incident? 17 MR. DEMMA: I'd object to the characterization 18 of "some." Those are two documents. 19 MR. HOLSHOUSER: Well, she just testified to 20 multiple media outlets, suggesting that maybe 21 there's more. 22 BY MR. HOLSHOUSER: 23 Q Is that publicity that was generated as a 24 result of this incident? 25 A These are two. I also recall another media</p>	<p style="text-align: right;">Page 177</p> <p>1 are again. 2 MR. HOLSHOUSER: Page 38, Joint Exhibit 1. 3 BY MR. HOLSHOUSER: 4 Q Do you see that? What does that contract say 5 about grounds for termination of employment or 6 dismissal? 7 A Dismissal only for just cause. 8 Q Did you determine there to be just cause for 9 Mr. Ford's dismissal based on your investigation into 10 what happened? 11 A Yes, I did. 12 Q And is that the same reasons you've earlier 13 testified to about with regard to the threat and the 14 restraint and the type of restraint? 15 A That's correct. 16 Q Did the school board vote on the dismissal 17 recommendation that was made for the May 17th school 18 board hearing? 19 A They did. 20 Q And their vote was to terminate, correct? 21 A That's correct. 22 Q I'd like to just direct your attention to Joint 23 Exhibit 6, and just get you to identify that for the 24 record. It's in evidence. What is Exhibit 6? 25 A The school board meeting was actually the</p>

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1 evening of May --

2 Q It's the 16th.

3 A -- 16th, yeah.

4 Q I misspoke. Sorry.

5 A And then the next morning, Mr. Van Zant sent to

6 Coach Ford a letter that the school board had accepted

7 the recommendation and had voted in fact to terminate his

8 employment contract.

9 Q And at that point, did you have -- when you

10 made the recommendation to the superintendent, who passed

11 it on to the board, did you understand that Mr. Ford had

12 been arrested for felony child abuse?

13 A Yes, I did.

14 Q To your knowledge, at the time of this May 16,

15 2013 vote by the school board, had his criminal case been

16 disposed of yet?

17 A No.

18 Q Now, let me direct your attention to Exhibit

19 20, Petitioner's Exhibit 20.

20 MR. HOLSHOUSER: I want to go ahead and offer

21 Petitioner's Exhibit 26 into evidence, the school

22 board packet.

23 MR. BICKNER: Any objection, Mr. Demma?

24 MR. DEMMA: May I voir dire, please, briefly?

25 HEARING OFFICER STUDDARD: Okay.

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1 VOIR DIRE EXAMINATION

2 BY MR. DEMMA:

3 Q I understood your testimony to be that this is

4 all you submitted to the school board; is that correct?

5 A That is the complete packet that was uploaded

6 to the agenda for the May 16th school board meeting.

7 Q Is there a reason why you wouldn't submit

8 witness statements or the notes, your notes?

9 A This is the packet that I put together when we

10 have a special action for the school board. And in

11 addition to submitting that, I also call the school board

12 members individually and speak to them to review special

13 actions that are going to go before them, but that's what

14 they received as part of the packet.

15 Q I asked if there's a reason why you didn't

16 present any additional materials, like witness statements

17 or anything like that?

18 A This is the normal course of business in Clay

19 County.

20 Q Do you know why, or is it just it's always been

21 done?

22 A It's -- that's the way it's been done.

23 MR. DEMMA: No objection to the document. It's

24 in evidence, I believe.

25 HEARING OFFICER STUDDARD: Okay. So that --

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1 MR. BICKNER: No. 26?

2 MR. HOLSHOUSER: 26, uh-huh.

3 HEARING OFFICER STUDDARD: 26, Petitioner's.

4 (Petitioner's Exhibit No. 26 received in evidence.)

5 DIRECT EXAMINATION (Continued)

6 BY MR. HOLSHOUSER:

7 Q Let me go ahead and -- sorry about the

8 interruption there. Exhibit 20.

9 A Yes.

10 Q You've seen Exhibit 20 recently?

11 A I have.

12 Q Have you -- did you have a copy of Petitioner's

13 Exhibit 20 at the time you made the recommendation to the

14 school board for termination?

15 A I did not.

16 Q Did you attend Mr. Ford's unemployment

17 compensation hearing in July?

18 A I did.

19 Q And did Mr. Ford testify at that unemployment

20 compensation hearing concerning his criminal case?

21 A Yes, he did.

22 Q Was he asked how he pled to the felony child

23 abuse?

24 A Yes, he was.

25 Q And what is -- what did he say in those

Page 181

1 unemployment comp proceedings about how he pled at that

2 time in July of 2013?

3 A He said that he pled not guilty.

4 Q And did you have any knowledge of the existence

5 of this plea of guilty at the time of the unemployment

6 compensation hearing?

7 A No, I did not.

8 Q Now, knowing now that Mr. Ford pled and

9 admitted guilt in this Petitioner's Exhibit 20, would

10 that change your recommendation in terms of dismissing

11 him from employment?

12 A Absolutely not.

13 MR. HOLSHOUSER: I have no further questions at

14 this time.

15 HEARING OFFICER STUDDARD: Mr. Demma?

16 MR. BICKNER: May I ask a question, please?

17 MR. DEMMA: Sure.

18 MR. BICKNER: Joint exhibits, are you-all

19 stipulating that they're all --

20 MR. HOLSHOUSER: Yeah, they're all -- they can

21 all be admitted.

22 MR. DEMMA: They're in whether we address them

23 specifically or not. If we have a brief, I assume

24 it's obviously fair game to be --

25 MR. BICKNER: You referred to 1 and you

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1 referred to 6, but you didn't enter them, so I'm
 2 asking, because you're all --
 3 MR. DEMMA: They're in.
 4 MR. BICKNER: Okay.
 5 (Joint Exhibits No. 1 - No. 8 received in evidence.)
 6 MR. DEMMA: Do you want to do the cross now?
 7 MR. BICKNER: Sure, unless you're going to be
 8 three hours.
 9 MR. DEMMA: No, I didn't know if you were
 10 doing --
 11 HEARING OFFICER STUDDARD: Well, how long do
 12 you anticipate this taking?
 13 MR. DEMMA: 20 minutes, perhaps longer.
 14 HEARING OFFICER STUDDARD: Do you-all want to
 15 do --
 16 MR. BICKNER: Go ahead and finish this one
 17 up.
 18 HEARING OFFICER STUDDARD: All right. We'll
 19 finish this one up and then we'll take a 45-minute
 20 break.
 21 CROSS EXAMINATION
 22 BY MR. DEMMA:
 23 Q Ms. McCabe, were you present at the board
 24 meeting at which the board voted to accept the
 25 superintendent's recommendation?

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1 A Yes, I was.
 2 Q Do you recall if the vote was three-two?
 3 A Yes, it was.
 4 Q Do you recall that there were three board
 5 members that were concerned that the penalty might be too
 6 harsh?
 7 A No, I don't necessarily have that
 8 recollection.
 9 Q Were there -- do you recall several people
 10 getting up and speaking on behalf of Coach Ford at the
 11 meeting?
 12 A There were a number of people that turned in
 13 speaker cards and spoke relative to this item.
 14 Q Does the collective bargaining agreement say
 15 anything about Safe Crisis Management?
 16 A No.
 17 Q Does it say anything about the use of force?
 18 A No.
 19 Q Let me direct you to page -- Article X,
 20 paragraph -- I'll find it. Part C.
 21 MR. BICKNER: What page is that?
 22 MR. DEMMA: Page 18.
 23 THE WITNESS: Thank you.
 24 BY MR. DEMMA:
 25 Q It's under teacher authority and protection

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1 article.
 2 A I'm on page 18. I'm sorry, which section?
 3 Q Part C. Does that provision address force?
 4 A Yes, if the teacher is being attacked or to
 5 prevent injury to another student.
 6 Q That's not precisely the same as the SCM
 7 standard, is it?
 8 MR. HOLSHOUSER: Let me just object to that
 9 question as asking for an opinion.
 10 MR. BICKNER: I'd overrule the objection.
 11 HEARING OFFICER STUDDARD: Overruled.
 12 MR. DEMMA: I'll move on.
 13 BY MR. DEMMA:
 14 Q So the collective bargaining agreement does say
 15 something about use of force, correct?
 16 A It does, in Article X.
 17 Q You didn't know that as the chief negotiator?
 18 A I did not recall the exact wording of
 19 subsection C of Article X. I do now that I'm looking at
 20 Article X.
 21 Q How did you determine -- I believe you answered
 22 the question that you determined that there may have been
 23 some students in the area. Did you determine that
 24 students actually saw the hold?
 25 A When I visited the campus and first spoke with

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1 Jessica Strunz, she took me to the site that's been
 2 reviewed on this Google Earth map, and so she outlined
 3 similarly to how she outlined it today. And at the time
 4 that I visited, there were P.E. classes in session, and I
 5 learned that there were students in fifth hour that
 6 particular day that were, at the time of the incident, by
 7 the door, were coming back, heading back in from P.E.
 8 class to the building.
 9 Q But you don't know specifically where they
 10 would have been at any particular point in time during
 11 this incident?
 12 A No.
 13 Q You indicated, I believe, that the sheriff's --
 14 the sheriff's investigation was very similar to yours in
 15 terms of its content. Isn't that because they were the
 16 same statements and they just had them signed, they just
 17 had them sign to put them under oath?
 18 MR. HOLSHOUSER: Let me just object to that
 19 question, and it's compound.
 20 MR. DEMMA: I'll rephrase it again.
 21 BY MR. DEMMA:
 22 Q Have you reviewed the sheriff's department
 23 statements?
 24 A I did.
 25 Q Isn't it the case that they're the same

<p style="text-align: right;">Page 186</p> <p>1 statements that the people offered in the district and 2 they just were signed by the officer, but they're in the 3 witness's name? 4 A What I determined is that they were consistent 5 with the statements that were gathered at the school 6 level. 7 MR. DEMMA: Well, they're in the record. 8 MR. HOLSHOUSER: Yeah. 9 BY MR. DEMMA: 10 Q I believe you indicated you asked some 11 additional questions of Ms. Strunz after your first 12 fact-finding meeting. What did you ask her? 13 A Yes, I did. I went back and had a follow-up 14 meeting with her, because I recall that Coach Ford was 15 concerned. He did not believe that Ms. Strunz could have 16 been within a close enough proximity to state what she 17 said to me that she had heard, that was one of the things 18 that I asked her about. And she told me that she was 19 within approximately three feet when she heard the 20 threat. She described the fact that he was walking 21 backwards, and she could hear him and see his face as he 22 was speaking to the student. 23 And the other question that I asked her, Coach 24 Ford indicated to me that he believed she may have been 25 reporting to me about a conversation that had taken place</p>	<p style="text-align: right;">Page 188</p> <p>1 A I'm in the notebook joint exhibits, and 2? 2 Q Right. 3 A And I'm looking at the last two pages? 4 Q Right, right. Is policy 6GX-10-2.32 a board 5 policy? 6 A Yes, it is. 7 Q And it happens to be in this handbook for the 8 same reason the other policies are in this handbook, 9 correct? They're republishing it, the handbook? 10 A Correct. 11 Q Republish policy, excuse me. 12 Under part B of page 84, the heading before the 13 five numbers, it says, "The use of reasonable force is 14 permitted to protect students from." Do you see No. 5, 15 "other conditions which, in the judgment of on-site 16 employee or employees, threaten the safety and welfare of 17 students or adults"? 18 A Yes. 19 Q That's not the SCM standard, is it? 20 A With the Safe Crisis Management standard, Safe 21 Crisis Management is used when a student is hurting 22 himself or herself or hurting someone else. 23 Q And this is something broader, isn't it? 24 A I'm sorry, this says threatening the safety and 25 welfare of students or adults.</p>
<p style="text-align: right;">Page 187</p> <p>1 the day before. So I wanted to be very sure, if it was 2 relative to a conversation that took place the day 3 before, I wanted to be clear in my investigation. And 4 she told me that she was not part of any conversation 5 that took place the day before near the area where the 6 student would dress out for P.E. 7 Q And once again, you believed her and not 8 Mr. Ford, correct? 9 A I did. 10 Q Who else was present at -- if anybody, at your 11 investigative finding meetings with Mr. Ford? 12 A In both fact-finding meetings, Tracy Butler was 13 his union representative and Marilyn Ware, my 14 confidential secretary, was with us. 15 Q And as far as you know, all of those people 16 were at the two fact-finding meetings and the final 17 meeting in which you delivered the fact-finding? 18 A Yes. 19 Q You utilize Ms. Ware to type notes, is that 20 what you said? 21 A Yes, I do. 22 Q I want to direct your attention to Joint 23 Exhibit 2. And at the end of Joint Exhibit 2 there are 24 two pages, 84 and 85. Not Petitioner's. There's -- 25 there are partial exhibits and then joint exhibits.</p>	<p style="text-align: right;">Page 189</p> <p>1 Q Under part C, guidelines for reasonable force, 2 I believe you testified that you determined that Mr. 3 Ford -- Mr. Ford did not use reasonable force; is that -- 4 is that correct? 5 A I had to consider the policy of use of 6 reasonable force, and I concluded that he did not use 7 reasonable force. He acted outside of this in employing 8 a hold that was not appropriate. 9 Q Did you take the seven -- the seven guidelines 10 to determine it into consideration? 11 A Are you referring to the seven guidelines on 12 page 85 -- 13 Q Yes, I'm sorry. 14 A -- of part C? 15 Q The next page, 1 through 7. 16 A When I considered the use of reasonable force 17 generally as a policy, yes, I considered the fact that in 18 my conclusions and finding of fact, that this was not a 19 situation in the Clay County school system that the 20 teacher should have employed physical restraint of any 21 type. 22 Q Did you undertake a specific delineation of 23 these seven factors to sort of add them up or do some 24 kind of calculus? 25 A I would say it was a general consideration of</p>

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1 these factors.

2 Q Let's look at severity of -- severity of

3 offenses. Were you aware through your investigation that

4 the student had been calling students gay out on the

5 playing field, correct?

6 A I was aware that he was being verbal and using

7 inappropriate language, but also aware that he had not

8 and did not require the use of any type of restraint

9 or -- for example, secluded time -- time-out. So yes, I

10 did consider that.

11 Q But isn't it true you made that conclusion

12 first and you didn't go backwards to calculate these in

13 your -- in your mind clearly?

14 A I'm sorry, I don't understand.

15 Q You determined that the restraint was improper

16 from the get-go. Your only -- your only request -- your

17 only review was whether he did it?

18 A I wouldn't say that. I would say in my

19 fact-finding I always keep an open mind, and I questioned

20 the witnesses at the scene. I conducted fact-finding

21 with Coach Ford. I did not conclude from the outset of

22 my investigation that Coach Ford had acted improperly. I

23 concluded that after my investigation.

24 Q Did you make the decision that he put him in a

25 choke hold, something around his upper throat?

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1 A The word "choke" and the word "choke hold"

2 during my investigation were sometimes used

3 interchangeably. That Coach Ford choked the student or

4 put him in a choke hold, both of those words were used

5 during my investigation by witnesses.

6 Q Is that what accounts for the use of quotations

7 around "choke hold" in your fact-finding report?

8 A The use of quotations would indicate that

9 witnesses used the phrase "choke hold" with me at

10 times.

11 Q I want to go through -- I'm looking at your

12 fact-finding, which is the last page of Petitioner's

13 Exhibit 26. I see in the third paragraph -- I'll let you

14 get there.

15 A I'm there.

16 Q I see that you concluded that the student

17 cursed, kicked the chair, threw the chair, sat on the

18 chair, threw the teacher's grade book and --

19 (Hearing Officer and Mr. Bickner conferring.)

20 MR. DEMMA: I'm sorry, let me wait until you

21 get --

22 HEARING OFFICER STUDDARD: Okay. Go.

23 BY MR. DEMMA:

24 Q I see in the third paragraph that you concluded

25 that -- and as you presented this to the board, he

Page 192

1 cursed, kicked the chair, threw the chair, sat on the

2 chair and threw the teacher's grade book, correct?

3 A Correct.

4 Q And I don't want to use this language in

5 genteel public, but I'll say it now. The profanity

6 included the word "fuck" repeatedly, correct?

7 A Yes.

8 Q And then did you conclude -- did Ms. Strunz

9 tell you that he was calling -- you heard her testimony

10 today that he was telling kids they were gay and their

11 dad's gay, correct?

12 A And that's why I said he cursed. For example,

13 with that expletive that you just mentioned.

14 Q Are activities like destroying school property

15 significant offenses in the disciplinary scheme of things

16 for students?

17 MR. HOLSHOUSER: I'm going to object to the

18 relevance of that question.

19 MR. DEMMA: I'm going through this whole list,

20 because this is their district policy. She's the

21 witness who did the conclusion, and you spent a long

22 time going through the conclusions.

23 HEARING OFFICER STUDDARD: Repeat your question

24 again. I want to hear what you said again.

25 MR. DEMMA: I want to be sure I know what I

Page 193

1 said.

2 BY MR. DEMMA:

3 Q I asked if issues of destroying student

4 property -- or excuse me -- public property, school

5 property is a serious offense for students?

6 HEARING OFFICER STUDDARD: Overruled.

7 MR. HOLSHOUSER: I've got the same objection as

8 to relevance.

9 MR. DEMMA: Ms. Studdard, this is the policy --

10 MR. BICKNER: She's overruled the objection.

11 MR. DEMMA: Okay. I'm sorry. I'm sorry, I

12 thought you were overruling me, and I wasn't --

13 HEARING OFFICER STUDDARD: I mean, are you

14 going to go through every word or --

15 MR. DEMMA: I don't plan to go through every

16 one all the way, but I want to go through a few, if

17 that's okay.

18 BY MR. DEMMA:

19 Q Is that a significant offense that would get a

20 student referred, throwing property, throwing the

21 coach -- taking the coach's grade book and throwing it?

22 A I'm sorry, could you restate the question?

23 Q Are you familiar with the code of student

24 conduct?

25 A Yes.

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1 Q Does Clay County have severities of offenses,
 2 categories?
 3 HEARING OFFICER STUDDARD: Pause. You get to
 4 witness it.
 5 MR. DEMMA: Great. I will move this along
 6 fast. I've just got to get it started.
 7 HEARING OFFICER STUDDARD: Let's get the train
 8 by first.
 9 (Off-the-record discussion.)
 10 HEARING OFFICER STUDDARD: Let's go. Just talk
 11 a little louder maybe.
 12 BY MR. DEMMA:
 13 Q Are the offenses you listed, especially taken
 14 all together, fairly serious student offenses?
 15 A What I was doing in this paragraph was
 16 capturing, as part of fact-finding, what had occurred on
 17 the P.E. field as stated to me by the witnesses. And the
 18 student himself admitted to, for example, cursing. He
 19 also stated to school personnel that the chair was broken
 20 that he sat on, and so I was putting into this
 21 fact-finding what occurred at the -- at the scene.
 22 Q So you're not going to answer my question as to
 23 whether they're serious offenses for a student to do
 24 those kinds of things, especially all at the same time?
 25 A To answer your question, I would say that

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1 kicking a chair or throwing a chair or even damaging a
 2 chair would not be a reason to put a student into a hold,
 3 but certainly when students curse, kick a chair, throw a
 4 teacher's grade plan book as was described on this day in
 5 question, those are referable offenses under the student
 6 code of conduct.
 7 Q Are you aware that the student had recently
 8 been suspended from P.E. prior to the incident with Mr.
 9 Ford?
 10 A At the time that I was engaged in fact-finding,
 11 I had learned that the student had had a loss of
 12 privileges as an EBD student. He had had a referral at
 13 some point prior to this and was not allowed to go to
 14 P.E. class.
 15 Q Did Mr. Ford tell you that he had attempted to
 16 communicate with the office on his walkie-talkie and
 17 didn't get through?
 18 A He did tell me that.
 19 Q I'm looking at No. 5, availability of
 20 assistance. And are you aware that Mr. Ford made several
 21 efforts to try to calm the student down, according to
 22 Ms. Strunz's testimony, prior to -- prior to the physical
 23 part of it?
 24 A Mrs. Strunz told me that she heard Coach Ford
 25 tell the student to stop cursing, to make better choices,

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1 to calm down.
 2 Q And Mr. Ford is certainly not larger than this
 3 student, correct, taller?
 4 A I'm not exactly sure of both the student and
 5 Mr. Ford's exact height. I don't know their heights.
 6 Q You heard Ms. Strunz say that he's -- that the
 7 young man is taller than Mr. Ford?
 8 A I did hear Ms. Strunz testify to that.
 9 Q Number 2 under "Other Factors: Physical force
 10 being used should cease upon the restoration of a safe
 11 and orderly environment." Is it your understanding that
 12 Mr. Ford calmed the student down and let him go?
 13 A What I concluded was that this situation did
 14 not call for physical force, but I am aware that
 15 Ms. Strunz told me that Cody appeared shaken, and he did
 16 calm down when Coach Ford put him in the hold and moved
 17 him. She told me that the student appeared scared,
 18 shocked.
 19 Q Ms. McCabe, it's my understanding, you correct
 20 me if I'm wrong, you never interviewed Cody?
 21 A I did not.
 22 Q And you have had other witnesses and you
 23 talking about Safe Crisis Management criteria through
 24 this hearing, but it's my understanding you didn't ever
 25 ask Jennifer Zimmerman about the matter, is that correct,

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1 until -- until later?
 2 A I merely read what Cody -- excuse me, what the
 3 student wrote that day relative to what he said happened,
 4 and I did not question Jen Zimmerman as a person who
 5 wasn't there, and she's an instructional member of our
 6 staff.
 7 Q Could she not have provided some illumination
 8 on issues of force?
 9 A I didn't feel that that was necessary based on
 10 my previous training in Safe Crisis Management, my
 11 understanding of the policies.
 12 Q But you didn't, correct?
 13 A I did not.
 14 Q And you didn't talk to Terry Roth about it,
 15 correct?
 16 A I did not talk to Terry Roth.
 17 Q You didn't talk to any of the other trainers
 18 that teach SCM, correct?
 19 A No, I didn't.
 20 Q Is it also the case that you didn't ask
 21 Ms. Strunz about how long the alleged hold lasted?
 22 A Again, I reviewed all of the documents, the
 23 statements and the sheriff's office investigation, but I
 24 do not recall asking her specifically myself, "Can you
 25 tell me how long the hold lasted."

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1 Q Did you read any of the arrest warrant
 2 documents or the narrative report of the officer that I
 3 was referring to with Ms. Strunz today from the sheriff's
 4 office?
 5 A During my fact-finding?
 6 Q Yes.
 7 A Yes, I did.
 8 Q And as I understand, you're not recertified in
 9 Safe Crisis Management, correct?
 10 A I did not recertify after initial training.
 11 Q That's more than 13 years ago, correct?
 12 A 2000, November of 2000.
 13 Q And you've never -- well.
 14 MR. DEMMA: I don't have additional questions.
 15 I think it's time for lunch.
 16 MR. HOLSHOUSER: I have just have a couple real
 17 quick.
 18 MR. DEMMA: I'm sorry.
 19 MR. HOLSHOUSER: Real quick.
 20 MR. DEMMA: He's entitled, he's entitled.
 21 HEARING OFFICER STUDDARD: Okay.
 22 REDIRECT EXAMINATION
 23 BY MR. HOLSHOUSER:
 24 Q When we're talking about physical restraints
 25 under the Safe Crisis Management, that's only a part of

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1 reasonable force, right?
 2 A Correct.
 3 Q So that's one type of reasonable force and
 4 it's -- your policies are specific to that, not all of
 5 reasonable force?
 6 A That is correct.
 7 Q And when we're looking at availability of
 8 assistance, would -- would availability of assistance
 9 include someone who is fully trained and certified in
 10 Safe Crisis Management who's right there at the scene?
 11 A We had Mrs. Strunz, who was the student's
 12 assistant, who was trained in Safe Crisis Management,
 13 yes.
 14 MR. HOLSHOUSER: So I have no further
 15 questions.
 16 (Witness excused.)
 17 HEARING OFFICER STUDDARD: Then we will take --
 18 it's almost 1:25, according to the clock on the
 19 wall. So we'll come back -- we'll resume again at
 20 2:15.
 21 (Lunch recess from 1:23 p.m. until 2:18.)
 22 (Also present for start of afternoon session:
 23 Michael Ford, Toni McCabe, Renna Lee Paiva, Mary Ann
 24 Steinberg and David Lawrence.)
 25 HEARING OFFICER STUDDARD: We'll resume. It's

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1 2:18 p.m.
 2 Next witness.
 3 MR. HOLSHOUSER: Well, the petitioner rests. I
 4 didn't say that before. We've finished our case in
 5 chief.
 6 HEARING OFFICER STUDDARD: Okay.
 7 Mr. Demma.
 8 THE REPORTER: Would you like me to swear the
 9 witness?
 10 HEARING OFFICER STUDDARD: Swear the witness.
 11 And what is her name?
 12 MR. DEMMA: Bonnie Lawrence.
 13 BONNIE LAWRENCE,
 14 having been produced and first duly sworn as a witness on
 15 behalf of the respondent, and after responding "Yes, I
 16 do" to the oath, testified as follows:
 17 DIRECT EXAMINATION
 18 BY MR. DEMMA:
 19 Q Please state your name, Ms. Lawrence, and spell
 20 your last name for the record.
 21 A Bonnie Lawrence, L-a-w-r-e-n-c-e.
 22 Q Just for your general information, right next
 23 to you you see a map that the parties -- an aerial map
 24 that the parties are both relying upon as needed, so if
 25 there's something that comes up that you'd rather

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1 demonstrate, just ask if that's okay and we'll go from
 2 there; okay?
 3 A (Witness nods head.)
 4 Q Thank you. How are you currently employed,
 5 Ms. Lawrence?
 6 A I'm a P.E. teacher at Oakleaf Junior High.
 7 Q Oakleaf?
 8 A Oakleaf, yes.
 9 Q That's in Clay County?
 10 A Yes, sir.
 11 Q How long have you been a P.E. teacher at
 12 Oakleaf Junior High?
 13 A I believe this is my fifth year.
 14 Q Did you have teaching experience prior to
 15 that?
 16 A Yes, I do.
 17 Q Where?
 18 A Prior to that, Argyle Elementary, Oakleaf
 19 Village Elementary, S. Bryan Jennings Elementary -- do
 20 you want all of them? Continue on?
 21 Q That's fine. How long a period of time have
 22 you been a teacher?
 23 A I believe this is my 17th year.
 24 Q Has all of that been as a P.E. teacher?
 25 A Yes.

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1 Q What areas of certification do you have?

2 A K through 8. I taught elementary probably -- I

3 think maybe ten years, and the rest have been in --

4 Q Excuse me?

5 A I'm trying to think. Junior high for five

6 years, so for 12 years I was an elementary teacher.

7 Q Do you presently occupy any departmental

8 position in the P.E. department?

9 A Yes, I'm the department head.

10 Q How long have you been department head?

11 A This is my second year.

12 Q And who -- who preceded you as department

13 head?

14 A Janet Rowe.

15 Q Do you know Mike Ford?

16 A Yes.

17 Q How long have you known Mike Ford?

18 A I've known Mike Ford since I've been in the

19 county.

20 Q And have you worked with him?

21 A Just at Oakleaf Junior High.

22 Q So that's five years?

23 A Five years, yes.

24 Q What was your impression of Mr. Ford's

25 effectiveness as a teacher during your time together?

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1 A I felt like he was a very effective teacher.

2 Q Do you have a -- let me strike that, say it a

3 different way.

4 Where do you place student safety on the

5 priority list of the time you spend as a P.E. teacher,

6 you personally?

7 A Personally it's my number one priority.

8 Q And why is that?

9 A Well, they're junior high -- well, it doesn't

10 matter from elementary or junior high, but at this

11 particular time, we have a high volume of students in our

12 P.E. classes. They're junior high students. They're

13 very active, moving around a lot. Little things,

14 somebody can be looking at them the wrong way or, you

15 know, just moving around, because they've been sitting

16 all day, they tend to be more active with us, so I have

17 to make sure that they're safe.

18 Q Do you know what the letters EBD stand for in

19 education-language jargon?

20 A I think it's emotional behavior disorder.

21 Q Have you ever had EBD students in your P.E.

22 classes?

23 A I have, and do.

24 Q How long?

25 A I had four, four to five of them in my class,

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1 one class last year.

2 Q In your particular P.E. class?

3 A Yes, in one class.

4 Q How about this year?

5 A This year I have one.

6 Q Have you ever heard of something called Safe

7 Crisis Management?

8 A I have heard of it, yes.

9 Q Have you ever taken Safe Crisis Management?

10 A No, I have not.

11 Q Has anybody ever suggested that you take it?

12 A No.

13 Q How many teachers are there in the Oakleaf P.E.

14 department?

15 A There are six of us.

16 Q How do you assign them and divide them up, for

17 example, by grade and gender?

18 A We have two teachers in sixth grade, two in

19 seventh and two in eighth.

20 Q Is there a way you work to divide the

21 curriculum up over time among the teachers?

22 A How do you mean?

23 Q Let me -- let me move on from that.

24 Do you have a walkie-talkie in your possession?

25 A Yes.

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1 Q As a teacher?

2 A Yes.

3 Q Have you had a walkie-talkie since you've been

4 at Oakleaf?

5 A Yes, I have.

6 Q Can you describe for Ms. Studdard the reception

7 that you've experienced out at the school with the

8 walkie-talkie?

9 A My experience with the walkie-talkies?

10 Q Yes.

11 A Well, it's not very good. The reception for

12 the walkie-talkies, sometimes it's difficult to -- to --

13 I'll just say, the office -- usually the office is

14 calling us because a child needs to be dismissed, early

15 dismissal. Not only if they're calling me, if they're

16 calling me continuously I can hear them, but I'm trying

17 to respond and they can't hear me back; however, another

18 teacher, another P.E. teacher may hear them, and that

19 teacher -- yes, another P.E. teacher, they're able to

20 hear, so they're sending a kid from their class to me and

21 say, "Hey, turn your radio on." Well, my radio's on,

22 but, you know, obviously she can't -- you know, they

23 can't hear me, and then we send the kids up.

24 There are times when I'm trying to call

25 administration or call the clinic or maybe another

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1 teacher, and they just -- you know, it doesn't work.
 2 We're just not able to communicate.
 3 Q Has that been, what you just described,
 4 something that has been fairly consistent since your time
 5 at Oakleaf?
 6 A It has, but last year was probably the worst
 7 experience, because instead of having three channels,
 8 they moved us to two channels. We had channel 1, 2 and
 9 3. 1 was administration, 2 was for P.E. and just general
 10 communication -- I'm sorry, not 2. 2 was custodians, 3
 11 was our channel to communicate. And last year they put
 12 everybody on 2 except for the administrators. So I don't
 13 know if that is the reason why, but it was a lot more
 14 difficult.
 15 Q I'd direct you to look at the aerial photo over
 16 there (indicating), and just give a brief description of
 17 how -- how and where students are as the day comes to an
 18 end and where they go to at the last, let's say, ten
 19 minutes.
 20 A Last ten minutes. Okay. We have six P.E.
 21 teachers. We're all assigned to different areas. One
 22 teacher will be assigned out here in this area
 23 (indicating).
 24 Q The left field?
 25 A That's the left -- left field to the

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1 baseball -- outfield of the baseball field. And then one
 2 teacher will be assigned the softball field. It could be
 3 anywhere on the softball field. And then you have
 4 basketball and tennis court as one area, so you can
 5 utilize those. Then we have -- that's one, two, three
 6 teachers. The fourth teacher will be assigned out here
 7 on the field, football or soccer field. And then you
 8 have a fifth teacher in the gym. Then you have a sixth
 9 teacher that's in the weight room. There's a weight room
 10 and a classroom in the back of the gym. And they're
 11 assigned there.
 12 Q And what is your question?
 13 A Let's focus now on people that are on the
 14 fields or the courts. When you get within the last ten
 15 minutes of class on a typical day, what is supposed to
 16 start happening?
 17 A Within the last ten minutes we all start ending
 18 class.
 19 Q You can sit down if you want to.
 20 A Oh, okay. I didn't know if you wanted me to
 21 show me the flow. Do you want me to show you the flow
 22 from the gym?
 23 Q You can whenever you're talking about
 24 something.
 25 A That's what I was going to do. The last ten

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1 minutes, everybody from all of these fields, all of these
 2 areas, have to flow down this sidewalk into these
 3 students (indicating).
 4 Q And although the picture doesn't show it, what
 5 is at the end of that what appears to be a covered
 6 walkway?
 7 A At the end of this covered walkway, two --
 8 Q Yes.
 9 A -- double doors leading into the gym.
 10 Q When you came in here to this building there
 11 are some glass double doors. Is that roughly the size of
 12 the double doors you're talking about?
 13 A I don't know if it's exact, but yes, it's about
 14 that size.
 15 Q What kind of doors are there at the gym?
 16 A They're not glass like that. They're just
 17 thick doors. I don't know if they're steel.
 18 Q I'm going to assume you are one of the coaches
 19 on the baseball field.
 20 A Okay.
 21 Q Do you ever get out to all the areas, you
 22 personally, or are some teachers assigned to different
 23 areas?
 24 A We're all assigned -- we have a three-week
 25 rotation. You're assigned to each activity area because

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1 we need to spread the kids out for three weeks.
 2 Q If you're assigned to the baseball field and
 3 it's eight, nine, ten minutes before, what starts to
 4 happen?
 5 A You mean at the end of class?
 6 Q Yeah.
 7 A Within that last ten minutes -- actually, I
 8 probably start a little bit early and try to gather my
 9 kids up, line them up so that we can make our way to the
 10 gym.
 11 Q Is there something -- some particular way they
 12 have to line up?
 13 A Well, I have them all just line up in a single
 14 file line. And then you try to make it in. But here,
 15 everybody is trying to get in at the same time basically,
 16 within the last ten minutes, if that's what you're asking
 17 me.
 18 Q What are they having to go in to do?
 19 A To dress back in.
 20 Q And where -- if you can point it on that map,
 21 where are the locker rooms? And I know you're looking
 22 down on the top of the building, but where would the
 23 locker rooms be?
 24 A When you're entering this door (indicating),
 25 you have -- once you enter the door, the boy's locker

<p style="text-align: right;">Page 210</p> <p>1 rooms are about right here; the girl's locker rooms about 2 over here (indicating).</p> <p>3 Q So roughly on the lower right and upper left 4 part of that -- that --</p> <p>5 A Right here for the boys, lower right, and upper 6 right I guess for the girls (indicating).</p> <p>7 Q Is there -- are the locker rooms open all the 8 time?</p> <p>9 A The locker rooms stay secured until the duty -- 10 until the teacher that's on duty goes in and locks the 11 door.</p> <p>12 Q Is it always the same teacher?</p> <p>13 A We rotate. Every unit we have a different 14 teacher in there.</p> <p>15 Q Can you open the boy's locker rooms?</p> <p>16 A I have the key, but I would not, because I 17 can't supervise the boys.</p> <p>18 Q And if Mr. Ford were there, would he be allowed 19 to open the girl's locker room?</p> <p>20 A Yes -- no, no, no, he couldn't.</p> <p>21 Q So it's gender specific?</p> <p>22 A Yes.</p> <p>23 Q And whoever is supposed to open the locker room 24 on a given day near the end of class, do they also have 25 classes or are they just sitting in the locker room?</p>	<p style="text-align: right;">Page 212</p> <p>1 could hold you up that could delay you from getting in.</p> <p>2 Q So if you're bringing your class in from the 3 field, are you always with them, walking in the door with 4 them?</p> <p>5 A Yes, we should be with them, yes.</p> <p>6 Q And then -- and then you would go perhaps where 7 your duty post was?</p> <p>8 A Right. Once I bring my kids in, I would have 9 my boys sit. As soon as they -- as soon as they enter 10 this door, I have them sit. If the locker room door is 11 open, meaning that -- that would indicate that the 12 teacher is in there on duty, then they -- they would flow 13 in. But that doesn't -- it doesn't always happen 14 because, like I said, every day is different. And if 15 it's locked, my boys will sit, and I will bring my girls 16 over to the other side, make sure they're sitting.</p> <p>17 And then as kids are coming in, it starts to 18 get a little crazy in there because there are so many 19 kids flowing in, so if I'm not on duty in the locker 20 room, I'll still go ahead and unlock the door and kind of 21 stand in between the locker room door and the hallway so 22 I can at least get the girls in. Because it's so full 23 right here, you've got all the boys trying to -- 24 congregating right here trying to get in the locker rooms 25 (indicating), the girls have to try to get through them</p>
<p style="text-align: right;">Page 211</p> <p>1 A No, they also have classes. When they end 2 their class, they start bringing their class in from the 3 field, bringing their class in, having them sit. They 4 sit in the back hallway along the walls. As soon as you 5 open the doors, the boys will sit on one side of the 6 wall, and they sit on the other side of the wall. Girls 7 will proceed down the hallway and sit on the other -- in 8 front of their locker room doors and wait until the 9 teacher on duty -- whenever they make their way in, then 10 they're going to open the locker room door. Sometimes 11 they're early, sometimes they're late, depending on, you 12 know, where they are and what's going on with their 13 class. Every day is different.</p> <p>14 Q How frequent is it an occasion that one of the 15 coaches that has some particular duty post is late, like 16 couple of minutes?</p> <p>17 A It's an everyday occurrence.</p> <p>18 Q What kinds of things --</p> <p>19 A It happens.</p> <p>20 Q What kinds of thing might cause it?</p> <p>21 A You may have -- you may have two students 22 having a disagreement. You may have a student that's 23 upset about something, an injured student, a student has 24 a question. You may have somebody -- a student aide from 25 the office that needs you, you know, different things</p>	<p style="text-align: right;">Page 213</p> <p>1 and get to their locker room -- I mean, get to where they 2 need to go. So I do try to open it a little if I'm one 3 of the first ones there.</p> <p>4 Q When kids are going from one place to another 5 in the P.E. area, let's focus on the covered hallway --</p> <p>6 A Right here (indicating)?</p> <p>7 Q -- going toward the -- toward the gym door 8 there --</p> <p>9 A Okay.</p> <p>10 Q -- from the fields, can it be loud out there if 11 kids are moving around?</p> <p>12 A Yes, it's very loud.</p> <p>13 Q They're not supposed to be --</p> <p>14 A No, we don't require them to be quiet.</p> <p>15 Q They're not supposed to be shushed and quiet?</p> <p>16 A No. We have to be quiet all day in the 17 classroom.</p> <p>18 Q Inside the hall -- where does that hallway run, 19 by the way, inside there?</p> <p>20 A This hallway goes straight across to these 21 other -- (indicating)</p> <p>22 Q And is there some kind of -- is there some kind 23 of little alcove where you turn and go to the locker 24 rooms?</p> <p>25 A Well, when you come in, the boy's locker room</p>

<p style="text-align: right;">Page 214</p> <p>1 is, I don't know, maybe ten feet and you'll turn into the 2 boy's locker room. Go a little bit further, maybe 3 another ten feet, and then there's a hallway that goes -- 4 leads into the actual gymnasium. And if you continue on, 5 you'll have the girl's locker room. Continue on, you go 6 out -- exit out the other side (indicating). 7 Q How many students is a fair of range of numbers 8 that you'd have in a typical P.E. class, let's say last 9 year? 10 A Anywhere from 25, 45, 48. 11 Q What's your total class roll this year, just 12 for example? 13 A From one class? 14 Q No, for the -- your total roll for all of your 15 classes. 16 A 48 -- I have to add it up. I have 48 in one 17 class, 47 in another, 46 in my third, 40 in my fourth, 39 18 in my fifth class. So whatever that equates to. 19 Q And within the ten-minute period, is it -- do 20 all the students have to get in there, get into the 21 locker room, change -- 22 A Yes. 23 Q -- and then get back out of the locker room? 24 A They have to get in there and change, and then 25 get back out to wherever their meeting area is until the</p>	<p style="text-align: right;">Page 216</p> <p>1 that? 2 A Yes, sixth hour. 3 Q Do you recall anything specific about the 4 circumstances in that hallway in terms of students in 5 there that was going on that afternoon, end of fifth 6 period? 7 A At the end? I just remember I was in the gym, 8 and my kids were -- I dismissed my kids a little bit 9 early, just because we're in the gym, I like to give them 10 a little head start because they're sixth graders. And 11 nobody was in the locker room. The -- whoever was on 12 duty wasn't. My kids were sitting, and I believe Mike's 13 kids were flowing in. 14 Q Now, do the kids tend to always sit just the 15 way you like them to sit? 16 A No. 17 Q What types of things do some of them do and 18 what do you do about it? 19 A They like to come in, and they'll run get a -- 20 run through the hallway, run and try to get a drink of 21 water, socialize with their friends, lay down on the 22 floor instead of sitting. You know, they're required to 23 sit. We try to get them cross their legs or pull their 24 legs back, because it is kind of a tight hallway. But, 25 you know, it is a challenge. You're constantly, "Put</p>
<p style="text-align: right;">Page 215</p> <p>1 bell rings. 2 Q And do all the teachers have boys sit on one 3 side of the hall and the girls sit on the other side? 4 A As they're entering the building, boys are 5 required to sit in the hallway. Yes, and we don't let 6 them stand, because they tend to get more -- they tend to 7 have more problems when they're standing around. So they 8 require them to sit as best they can, again, it's very 9 crowded, until somebody opens the locker room door. 10 And sometimes -- you know, we get on in and we 11 have them sit as much as we can. We have them around the 12 corner. When these two -- this hallway is packed 13 (indicating), and then we have a hallway leading to the 14 gymnasium, sometimes that gets packed, and then we still 15 have kids standing out here waiting to get in on some 16 days (indicating). 17 Q Were you present at school on the afternoon of 18 April 3rd, 2013, the day that's in question involving Mr. 19 Ford? 20 A Yes. 21 Q Now, did -- what period of day was that that 22 the incident happened? 23 A I'm assuming it was -- I think it was fifth 24 hour, the fifth hour of the day. 25 Q And is there another hour of the day after</p>	<p style="text-align: right;">Page 217</p> <p>1 your legs back," "I need you to sit up." 2 Q And can they be on both sides of the hallway? 3 A Yes. They can -- well, they have to, there's 4 so many. 5 Q Do you remember anything about what Mr. -- what 6 happened with Mr. Ford outside the locker room that 7 day? 8 A No, I have no knowledge of that. 9 Q You didn't see it? 10 A No, I didn't see or hear. 11 Q There were, to your recollection, a fair number 12 of students, boy students congregating around the door? 13 A Yes, my class and Mike's class, I guess when 14 they were coming in. I mean, they have to come in and 15 sit down. I just remember saying, "Sit down." I don't 16 remember how many, but there were two classes. If I'm 17 not mistaken, I think Ms. Smith's class was also coming 18 in at that time. 19 Q Is the hallway area that we've been talking 20 about just inside that double door an area that is 21 generally of concern to the P.E. staff? 22 A Yes, we call it a hot spot. 23 Q What do you mean by that? 24 A Because there's usually -- that's where all the 25 kids enter from the outside athletic fields. You have</p>

<p style="text-align: right;">Page 218</p> <p>1 four classes coming in at one -- we try to stagger, but 2 again, we do the best we can, but it doesn't always work 3 out that way. And depending on how quickly that door is 4 opened, it can be an area for potential fights and things 5 like that.</p> <p>6 Q Over the course of your time, let's just say at 7 Oakleaf, have you been involved in breaking up fights 8 from time to time?</p> <p>9 A Yes, just minor -- usually we try to be really 10 proactive. If we see it coming on, we try to go and act 11 quickly. Just, you know, if I see kids, like if they're 12 having words, I immediately go over and get in close 13 proximity, see what's going on. Usually that will 14 diffuse them; sometimes it doesn't.</p> <p>15 And sometimes there's a situation where I'm -- 16 a good example would be where I'm trying to get in the 17 door and all the boys standing there, and I'm trying to 18 get through and two of them are having words because 19 something happened out on the P.E. field, and I'm having 20 to not push them, but, "Hey, guys, let's back off, you 21 over here, you over here," and maybe give them just a 22 little light push, "I need you over here and you over 23 there." And it's just situational.</p> <p>24 Q Has that happened to you, where you had to get 25 down that hallway and had a hard time getting there?</p>	<p style="text-align: right;">Page 220</p> <p>1 A Inside -- inside that hallway?</p> <p>2 Q Inside that hall.</p> <p>3 A Yes.</p> <p>4 Q Is there any particular reason why kids might 5 prefer to be inside the door, just inside?</p> <p>6 A Just right inside the door, because that's 7 where, when the bell rings, the boys go out that door. 8 They all want to get close to the door so they can exit, 9 be the first to get out.</p> <p>10 Q Do you know the student who is -- was involved 11 in this matter with Mr. Ford named -- we're calling him 12 D.O.?</p> <p>13 A I never had him in class, but I had experiences 14 with him in -- in between classes, I should say, in the 15 gym.</p> <p>16 Q What kind of experiences?</p> <p>17 A Well, he liked to wear his pants too low, so 18 I'd have to ask him to pull his pants up, and he'd 19 usually argue with me about it. He would come out of the 20 locker -- there was a couple days where he came out of 21 the locker room and he -- apparently he didn't wear -- he 22 didn't wear the shirt to school, but he liked to -- he'd 23 come to P.E. class and he would put this -- these clothes 24 on at the end of P.E. class, and he'd kind of walk 25 around. And, of course, we would notice him.</p>
<p style="text-align: right;">Page 219</p> <p>1 A Yes, yes.</p> <p>2 Q What time of day is the fifth period class, if 3 you know, or at least give or take a couple of minutes?</p> <p>4 A When does it begin?</p> <p>5 Q When does it begin and end?</p> <p>6 A I have to think here.</p> <p>7 Q And I guess I need to say, was it the same last 8 year, because it's --</p> <p>9 A Oh, it's -- it is the same. The time hasn't 10 changed. I have to stop and think, because I'm just 11 not -- I have to think about what time I have to bring 12 them in. Are you --</p> <p>13 Q If you can. If you're having a hard time 14 picking a time --</p> <p>15 A I am. I'm having a hard time when it begins. 16 I just know when it ends. I know we bring the kids in at 17 2:39.</p> <p>18 Q And that's -- would that be --</p> <p>19 A That's all I remember.</p> <p>20 Q -- roughly ten minutes before the end?</p> <p>21 A Ten minutes is when we try to bring them in.</p> <p>22 Q Are there -- is there any reason that you've 23 experienced that -- well, let me say it a different way. 24 Have you experienced a tendency for students to 25 congregate near the door?</p>	<p style="text-align: right;">Page 221</p> <p>1 Like one time he had a shirt on, and it had an 2 inappropriate picture of a woman, like she was not 3 dressed. And we said, "You know, that's not appropriate. 4 We need you to go back in and change." And he said, "Why 5 is it not appropriate?" And he just wanted to argue with 6 you.</p> <p>7 And so finally one day -- I mean, I wouldn't 8 argue with him, because he was very mean. He was -- he 9 was just a little bit intimidating. And so I would use 10 an aide. She would stand -- she would always be standing 11 near. Like if the other P.E. teacher was back there with 12 me, like Coach Rountree, he might step in, because he 13 could see what was going on, and he'd say, "I need you 14 to" -- and he would kind of get right on Coach Rountree, 15 like in his face, and, "What's wrong with me wearing this 16 shirt?"</p> <p>17 And then finally, I mean, you know, 18 reluctantly, he would go in sometimes, and other times he 19 would just walk away, like try to get out of the gym. 20 And he would say, "F this school," or, "I hate these 21 F'ing rules."</p> <p>22 Another time he was sitting on the table in the 23 back hallway, and I just said, "Hey, I need you to get 24 off that table. Students aren't allowed to sit on the 25 table." And, "Why can't I sit on the table?" You know,</p>

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1 I said, "Well, no, you're supposed to be sitting on the
 2 floor." You know, just little things like that.

3 And then -- so I go in my office. I just kind
 4 of walked away from the situation, because he was always
 5 a little confrontational. And then I came back out. So
 6 instead of sitting, he's laying on the table. And then
 7 at that point I went and told his aide, I said, "You need
 8 to talk to him. He shouldn't be laying on that table."

9 Q When you're talking about an aide, are you
 10 referring to somebody that accompanies the student --

11 A Whoever came with him that -- I don't know if
 12 he had different aides. I know we have -- if I'm not
 13 mistaken, I think we have two aides. And I usually had
 14 one, Ms. Diaz. So I'm assuming it was Ms. Strunz, but
 15 I'm not quite sure that day -- of those days. I just
 16 know they were -- because they both meet in the back
 17 hallway at the end of class as well, with their kids
 18 because they had to get their backpacks and -- in the
 19 area where he would be standing, both aides would be
 20 there.

21 Q Have you ever been in a situation involving
 22 Mr. Ford where you heard him threaten to hurt a
 23 student?

24 A No.

25 Q If the outcome of this hearing is such that

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1 Mr. Ford can be reinstated, would you have any problems
 2 working with him again?

3 A No.

4 MR. DEMMA: That's all I have for the
 5 witness.

6 MR. HOLSHOUSER: I just --

7 HEARING OFFICER STUDDARD: Any questions?

8 MR. HOLSHOUSER: I just have a few questions.

9 CROSS EXAMINATION

10 BY MR. HOLSHOUSER:

11 Q You said about communications that the radio
 12 system didn't work well. Do teachers, are they allowed
 13 to carry cell phones on them?

14 A As far as I know we weren't. I never carried
 15 mine because I thought we couldn't. I don't know --

16 Q But do you know if other --

17 A I don't know that it's a rule. I think that
 18 some teachers did it for --

19 Q Okay.

20 A -- you know, for different reasons.

21 Q Do you know whether Mr. Ford had a cell
 22 phone?

23 A I believe he did have a cell phone.

24 Q So if you have a cell phone, you can call the
 25 office if the radio is not working?

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1 A If you knew the number. I'm not even sure what
 2 our number is.

3 Q But assuming you knew the number, you could
 4 just call, right?

5 A Yes.

6 Q Now, we were talking about the student named
 7 D.O. I think you listed some issues you had with him
 8 when he wore his pants too low and he argued about that;
 9 came out with an inappropriate shirt, he argued that; sat
 10 on a table and was told not to, he argued about that and
 11 then laid down. You never had any situation where D.O.
 12 attacked anybody, did you?

13 A No, he doesn't attack, but he's just --
 14 afterwards he gets mad and he kind of just runs around
 15 and he's blurting things. You know, the kids are sitting
 16 there and he's a little --

17 Q He's verbal, he's verbally abusive?

18 A Verbal and a little -- I have never -- I've
 19 never seen -- you're asking if he's ever hit anybody?

20 Q Yeah.

21 A No, I've never seen him hit anybody, but the
 22 way he moved around, I was afraid of him. I didn't want
 23 to be near him, because the way he just moved around from
 24 randomly to the walls.

25 Q But as far as what had actually happened, you

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1 never saw him hit or try to strike anybody else?

2 A No.

3 Q And when something came up where he acts up,
 4 you got the aide to handle him like you did when he went
 5 on the table, right?

6 A Not necessarily. Sometimes I think the aides
 7 were afraid to handle him. Usually it would be one of
 8 the male teachers.

9 Q Or -- but they'd would have an aide there?

10 A There was an aide there.

11 Q And is it your understanding that the aides are
 12 trained in Safe Crisis Management?

13 A Yes.

14 Q So even though you're not, the aide that's
 15 there is?

16 A Yes.

17 Q Now, you didn't see any part of the incident
 18 which occurred that led -- led us to this hearing?

19 A No.

20 Q Now, is there anything that prevents a teacher
 21 from -- who's with a student, from entering that door
 22 where you say it can be crowded, the teacher going in
 23 first ahead of the student to make sure there's not going
 24 to be any problem when you go in that hallway?

25 A No, sir.

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1 Q In other words, if a teacher is with a student
 2 who may be acting out, is there anything that keeps that
 3 teacher from going into the hallway first or at the same
 4 time as a student?
 5 A I guess if nobody is in the hallway. If -- if
 6 there are other kids lined up going in, you may have a
 7 hard time getting in.
 8 Q Yeah, but --
 9 A But if it's just the student and the teacher --
 10 Q Yeah, just the -- there's nobody in front of
 11 the door, they open the door, they can both go in,
 12 right?
 13 A They should be able to, yes.
 14 Q So anyway, I just want to make sure it's a
 15 situation where there is no rule against a teacher either
 16 going in with or going in right ahead of the student.
 17 A Right.
 18 MR. HOLSHOUSE: I have no further questions.
 19 HEARING OFFICER STUDDARD: Okay.
 20 MR. BICKNER: Redirect, Mr. Demma?
 21 MR. DEMMA: No. No redirect.
 22 HEARING OFFICER STUDDARD: So this witness is
 23 excused?
 24 MR. BICKNER: She can be excused?
 25 MR. DEMMA: She can.

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1 (Witness excused.)
 2 (David Lawrence exited conference room.)
 3 HEARING OFFICER STUDDARD: If you'll call your
 4 next witness.
 5 MR. DEMMA: I'll call Janet Rowe.
 6 HEARING OFFICER STUDDARD: If you will swear
 7 the witness in.
 8 JANET ROWE,
 9 having been produced and first duly sworn as a witness on
 10 behalf of the respondent, and after responding "I do" to
 11 the oath, testified as follows:
 12 DIRECT EXAMINATION
 13 BY MR. DEMMA:
 14 Q Ms. Rowe, please state your name and spell your
 15 last name for the record.
 16 A My name is Janet Rowe, R-o-w-e.
 17 Q Just by way of courtesy, I direct your
 18 attention to an aerial map that the parties have agreed
 19 to use as a demonstrative exhibit. If I ask a question
 20 that's better answered by getting up and pointing, please
 21 do so. And I may ask you to, but you can do it.
 22 What is your current employment, Ms. Rowe?
 23 A I am the athletic director and physical
 24 education teacher at Oakleaf Junior High School.
 25 Q How long have you been a teacher, Ms. Rowe?

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1 A 33 years.
 2 Q And how long have you been at Oakleaf Junior
 3 High School?
 4 A Since it opened in '06.
 5 Q Have all your 33 years been in Clay County?
 6 A Yes.
 7 Q Have you ever served as a department chair at
 8 Oakleaf?
 9 A I have.
 10 Q How many years?
 11 A Approximately five or six.
 12 Q You turned it over to Ms. Lawrence?
 13 A I turned it over to Ms. Lawrence. And one year
 14 Mr. Huffman was department head. When I took over as AD
 15 in '07, I think Mr. Huffman was department head. And
 16 then I think he left and went to another school, and then
 17 I took over again as department head.
 18 Q Do you know Mike Ford?
 19 A I do.
 20 Q And by the way, what is your highest degree
 21 level?
 22 A Bachelor's.
 23 Q In what?
 24 A Bachelor's of Science in physical education,
 25 college of education.

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1 Q I think I asked if you knew Mike Ford. How did
 2 you first come to meet Mr. Ford?
 3 A I actually met Mike, I was the field supervisor
 4 for the summer recreation program that was run through
 5 adult community education, and Mike ran the Paterson
 6 Elementary site. So that was how I first met Mike.
 7 Q And then did you subsequently run into him
 8 again?
 9 A Yeah. And then he and I both opened up Oakleaf
 10 together in '06.
 11 Q Have you had opportunities to observe Mr. Ford
 12 working with students out on the P.E. fields and in the
 13 locker room and other places?
 14 A Yeah, I have.
 15 Q Have you ever heard him make a threat to do
 16 physical harm to a student?
 17 A No, I have not.
 18 Q Do you -- as a P.E. teacher, have you had any
 19 experiences with breaking up fights?
 20 A I have.
 21 Q How frequently would you say over the years?
 22 A More frequently than I care.
 23 Q Have you ever been injured --
 24 A I have.
 25 Q -- breaking up a fight?

1 A Yes, I have.

2 Q Does -- is there anything that your experience

3 has brought to you that gives you any insight into ways

4 to know something is going to happen before it happens,

5 something bad?

6 MR. HOLSHOUSE: I'll object to the form as

7 vague.

8 MR. BICKNER: Sustain that.

9 MR. DEMMA: I'll ask it again.

10 HEARING OFFICER STUDDARD: Okay. Let's try

11 again.

12 MR. DEMMA: Thank you.

13 BY MR. DEMMA:

14 Q Tell Ms. Studdard if there's anything about

15 your long experience in P.E. that helps you get a handle

16 on potential problems before they get too big?

17 MR. HOLSHOUSE: Same objection.

18 MR. BICKNER: It's vague?

19 MR. HOLSHOUSE: Vague, yeah.

20 MR. BICKNER: Do you understand the question?

21 THE WITNESS: Basically, is there anything that

22 helps me understand if something's going to happen?

23 MR. BICKNER: I would overrule that. She's got

24 the question. She can or can't answer it.

25 BY MR. DEMMA:

1 at Oakleaf?

2 A Yes. Yeah, I am.

3 Q Let's say you're -- are you sometimes out on

4 the baseball field?

5 A Uh-huh.

6 Q Are you sometimes out on the basketball and

7 tennis courts?

8 A Right. We rotate -- we rotate our areas every

9 three weeks. We have units of three weeks in our

10 department and everybody rotates to those different

11 facility areas. Like this is the baseball field, that's

12 the softball field (indicating) -- let me put my glasses

13 on. That's the tennis court, basketball court and that's

14 the gym (indicating). And so we all occupy different

15 areas for the period of three weeks, and we rotate around

16 those different facilities.

17 And the kids come down to the gym from the

18 classroom, which it looks like this is Building 4 maybe

19 (indicating). And there's a portable, so this is

20 Building 4 here (indicating). So the kids come down this

21 sidewalk into the gym and go into the locker room area

22 first ten minutes of the period, change clothes.

23 When they come out, they go to the different

24 areas. Some of them might be sitting in the hallway,

25 some might be -- I can't see where the tennis court --

1 Q Can you answer it, or do you want me to

2 rephrase it?

3 HEARING OFFICER STUDDARD: I'll overrule it.

4 I'm trying to figure out where you're going here,

5 too.

6 MR. BICKNER: Let her answer it.

7 HEARING OFFICER STUDDARD: Just go ahead and

8 let's hear your answer.

9 THE WITNESS: Basically, you know, out in the

10 P.E. facility, you've got a large environment of

11 kids. Typically, there's different things that you

12 can see. Like, you know, kids are -- might be in

13 each other's face, or they might be -- just looks

14 like that something might be stirring up. You know,

15 kids gather, bunch of kids gather around each other,

16 things like that that you witness, and you can just

17 see that something might be getting ready to happen

18 out there.

19 BY MR. DEMMA:

20 Q Is safety on the P.E. field something that you

21 consider very important?

22 A Safety out there is our number one concern,

23 absolutely.

24 Q Are you familiar with the movement of students

25 and coaches during the last ten minutes of class period

1 tennis courts are out here. We actually -- you can't see

2 them, but -- there they are, there they are (indicating).

3 The bleachers are right there. They'd sit in the

4 bleachers and then the bleachers here (indicating).

5 And we each have different areas that we're

6 assigned to supervise and -- and occupy during that time

7 exchange. Then we have class. And then at the end of

8 the period they all stay -- you know, stagger back into

9 the locker room.

10 Q I assume you don't mean they're staggering.

11 You mean they --

12 A No, they're staggered.

13 Q I hope not staggering.

14 A They're staggered. Yeah, they might be

15 staggering if they run the mile run. We stagger them

16 back in through -- in through the area there, and they

17 come in the back hallway and go to the locker room to

18 change clothes. After they change clothes, then they sit

19 back in the different areas that are designated for their

20 grade level and wait for the bell to ring.

21 Q Is one of those areas where students wait for

22 the bell to ring the hallway from the fields into the

23 locker room area?

24 A Yes.

25 Q And I want to change gears just a minute. Have

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1 you ever taken Safe Crisis Management?

2 A No, I have not.

3 Q Have you ever been invited to take it?

4 A There was an e-mail that went out from the

5 county that it was being offered, and --

6 Q How long ago?

7 A Well, the very first time I think was way back

8 when I was at Orange Park Junior High, but most recently,

9 probably in maybe '09.

10 Q What did it say?

11 A Basically that the -- that it was being offered

12 through the county, that the -- if you were interested in

13 taking it, then to send a response e-mail to the person

14 that -- and I don't remember who the person is that sent

15 the e-mail out or anything, but to just respond to the

16 e-mail.

17 Q Were you department chair then?

18 A I was.

19 Q Did you have an interest at that time?

20 A We did, yeah.

21 Q "We" being who?

22 A "We" being the department. We wanted to take

23 it. So I sent an e-mail response back to see if we could

24 sign up for it. And we were told no, that it was only

25 being -- at that time being given to ESE people or people

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1 that were I guess in those areas.

2 Q Does the sequence of events you outlined about

3 how kids go from the field back into the locker room at

4 the end of period, does that work like clockwork, to

5 perfection most times?

6 A No. No.

7 Q How would you describe how it works on any

8 given day or doesn't work?

9 A Well, we typically try to allow the kids ten

10 minutes at the end of the period, obviously to go back

11 in, change clothes, have some time to cool off, get ready

12 for class. But, you know, any number of things could

13 happen. I could have a student that's hurt out there and

14 I'm having to wait on a nurse to get out there. We could

15 have a discipline issue. We could have -- just you lost

16 track of time and you were late getting your group in.

17 It could be a number of different reasons, you know.

18 That we ran over with the activity.

19 But typically, if we're all on track, ten

20 minutes before the end of the period we try to get the

21 kids back into that back area, to the locker room, change

22 clothes. And then once they've changed clothes, they

23 have a designated area. Everybody has a designated area

24 to sit. Some sit in the hallway, some sit in the back

25 classroom, some sit in the gym. And so after they --

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1 excuse me. After they've changed clothes, that's where

2 they go to to wait for the bell.

3 Q And roughly, what would be the total number of

4 students you might have for six classes of P.E. in a --

5 just an average?

6 A The highest being 240, maybe 250; the lowest

7 being 180.

8 Q So the last ten minutes of a period, let's say

9 200 to be in between there, all 200 kids have to have

10 their coaches, their teachers get them into the -- into

11 the locker room area, out of the locker room area, and

12 then released when the bell rings, correct?

13 A Yes.

14 Q Was one of the areas at the end of the walkway

15 that leads from the basketball court to the double doors

16 there on the lower right side of the gym?

17 A It looks like this one (indicating).

18 Q Yeah.

19 A Yeah, because that's the three portables, yeah.

20 That would be this one that leads into the back doors,

21 the basketball court's here, coming in to the back door

22 here (indicating). And then this -- this would be where

23 the locker rooms are. The boy's locker room is here, the

24 girl's locker room is here, and starting at that high

25 peak, that's the gym, on the back half here of the

Page 237

1 classroom (indicating).

2 Q Do you divide up which students -- let's talk

3 about students that are supposed to go to that hallway

4 you just talked about. Do you divide them up by gender

5 as far as where they go?

6 A Yeah, they're divided up by gender and by grade

7 level. So we have coming in the back hallway -- like I

8 say, here's the boy's locker room, so obviously we have

9 the boys come out and sit right here in this hallway and

10 in that back classroom (indicating). And the girls come

11 out here, so we have them sit in this hallway in that

12 back classroom (indicating). So -- and then this is the

13 center of the hall here (indicating).

14 Q In your 30 years, 33 years of teaching, do you

15 find that boys follow your rules better than girls?

16 A No, no. And I raised a daughter so -- and a

17 boy, so I know. No.

18 Q Are there times -- you've talked about

19 sometimes things -- well, let me strike that.

20 Does each teacher have a duty assignment at a

21 particular time to go to some station and man it?

22 A Yes. At the beginning and the end of the

23 period we each have a duty. I might be in the locker

24 room, I might be in the back hallway, or I might be in

25 the gym. That's at the end of the period. Because

<p style="text-align: right;">Page 238</p> <p>1 that's where the kid -- three areas that the kids are at.</p> <p>2 At the beginning of the period, we are in the</p> <p>3 locker rooms, the back hallway and out in this facility</p> <p>4 area out here (indicating), because the kids will sit</p> <p>5 here and then in these two sets of bleachers</p> <p>6 (indicating). So we're out in that area.</p> <p>7 Q Have you experienced situations where there</p> <p>8 were a significant -- let's say 50 or more students</p> <p>9 trying to -- waiting for the class to end in that hallway</p> <p>10 along the -- at the end of the walkway from the fields?</p> <p>11 A Yes. That's where -- typically the boys would</p> <p>12 sit right here (indicating), which is here's the doors</p> <p>13 going into the gym, so the boys would all be sitting</p> <p>14 right here by the door, because they, when the bell</p> <p>15 rings, come out this door and go down this sidewalk</p> <p>16 (indicating). So they'd come out the door and go down</p> <p>17 this sidewalk, and the girls come out this door and go</p> <p>18 this way (indicating). So they all sit right here by the</p> <p>19 door trying to be the first ones to get out</p> <p>20 (indicating).</p> <p>21 Q Those are the boys?</p> <p>22 A Yeah.</p> <p>23 Q Are there occasions when there's kind of a</p> <p>24 backlog of people trying to get into the locker room?</p> <p>25 A Yeah. Well, we have --</p>	<p style="text-align: right;">Page 240</p> <p>1 BY MR. DEMMA:</p> <p>2 Q Is the hallway we've just been describing an</p> <p>3 area that is of particular concern to you when you were</p> <p>4 the department head?</p> <p>5 A It's -- it's always our concern, whether I'm a</p> <p>6 department head or not. It's a concern because there's a</p> <p>7 large amount of kids in that area at any given time,</p> <p>8 whether it's at the beginning. And this is part of the</p> <p>9 reason why we have the boys go out the other side, is,</p> <p>10 you know, we -- actually, when we first started there,</p> <p>11 they used to all exit out this way (indicating). Well,</p> <p>12 you can imagine you've got probably about 50 kids here,</p> <p>13 50 or 60 kids here and the same thing here, and they're</p> <p>14 all coming out at the same time when the bell rings.</p> <p>15 And we try to stop them. You know, we'll stand</p> <p>16 there, you know, "You go, you go, you go and you go,"</p> <p>17 like that (indicating), but they typically would all be</p> <p>18 exiting out that one set of doors. Now, not only are</p> <p>19 they exiting out, but you have the next period of kids</p> <p>20 that are trying to come in. And being junior high,</p> <p>21 they're going to push and shove and try to get past each</p> <p>22 other. So, yeah, it's -- it's a -- it's a big -- big</p> <p>23 problem. It's a problem area.</p> <p>24 Q Do you rely upon walkie-talkies on a daily</p> <p>25 basis?</p>
<p style="text-align: right;">Page 239</p> <p>1 Q At the end of the period?</p> <p>2 A Well, yeah. For example, if somebody else's</p> <p>3 class has gone in ahead of me, their kids may have</p> <p>4 already gone in, changed clothes, and they're already</p> <p>5 sitting in the hallway while my kids are trying to come</p> <p>6 into that back doorway to get to the locker room. So</p> <p>7 therefore, you got kids -- you know, we'd like to say</p> <p>8 they're all sitting, but that's not the case, they are</p> <p>9 junior high students. So, you know, they might be</p> <p>10 sitting or they might be standing. They might have their</p> <p>11 feet out, even though we tell them every day, "Tuck your</p> <p>12 feet, cross your legs," but they're going to be in that</p> <p>13 hallway as we're trying to come in.</p> <p>14 Plus they're going to be coming out of the</p> <p>15 locker room, which is right here (indicating), so they're</p> <p>16 going to be coming out of the locker room trying to get</p> <p>17 over there to sit down, or they're already sitting there</p> <p>18 as my class is coming in trying to go to the locker room.</p> <p>19 Q If something were to happen in a hallway at a</p> <p>20 time like you just discussed, how -- is it going to be</p> <p>21 difficult for a teacher to get to the -- to the students</p> <p>22 that are having a problem?</p> <p>23 A Yes.</p> <p>24 MR. HOLSHOUSER: Let me just object -- well ...</p> <p>25 MR. DEMMA: I'll move on.</p>	<p style="text-align: right;">Page 241</p> <p>1 A We do.</p> <p>2 Q When you say "we," do you mean all of -- you</p> <p>3 and your colleagues in P.E.?</p> <p>4 A Yeah, our department has -- is issued a set of</p> <p>5 walkie-talkies.</p> <p>6 Q Have you -- have you found the reception to be</p> <p>7 satisfactory at Oakleaf school, the walkie-talkie</p> <p>8 reception?</p> <p>9 A No, it's not. It's -- it's not very reliable</p> <p>10 at all, and it's been that way from the beginning, which</p> <p>11 is why we all carry our cell phones, or why some of us</p> <p>12 carry our cell phones, because we've had issues with the</p> <p>13 walkie-talkies and people in the front office not being</p> <p>14 able to -- to hear us. And, you know, it's -- I've had a</p> <p>15 couple of situations, emergency situations where I wasn't</p> <p>16 able to reach anybody on the walkie-talkie and had to</p> <p>17 call them on my cell phone.</p> <p>18 Q Are you supposed to have cell phones and use</p> <p>19 them during class?</p> <p>20 A Well, we don't -- we've never been told that we</p> <p>21 can't have our cell phone on us. I mean, I don't use the</p> <p>22 cell phone in class except in an emergency. But I carry</p> <p>23 it on -- in my pocket because the radios have been so</p> <p>24 unreliable since the beginning.</p> <p>25 Q Were you present at the school, at Oakleaf</p>

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1 Junior High School, on the day of Mr. Ford's -- the
 2 incident that brings us here today?
 3 A No, I was not.
 4 Q We talked a little bit about having duty
 5 assignments. Is one of the duty assignments to be the
 6 person that gets there to open the locker room?
 7 A Yes.
 8 Q Is there a male and a female?
 9 A Male and female, yeah, to open the locker
 10 room.
 11 Q Does that present a problem if that person is
 12 delayed?
 13 A Yeah, it does. I mean, typically what you try
 14 to do is the person that's on locker room duty, ideally
 15 they will try to be the first one there to let the kids
 16 in. But if something happens in -- in that time frame
 17 and they're not able to, then that would delay them
 18 getting there to open the locker room, which means kids
 19 are going to be hovering in the hallway. And, again,
 20 they're supposed to come in and sit down, that's what we
 21 tell them to do, that's what we've preached to them to do
 22 because of safety, is to come in, sit down, wait until
 23 the coach opens the locker room and lets you in. That's
 24 what they've been taught to do.
 25 But, again, you know, they're junior high

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1 students and they're not always going to follow direction
 2 per se. So if the locker room's not open, they're in the
 3 hallway waiting to get in.
 4 Q Can there at times be as many as 50 or more
 5 students in the boy's end of the hallway area waiting to
 6 go somewhere?
 7 A Yeah. Considering we have classes of 40 kids,
 8 yeah, that would be easy.
 9 Q Ms. Rowe, if the outcome of this proceeding was
 10 to lead to Mike Ford's reinstatement, would you have any
 11 problem working with him again?
 12 A No, not at all.
 13 MR. DEMMA: That's all the questions I have.
 14 CROSS EXAMINATION
 15 BY MR. HOLSHOUSER:
 16 Q Ms. Rowe, I just have one question. If you
 17 learn that Michael Ford had pled guilty and admitted that
 18 he was guilty of felony child abuse, would that change
 19 your opinion about going to work with him again?
 20 A I think --
 21 MR. DEMMA: I'm going to object to -- I'm going
 22 to object to the question because it's misstating
 23 the circumstance that we've been talking about.
 24 MR. HOLSHOUSER: I think I pretty much
 25 accurately described what was on this document and

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1 asked her if it changes her opinion.
 2 (Hearing Officer and Mr. Bickner conferring.)
 3 MR. BICKNER: He can go back and talk about it
 4 on cross examination if he wants to.
 5 HEARING OFFICER STUDDARD: Okay. So overrule?
 6 MR. BICKNER: Yeah.
 7 HEARING OFFICER STUDDARD: Overruled.
 8 BY MR. HOLSHOUSER:
 9 Q Does that change your opinion to learn that
 10 Michael Ford had pled guilty to felony child abuse and
 11 admitted to being guilty?
 12 A I would have to say no, and I would also have
 13 to say that I would have to know the circumstances of the
 14 entire situation. But I know -- I've worked with Mike
 15 for eight years. I know what kind of a person that he
 16 is. I have worked side by side with him in many
 17 situations and different circumstances, and no.
 18 MR. HOLSHOUSER: I have no further questions.
 19 HEARING OFFICER STUDDARD: Okay. May this
 20 witness be excused?
 21 MR. DEMMA: Yes.
 22 Mr. Bickner, what time was it you were needing
 23 to leave?
 24 HEARING OFFICER STUDDARD: Okay. You may be
 25 excused.

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1 MR. BICKNER: I need to leave about 4:00.
 2 (Witness excused.)
 3 MR. HOLSHOUSER: I have a request here to take
 4 a short break.
 5 HEARING OFFICER STUDDARD: Okay.
 6 (Recess from 3:10 p.m. until 3:16 p.m.)
 7 HEARING OFFICER STUDDARD: If you'll call your
 8 next witness.
 9 MR. DEMMA: I'll call Antonette Walker-Ford.
 10 HEARING OFFICER STUDDARD: If you'll swear in
 11 the witness.
 12 ANTONETTE LAVETTE WALKER-FORD,
 13 having been produced and first duly sworn as a witness on
 14 behalf of the respondent, and after responding "Yes, I
 15 do" to the oath, testified as follows:
 16 DIRECT EXAMINATION
 17 BY MR. DEMMA:
 18 Q Please state your name and spell your
 19 hyphenated last name for the record.
 20 A My name is Antonette Lavette Walker-Ford. Last
 21 name is spelled W-a-l-k-e-r hyphen F-o-r-d.
 22 Q I guess I ought to get you to spell Antonette,
 23 too, since it's that kind of name.
 24 A A-n-t-o-n-e-t-t-e.
 25 Q Ms. Ford, where do you work now?

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1 A Oakleaf Junior High.
 2 Q Are you a teacher?
 3 A Yes.
 4 Q What do you teach?
 5 A Language arts, eighth grade.
 6 Q How long have you taught at Oakleaf Junior
 7 High?
 8 A Since its inception, 2006, August 2006, since
 9 they opened.
 10 Q Is all that time as a language arts eighth
 11 grade teacher?
 12 A Yes.
 13 Q How about, how long have you worked in Clay
 14 County?
 15 A In Clay County, since October of 2000, so 13,
 16 going on 14 years.
 17 Q And what's the sum total of your teaching
 18 career years?
 19 A I've been teaching for about 23 years.
 20 Q What are your areas of certification?
 21 A English, sixth through 12, ESOL and ESE.
 22 Q And degrees, what degrees do you have?
 23 A My degree is in English literature.
 24 Q That's a bachelor's?
 25 A Yes.

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1 Q And how long have you been teaching junior high
 2 school students, roughly?
 3 A Probably about -- probably about 16, 16
 4 years.
 5 Q Is Oakleaf Junior High School a sixth through
 6 eighth school, sixth grade through eighth?
 7 A Currently, yes, it is.
 8 Q To your knowledge, are there any other regular
 9 junior high schools in the district that have sixth
 10 graders, too?
 11 A Not currently.
 12 Q Have you received any particular teaching
 13 awards recently?
 14 A 2010-11 school year, I was voted teacher of the
 15 year at -- at my school Oakleaf Junior High.
 16 Q Do you know Mike Ford?
 17 A Yes.
 18 Q How did you come to know him?
 19 A We were hired about the same time to come to
 20 work at Oakleaf Junior High when the school opened.
 21 Q Have you -- have you come to have an
 22 understanding of how junior high school students behave
 23 and act from your long career with them, generally?
 24 A Generally.
 25 Q How would you describe some of the behaviors

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1 you deal with on a daily basis?
 2 A Junior high kids are sometimes like Florida
 3 weather.
 4 Q What do you mean?
 5 A Never know what you're going to get until
 6 you -- until you wake up that morning. They are -- they
 7 are, for the most part, pretty good kids; however, you
 8 have sometimes that -- because their emotional roller
 9 coaster is still developing and learning how to -- their
 10 maturity -- they're learning how to be a little more
 11 mature and controlling and stuff, then some days you have
 12 some really off days for -- for some of the kids.
 13 Q Have you had -- have you had occasion to try to
 14 break up fights in junior high school?
 15 A Yes, just -- just at -- just speaking of
 16 Oakleaf, since the time I've been there, I've probably --
 17 it's probably been about six that I've had to break up.
 18 Q Were you injured in any of those fights?
 19 A Yes. I was injured in one.
 20 Q What happened? Just simply. I don't want to
 21 get into --
 22 A The -- I got hit in the head with a language
 23 arts book that's about that thick (indicating).
 24 Q Was it targeted at you, do you think?
 25 A No. I was between the two young ladies trying

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1 to get them apart, and the larger young lady was -- was
 2 adamant about getting to the other young lady, and so she
 3 came across my back. And in coming across my back, she
 4 hit me in the head with the book and -- as she was trying
 5 to I guess fling it at the other young lady.
 6 Q Is student safety something that is in your
 7 mind frequently?
 8 A Yes. Not that our kids are bad, okay? I'm not
 9 saying that. It's just student safety is on my mind
 10 frequently because of the different things that have
 11 happened within the school systems over the years, you
 12 know. And so you're -- you're always -- for me, I am
 13 conscientious of things that are going on around me, the
 14 kids, the adults, everybody.
 15 If there is -- if there is someone there
 16 without a tag and they don't have their county ID, then
 17 I'm stopping them. If there are kids that are -- that
 18 are talking too loud, then I'm quieting them, you know.
 19 Because to me, I just feel like I need to be proactive in
 20 that. Because I worry about the children; that's my
 21 biggest thing.
 22 Q Have you -- are you familiar with a program
 23 called Safe Crisis Management?
 24 A I'm not familiar with it in the sense that I've
 25 ever been a part of it. I heard about it years ago.

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1 Q Have you ever taken the training?

2 A No, I have not had the training.

3 Q Have you ever been invited by anyone to come

4 and get the training?

5 A Not that I know of.

6 Q In the years that you've worked with Mike Ford,

7 have you ever heard him make a threat to hurt a

8 student?

9 A No, I have not heard anything like that.

10 MR. DEMMA: That's all the questions I have for

11 this witness.

12 HEARING OFFICER STUDDARD: Any questions?

13 MR. HOLSHOUSER: I have no questions.

14 HEARING OFFICER STUDDARD: Okay. May the

15 witness be excused?

16 MR. HOLSHOUSER: Uh-huh.

17 MR. DEMMA: Yes.

18 HEARING OFFICER STUDDARD: Okay.

19 (Witness excused).

20 MR. DEMMA: I have one more, if -- and I

21 don't --

22 HEARING OFFICER STUDDARD: Oh, yeah.

23 MR. DEMMA: That's good? And then we -- I

24 don't want to be at ten minutes to 4:00 and have you

25 ask me to get another witness.

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1 HEARING OFFICER STUDDARD: No, no, no. One

2 more?

3 MR. DEMMA: One more today, unless somebody's

4 coming in the meantime.

5 (Off-the-record discussion.)

6 HEARING OFFICER STUDDARD: Court Reporter, if

7 you will swear in the witness.

8 EDWARD S. HUFFMAN,

9 having been produced and first duly sworn as a witness on

10 behalf of the respondent, and after responding "Yes" to

11 the oath, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. DEMMA:

14 Q Please state your name and spell it for the

15 record.

16 A Edward S. Huffman, H-u-f-f-m-a-n. Most people

17 know me as Smitty, S-m-i-t-t-y.

18 Q Are you also known as Edward Don't Call Me --

19 Don't Call Me Edward Huffman?

20 A Well, I won't answer that one.

21 Q Mr. Huffman, how are you employed presently?

22 A I work for Clay County School Board. I am a

23 sixth grade math teacher at McRae Elementary.

24 Q How long have you been teaching math at

25 McRae?

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1 A Math?

2 Q Or teaching at McRae. That's good.

3 A Teaching at McRae, this round, the last five

4 years, this is my sixth year there.

5 Q And what's your highest degree level?

6 A Bachelor of Arts in education.

7 Q And your current years of certification?

8 A K through sixth, elementary; K through 12,

9 physical education, and I previously had a biology

10 certification.

11 Q How long have you been a teacher in -- how long

12 have you been a teacher altogether?

13 A Altogether, about 20 years.

14 Q And how many in Clay County?

15 A Nine.

16 Q Did you ever work at Oakleaf --

17 A Yes.

18 Q -- Junior High?

19 A Yes.

20 Q When did you work there?

21 A I worked there the first two years Oakleaf was

22 open.

23 Q And do you -- did you meet Mike Ford then?

24 A Yes, I did, first time I ever met him.

25 Q How did you interact with Mike?

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1 A I taught physical education as well there. I

2 coached with Mike Ford. I was a physical education

3 department head the second year I was there.

4 Q And what sports have you coached over your

5 career, Mr. Huffman?

6 A Whatever sport there is. Because usually if

7 you -- I was the athletic director in Duval County, so if

8 I couldn't get a coach, I had to coach it. So football,

9 baseball, softball, volleyball, track, cross-country,

10 tennis. Am I missing anything? I don't -- I didn't do

11 wrestling. That's the only one I didn't do.

12 Q So you worked with Coach Ford just those two

13 years at Oakleaf?

14 A Yes.

15 Q Did you find him to be an effective P.E.

16 teacher?

17 A Very much so. He's probably one of the better

18 physical education teachers I've ever known.

19 Q Have you ever, in your time together, seen

20 him -- or excuse me -- heard him make a threat to harm a

21 student?

22 A No, I have not.

23 Q Over the course of your career, have you been

24 in situations where you intervened to break up fights?

25 A Hundreds of times. As an athletic director and

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1 a coach, you are oftentimes put in positions where you're
 2 used as security for the school if there are functions of
 3 the school. And actually, I've been requested numerous
 4 times to be in those positions.
 5 Q Have you ever taken a program called Safe
 6 Crisis Management?
 7 A No, I have not.
 8 Q Have you ever been invited to take it?
 9 A I've never been invited to take it, no.
 10 Q Have you ever expressed an interest in taking
 11 Safe Crisis Management?
 12 A Yes, I made a request to take it.
 13 Q To whom?
 14 A To Terry Roth who -- Dr. Terry Roth, Clay
 15 County schools.
 16 Q And when was that that you made that request?
 17 A That was last -- it was last year. I'm not
 18 sure exactly what month it was. It was probably in April
 19 or May. I don't remember what month it was, honestly.
 20 Q Was there any particular thing that prompted
 21 you to make a request then?
 22 A Yes, sir.
 23 Q What was it?
 24 A There's -- there's such a high increase of ESE
 25 students that are mainstreamed. At my school, and I'm

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1 sure others, but my school in particular, I was starting
 2 to feel a little uncomfortable because there's
 3 approximately 38 percent ESE students in my regular
 4 classroom out of the rest of the class. So 38 percent in
 5 all my classes are ESE.
 6 Q How did you first communicate with -- who is
 7 Terry Roth, by the way?
 8 A She -- my understanding is she's the director
 9 of ESE for the county.
 10 Q So how did you first attempt to communicate
 11 with her?
 12 A I e-mailed her and asked if I could take the
 13 class so I could get a certification in Safe Crisis
 14 Management.
 15 Q Did you get a response from Ms. Roth?
 16 A I did. I -- actually, she e-mailed me, said
 17 she wanted to talk on the phone --
 18 MR. HOLSHOUSER: Let me just object here. If
 19 we have some e-mails, I think the document would
 20 speak for itself. Do you have that as an exhibit?
 21 He's testifying --
 22 MR. DEMMA: Yeah, I do. I do have it as an
 23 exhibit.
 24 MR. HOLSHOUSER: Yeah, I was going to say --
 25 MR. DEMMA: I was going to let him go through

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1 the sequence and then have him --
 2 MR. HOLSHOUSER: I don't mind the sequence, but
 3 just tell me what the content of it is and just read
 4 it.
 5 MR. DEMMA: I'll provide one to --
 6 MR. HOLSHOUSER: This is Respondent's 3?
 7 MR. DEMMA: Yeah, Respondent's 3.
 8 BY MR. DEMMA:
 9 Q Mr. Huffman, I show you --
 10 HEARING OFFICER STUDDARD: I don't have a copy
 11 of it.
 12 MR. DEMMA: I've got copies. I just -- I
 13 thought I gave them to you.
 14 BY MR. DEMMA:
 15 Q Mr. Huffman, did you ever talk to Ms. Roth --
 16 A Yes, I did.
 17 Q -- in the course of -- in the course of this
 18 sequence?
 19 A Yes, I did.
 20 Q What, if anything, did she say?
 21 A She stated that she thought it was
 22 inappropriate for a regular classroom teacher to be
 23 trained in Safe Crisis Management, and that she didn't
 24 think it was necessary for a regular classroom teacher to
 25 have that training.

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1 Q And that happened by phone?
 2 A Yes, sir.
 3 Q Is the document I put in front of you a
 4 sequence of e-mails between you and Ms. Roth ending with
 5 your -- with your e-mail to her?
 6 A Yes, sir.
 7 Q What's the date -- what's the range of dates on
 8 this document?
 9 A Let's see. I guess it start -- it would have
 10 started in April -- I'm trying -- April 24th. No. I
 11 called her office first, I guess. I guess I didn't send
 12 her an e-mail. Oh, wait a minute. Here it is. April
 13 22nd was the first e-mail I sent her, and then she called
 14 me, and we had to play phone tag a couple times, because
 15 she was very busy and I was, too. And then I e-mailed
 16 her again. And then she called me on the phone, you
 17 know, making the statement that she didn't think it was
 18 appropriate.
 19 Q What does the last entry of May 1st from you to
 20 Ms. Roth represent to you?
 21 A Oh, that was just a -- I guess a condensed
 22 version of putting it all together. And I requested that
 23 if her philosophy or the county's changed that would
 24 allow a regular teacher to take it, that I would -- and
 25 that I disagreed with the statement that I thought it was

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1 inappropriate, that I would like to take the training
 2 once it's available.

3 Q Did you get a response to your May 1st e-mail
 4 from Ms. Roth?

5 A No, sir, I did not.

6 Q Not by phone or by e-mail?

7 A (Witness shakes head.)

8 Q No?

9 A No.

10 Q At any time did Ms. Roth indicate to you that
 11 you could contact Jennifer Zimmerman or one of the
 12 trainers and that they'd set you up with the training?

13 A Never.

14 MR. DEMMA: I'd ask to move this into evidence
 15 as Respondent's 3.

16 MR. HOLSHOUSER: I have no objection.

17 HEARING OFFICER STUDDARD: Okay. This will
 18 be --

19 MR. DEMMA: Respondent's 3.

20 HEARING OFFICER STUDDARD: Respondent's 3.
 21 (Respondent's Exhibit No. 3 received in evidence.)

22 MR. DEMMA: Bear with me a moment.

23 BY MR. DEMMA:

24 Q Mr. Ford -- excuse me -- Mr. Huffman, if you'd
 25 look at -- in your response to Ms. Roth, I believe you

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1 reference a split-second decision. Can you tell
 2 Ms. Studdard what you mean by that as a teacher?

3 A Let me find it. Okay. Yeah, a lot of times
 4 any teacher has to make a split-second decision for the
 5 safety of the students. And whoever is involved in any
 6 situation -- and that changes daily. I mean, there has
 7 been times when I would have to jump across tables to
 8 prevent a student from hitting another student, or
 9 deflating a potential fight. I'm too old for that now,
 10 so I prefer not to. But there -- there was a time that I
 11 would do that because I don't want kids to get hurt, so
 12 sometimes I would have to make a split-second decision to
 13 prevent students from getting hurt. Either in a fight or
 14 previous to a fight is usually better.

15 MR. DEMMA: That's all the questions I have for
 16 the witness.

17 CROSS EXAMINATION

18 BY MR. HOLSHOUSER:

19 Q Okay. Mr. Huffman, I just have a few.
 20 You're friends with Mr. Ford?

21 A Yes, sir.

22 Q And been friends for a while?

23 A Yes, sir.

24 Q And when you sent this April 22 e-mail to Terry
 25 Roth, you were aware that he was involved in an incident

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1 on April 3, about two-and-a-half weeks before?

2 A Yeah, I was aware he was involved. It was in
 3 the media.

4 Q And you have taken Mr. Ford's side of the
 5 story. Do you believe him when he -- did he tell you
 6 about the incident?

7 A I have spoken to Mike.

8 Q No, before the e-mail I'm talking about.

9 A Before the e-mail?

10 Q Yeah. Did you talk to him about it?

11 A I talked to Mike about what was going on at the
 12 school, yeah.

13 Q And you believe his side of the story?

14 A I believe what I was told by several people.
 15 I'm -- I'm not sure what his side of the story would be
 16 exactly, but ...

17 Q Did he relate to you what had happened?

18 A Yes, he did.

19 Q Okay. Did you believe him?

20 A Yes, sir.

21 Q And now you had gone ahead and sent this e-mail
 22 thread. There was a telephone conversation between the
 23 last two e-mails, where -- where Ms. Roth asked you to
 24 call her to discuss why you would need the training?

25 A Right.

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1 Q So you had a call, and then --

2 A Yeah. The last e-mail that she sent me was
 3 April 29th. And then I called her in between that e-mail
 4 and then the last e-mail that I sent her.

5 Q Now, in the situations where you jumped in to
 6 break up a fight or a potential fight, has that been
 7 where somebody is actually coming after somebody or
 8 threatening to come after somebody?

9 A Both.

10 Q Have you ever jumped in to restrain somebody
 11 who hadn't made any move toward any other person at all,
 12 or threaten to do so?

13 A I -- I have restrained people that I suspected
 14 that were going to do that, yes.

15 Q And when was that? Was that at Oakleaf Junior
 16 High?

17 A I don't know. There were so many. It could
 18 have been. I -- honestly, I can't recall.

19 Q Now, you're aware that Mr. Ford had Safe Crisis
 20 Management training, aren't you?

21 A I -- that's my understanding.

22 Q Okay. And have you -- strike that.

23 MR. HOLSHOUSER: I don't have any further
 24 questions.

25 MR. DEMMA: I'm done.

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1 HEARING OFFICER STUDDARD: You're good on time?
 2 MR. BICKNER: May he be excused?
 3 MR. DEMMA: Yes, he can be excused.
 4 HEARING OFFICER STUDDARD: Oh, you don't have
 5 any more questions? I thought you said had --
 6 MR. DEMMA: No, no, I'm done.
 7 HEARING OFFICER STUDDARD: You're through?
 8 MR. DEMMA: Yeah.
 9 HEARING OFFICER STUDDARD: So he can be
 10 excused?
 11 MR. DEMMA: Yes.
 12 HEARING OFFICER STUDDARD: You're excused,
 13 Mr. Huffman.
 14 THE WITNESS: Thank you.
 15 (Witness excused.)
 16 (Off-the-record discussion.)
 17 HEARING OFFICER STUDDARD: We'll adjourn the
 18 hearing for today, and we will resume tomorrow
 19 morning at 8:30.
 20 (The hearing adjourned at 3:43 p.m. and resumed
 21 October 2, 2013 at 8:35 a.m.)
 22
 23
 24
 25

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1 Wednesday, October 2, 2013 8:35 a.m.
 2 (Also present for start of morning session: Michael
 3 Ford and Toni McCabe.)
 4 HEARING OFFICER STUDDARD: The hearing will
 5 resume in the case of Charlie Van Zant,
 6 Superintendent of Schools of Clay County,
 7 Petitioner, versus Michael Ford, Respondent. If you
 8 will -- are you ready to start?
 9 MR. DEMMA: Yes, ma'am.
 10 HEARING OFFICER STUDDARD: If you'll call your
 11 first witness.
 12 MR. DEMMA: We'll call Crystal Weidner.
 13 HEARING OFFICER STUDDARD: If you'll swear in
 14 the witness.
 15 CRYSTAL WEIDNER,
 16 having been produced and first duly sworn as a witness on
 17 behalf of the respondent, and after responding "Yes" to
 18 the oath, testified as follows:
 19 DIRECT EXAMINATION
 20 BY MR. DEMMA:
 21 Q Good morning, Ms. Weidner. Please state your
 22 name and spell it for the record.
 23 A Crystal, C-r-y-s-t-a-l, Weidner, W-e-i-d-n-e-r.
 24 Q Are you employed at this time?
 25 A No.

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1 Q How do you spend your time all day?
 2 A Taking care of my six children.
 3 Q Boys, girls?
 4 A One boy and five girls.
 5 Q Have any of your children had anything to do
 6 with Mr. Ford in terms of --
 7 A Five of my children --
 8 Q -- P.E. or sports?
 9 A Five of my children have had him; three for --
 10 he was their P.E. coach. He coached my oldest daughter
 11 in track, and then he led my two youngest in summer
 12 camp.
 13 Q Describe when you had opportunities to observe
 14 Mr. Ford in proximity to your children and other
 15 children.
 16 A Track meets, neighborhood events. He did the
 17 Step It Up Run where my kids were -- ran their race, and
 18 my daughter helped set up. And my daughter did community
 19 service with him for two years, my oldest daughter. And
 20 I've seen him at multiple track meets at the school, at
 21 school functions.
 22 Q What's your parental assessment of Mr. Ford's
 23 degree of concern for students from what you've
 24 observed?
 25 A Children are -- the students of the school are

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1 always his top priority, their safety, you know, their
 2 well-being.
 3 Q Have you ever, in those encounters you've had
 4 with Mr. Ford around students, ever heard him threaten to
 5 harm a student or a child?
 6 A Never.
 7 Q Have you ever seen him inappropriately push,
 8 shove or --
 9 A No.
 10 Q -- hurt a student?
 11 A No.
 12 MR. DEMMA: That's all the questions I have for
 13 Ms. Weidner.
 14 MR. HOLSHOUSER: I have no questions.
 15 HEARING OFFICER STUDDARD: Okay. Then the
 16 witness is excused.
 17 (Witness excused.)
 18 MR. DEMMA: The next witness just arrived.
 19 (Off-the-record discussion.)
 20 HEARING OFFICER STUDDARD: Reporter, if you'll
 21 swear in the witness.
 22 APRIL MARTIN,
 23 having been produced and first duly sworn as a witness on
 24 behalf of the respondent, and after responding "Yes,
 25 ma'am" to the oath, testified as follows:

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DIRECT EXAMINATION

1 BY MR. DEMMA:

2 Q Good morning, Ms. Martin. Please state your

3 name and spell it for the record.

4 A April Martin, A-p-r-i-l M-a-r-t-i-n.

5 Q How are you employed presently?

6 A I am a teacher at Middleburg High School.

7 Q Middleburg?

8 A Yes, sir.

9 Q Are you married?

10 A Yes.

11 Q What does your husband do?

12 A Also teaches at Middleburg High School.

13 Q How long have you been a teacher?

14 A Ten years.

15 Q What do you teach?

16 A Economics and American history.

17 Q Do you do any coaching?

18 A Yes, sir.

19 Q What sports?

20 A Track and field and cross-country.

21 Q How long have you been coaching those sports?

22 A I've been coaching track and field for ten

23 years, and cross-country --

24 Q And cross-country?

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1 A Six, I think.

2 Q I'm sorry. Can you speak a little louder.

3 A I'm sorry. Cross-country for about six

4 years.

5 Q Do you know Mike Ford?

6 A Yes, I do.

7 Q How long have you known him?

8 A Probably I think about nine of those years.

9 Q And in what context did you first meet him?

10 A He was helping with the elementary meet. We

11 hosted at Middleburg High School, so he was helping --

12 Angela Johnson actually was in charge of it at the time,

13 and then she was basically grooming him to take over the

14 elementary meet.

15 Q When you say "elementary meet," is that a track

16 meet where all the elementary schools field teams?

17 A Yes. All the elementary schools in the entire

18 county come, and it's several thousand people that are

19 there. And it's very -- it's probably the biggest event

20 next to graduation in Clay County.

21 Q Over the years since you've known Mr. Ford,

22 what types of occasions did you get to interact with him

23 and see him interact with students?

24 A The majority is through -- before Oakleaf High

25 School opened up a couple years ago, the -- Oakleaf, when

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1 Oakleaf Junior High opened up, he coached there, they

2 would practice at our school at least once a week.

3 Several occasions through -- we met a lot to work out

4 stuff with the elementary meet, and so on those days he

5 was dealing with elementary school kids, junior high

6 kids, high school kids. So lots of instances where he

7 was interacting with students.

8 Q During any of those interactions, have you ever

9 seen Mr. Ford physically contact a student in a way that

10 caused you concern?

11 A Not at all.

12 Q During any of those occasions have you ever

13 heard him make a threat to hurt a student?

14 A No, sir.

15 Q Are you an active member of the running

16 community in this area?

17 A Yes, sir.

18 Q Can you describe for Ms. Studdard what

19 Mr. Ford's efforts have contributed to the community?

20 A To be quite honest, I'm not even sure of the

21 whole of his efforts, but I know there's a lot of

22 efforts. He's done a lot through -- in years past, he

23 worked a lot with the Florida Striders, which are very

24 active in, you know, all elementary schools. He's done

25 things to start running clubs.

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1 One of the biggest things he did was -- you

2 know, we don't have sanctioned cross-country in junior

3 high, which is kind of tough at the high school level, so

4 he basically instituted the running clubs in the junior

5 high so the junior highs can still have, you know, junior

6 high cross-country meets; they're only two miles. And

7 basically he encouraged a whole lot of others at other

8 school, the other junior highs to also do it, and it was

9 all volunteers.

10 So that really helped get more kids excited

11 for, you know, running, which, in turn, helps us out at

12 the high school, so ... And that's just some of the

13 things that he's done. I'm not even aware of all of

14 them.

15 MR. DEMMA: That's all the questions I have for

16 Ms. Martin.

17 HEARING OFFICER STUDDARD: The witness is -- do

18 you have any questions?

19 CROSS EXAMINATION

20 BY MR. HOLSHOUSER:

21 Q You've known Michael Ford for nine years?

22 A Yes, sir.

23 Q And you've gotten to be pretty good friends

24 with him over that time frame?

25 A Yes, sir.

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1 MR. HOLSHOUSER: Okay. I don't have any other
 2 questions.
 3 HEARING OFFICER STUDDARD: Okay. The witness
 4 is --
 5 MR. DEMMA: I have a question.
 6 HEARING OFFICER STUDDARD: Okay. Excuse me.
 7 REDIRECT EXAMINATION
 8 BY MR. DEMMA:
 9 Q Are you here testifying to what you know about
 10 Mike Ford or are you here because you're his friend?
 11 A I'm here testifying what I know about Mike
 12 Ford.
 13 MR. HOLSHOUSER: I don't have anything.
 14 MR. DEMMA: The witness can be excused.
 15 HEARING OFFICER STUDDARD: The witness may be
 16 excused.
 17 (Witness excused.)
 18 (Off-the-record discussion.)
 19 HEARING OFFICER STUDDARD: If you'll swear in
 20 the witness.
 21 RANDY T. LEFKO,
 22 having been produced and first duly sworn as a witness on
 23 behalf of the respondent, and after responding "Yes" to
 24 the oath, testified as follows:
 25 DIRECT EXAMINATION

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1 BY MR. DEMMA:
 2 Q Mr. Lefko, please state your name and spell it
 3 for the record.
 4 A Randy T. Lefko, R-a-n-d-y T. L-e-f-k-o, F as in
 5 Frank.
 6 Q How are you employed currently, Mr. Lefko?
 7 A Sports editor Clay Today, and as substitute
 8 teacher in the school district Clay County.
 9 Q How long have you been substituting in Clay
 10 County?
 11 A Four-and-a-half years.
 12 Q What's your area of education and degree?
 13 A English is the undergrad and photojournalism
 14 the postgrad.
 15 Q Have you ever been a classroom teacher
 16 anywhere?
 17 A In New Jersey, about 13 years ago, and
 18 Pennsylvania as a student teacher as part of that
 19 curriculum.
 20 Q What did you teach in New Jersey?
 21 A English.
 22 Q How did you first -- do you know Mike Ford?
 23 A Yes.
 24 Q How did you first come to know Mike Ford?
 25 A Track meet, Step Up Florida. Step Up Florida

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1 had a little 5K race over here. He was part of the
 2 logistics of directing it and putting it on.
 3 Q Was that in your role for Clay Today or just as
 4 a runner or some other area?
 5 A As a sports guy.
 6 Q Have you had occasion to substitute teach for
 7 Mr. Ford?
 8 A Yes.
 9 Q That's in P.E.?
 10 A Yes.
 11 Q Have you substitute taught for any of the other
 12 P.E. teachers at Oakleaf Junior High School before?
 13 A Just about all of them.
 14 Q Have you substituted at other junior high
 15 schools in the community?
 16 A Yes, Lakeside Junior High, Lake Asbury Junior
 17 High, Green Cove Junior High, right over here
 18 (indicating).
 19 Q And in phys ed in all those schools as well,
 20 ever?
 21 A Yes.
 22 Q Well, thinking about Oakleaf Junior High first,
 23 when you sub in P.E., are you asked to play the same role
 24 that the teacher that was assigned to that class would
 25 play in terms of working with the other coaches?

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1 A Very much so.
 2 Q Have you had occasion to deal with the movement
 3 of students at Oaklake [sic] from the field areas to the
 4 locker room area for -- for changing at the end of the
 5 period?
 6 A Every time.
 7 Q Have you ever had to go into the hall area
 8 where the students enter from the covered walkway from
 9 the fields to go to the locker room?
 10 A Yes.
 11 Q Is that some place where, when you've subbed,
 12 you've had to go into that area for some reason?
 13 A Are you talking about this (indicating)?
 14 Q Let's look up at the map there. You can get up
 15 and look and I'll point. I'm directing you to -- there's
 16 a covered walkway that you see in black going to the P.E.
 17 building.
 18 A Right (indicating).
 19 Q What's on the other -- what's at the end of
 20 that hallway?
 21 A This hallway (indicating)?
 22 Q Yes.
 23 A Boy's locker room here, adjacent classroom
 24 there (indicating).
 25 Q And how do you enter that area?

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1 A There's a door, double door right there
 2 (indicating).
 3 Q And have you had occasion to be in that hall
 4 during the last five, ten minutes of a class period
 5 before?
 6 A Yeah, absolutely.
 7 Q Describe in general what it's like as far as
 8 who's in there and what's going on.
 9 A Moving chaos.
 10 Q Can you be more specific?
 11 A Well, you got kids going one way into the
 12 locker room, you got kids going from -- there's a
 13 classroom right here. The locker room is on this side.
 14 There's a hallway, door here, door here (indicating). So
 15 you got kids coming from many times three directions,
 16 sixth grade, seventh grade, eighth grade, depending on
 17 the timing of it. Because they try to move sixth graders
 18 in and out first to avoid the gum-up in the locker room.
 19 So there's -- there's a lot of traffic going every which
 20 way kind of.
 21 Q Where the kids that are in that hallway -- let
 22 me -- let me strike that.
 23 Do the hallways sometimes have kids in them
 24 that are just waiting for something to happen?
 25 A Yes.

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1 Q What are they waiting to happen?
 2 A To be released to go to the next class.
 3 Q And is there -- if you know, is there a
 4 particular order of like where boys stand and where girls
 5 stand or sit?
 6 A Yeah. Yeah, when they -- when they come out of
 7 the locker room, sixth graders go this way out of the
 8 locker room into the gym, and they line up boys on this
 9 wall, girls on that wall. This is the girl's locker
 10 room, and there's a weight room classroom there, and then
 11 the AD office is kind of in the middle. There's a
 12 hallway that goes straight up this way. And then there's
 13 a female phys ed office there and male phys ed off here
 14 (indicating).
 15 So as they go in -- normally the sixth graders
 16 come in first, just to get them in and out. So they go
 17 in here and then they go out this way (indicating). And
 18 then the seventh graders come back in, depending on where
 19 they are. And they're supposed to come out, line up on
 20 this hallway on both sides, kind of sitting facing each
 21 other, supposedly with their knees up, so that if there's
 22 another late class coming in, they can walk through kind
 23 of unencumbered and go into the locker room and get their
 24 stuff to leave, and then they come out.
 25 So this right here is kind of where the stress

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1 is (indicating). Because there's one -- there's one rule
 2 that's to me kind of odd. There's a water fountain right
 3 over here in the hallway, water fountain and these are
 4 the locker rooms (indicating). And one of the rules is
 5 they have to drink the water here and they come out here,
 6 and they can't drink from that one (indicating). And
 7 it's to me one of the odd rules of don't let them drink
 8 over here (indicating).
 9 So the whole idea is to separate the boys and
 10 girls. The boys are over here -- or girls are over here
 11 and then everybody is leaving that way (indicating). So
 12 the girls are already lined up over here, boys are lined
 13 up over here like this (indicating), waiting two, three,
 14 four minutes for the release bell.
 15 Q In your experience do they always sit with
 16 their knees up when they're in that hallway waiting?
 17 A Hardly ever.
 18 Q You try and -- try to get them to do it?
 19 A Oh, yeah.
 20 Q What was the term you used? Was it "managed
 21 chaos"?
 22 A Moving chaos.
 23 Q Have you subbed at the other junior high
 24 schools --
 25 A Yes.

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1 Q -- you said?
 2 How would you compare the amount of moving
 3 chaos at the other middle schools?
 4 A Much less stressful.
 5 Q Do you know why or you have -- I mean, have you
 6 observed reasons why?
 7 A Less kids. Less kids, more -- more open space
 8 to put them at to wait. At Lakeside, they either stay in
 9 the gym or they go outside. They have a similar outside
 10 pavilion with some benches on it, and they can go -- say
 11 this is the gym, there's a sidewalk and there's a
 12 sidewalk, the band room is here (indicating). And
 13 there's a covered pavilion from here to here
 14 (indicating), so they can --
 15 Q I don't know if Ms. Studdard can see you on the
 16 other side of the --
 17 HEARING OFFICER STUDDARD: Well, I know what
 18 he's doing. I know what he's doing.
 19 THE WITNESS: They can come out, and they can
 20 lounge here, they can lounge up -- there's a line
 21 right here on the sidewalk that they can go up to
 22 (indicating). Normally a P.E. teacher stands here,
 23 here (indicating), and then the rest of them kind of
 24 monitor in the gym or locker rooms. So they're at
 25 leisure to go this way (indicating). And so with

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1 I'm assuming a third less kids, it's -- it's very
 2 much more relaxed.
 3 BY MR. DEMMA:
 4 Q Does the other schools you've taught at, junior
 5 high schools, have sixth graders as well?
 6 A No.
 7 Q When you've subbed for other P.E. teachers at
 8 Oaklake while Mr. Ford was there --
 9 A Oakleaf?
 10 Q Excuse me, Oakleaf, Oakleaf, while Mr. Ford was
 11 there, did you have opportunities to observe Mr. Ford
 12 interacting with his students?
 13 A Yes, all the time.
 14 Q Have you had other occasions, for example, at
 15 track meets and things, to observe Mr. Ford interacting
 16 with students?
 17 A Yes, all the time.
 18 Q Have you ever seen him engage in inappropriate
 19 physical contact with a student at any of those times
 20 you've described?
 21 A Never.
 22 Q Have you ever heard him threaten to harm a
 23 child?
 24 A Never.
 25 MR. DEMMA: That's all the questions I have of

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1 the witness.
 2 HEARING OFFICER STUDDARD: Any questions of
 3 this witness?
 4 CROSS EXAMINATION
 5 BY MR. HOLSHOUSER:
 6 Q Mr. Lefko, over the four-and-a-half years
 7 you've known Mr. Ford, you've gotten to be good friends
 8 with him?
 9 A Acquaintances. I mean, we don't hang out. We
 10 talk at track meets. We have similar interests in track
 11 and cross-country. My -- my girlfriend's kids are
 12 top-notch track guys. He reached out and took kids from
 13 Lakeside with his track club to a state middle school
 14 championship that gave my girlfriend -- Terry's son was
 15 an 800 meter runner for Lakeside, and one of the -- the
 16 good things is that he made a track club that was middle
 17 state powerful, and invited David to run.
 18 Q And you appreciated his efforts in that
 19 regard?
 20 A Not just in that regard, but I mean, really
 21 within this entire county. He -- he is the guy that
 22 started the running community.
 23 Q And on the date of the incident that we're here
 24 about, you weren't at Oakleaf -- Oakleaf Junior High at
 25 all, were you?

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1 A Huh-uh.
 2 Q So you never witnessed --
 3 A Nope.
 4 Q -- anything going at that time? Okay.
 5 MR. HOLSHOUSER: I have no further questions.
 6 MR. DEMMA: Thank you, Mr. Lefko. You're free
 7 to leave.
 8 HEARING OFFICER STUDDARD: The witness is
 9 dismissed.
 10 (Witness excused.)
 11 (Recess from 8:57 a.m. until 9:02 a.m.)
 12 HEARING OFFICER STUDDARD: Call your next
 13 witness.
 14 MR. DEMMA: Tracy Butler.
 15 HEARING OFFICER STUDDARD: If you'll swear in
 16 the witness.
 17 TRACY BUTLER,
 18 having been produced and first duly sworn as a witness on
 19 behalf of the respondent, and after responding "I do" to
 20 the oath, testified as follows:
 21 DIRECT EXAMINATION
 22 BY MR. DEMMA:
 23 Q Good morning, Ms. Butler.
 24 A Good morning.
 25 Q Please state your name and spell it for the

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1 record.
 2 A Tracy Butler, T-r-a-c-y B-u-t-l-e-r.
 3 Q And how are you employed at this time?
 4 A I'm currently employed by FEA. I am service
 5 unit director in Clay County Education Association.
 6 Q What is Clay County Education Association?
 7 A The recognized labor organization for the
 8 teachers of Clay County.
 9 Q Describe in general terms what your functions
 10 are as service unit director?
 11 A As service unit director I -- the largest
 12 portion of my job is advocacy, which involves enforcing
 13 the contract, filing grievances, doing arbitrations,
 14 maybe representing members with principals and discipline
 15 issues. I also have -- bargain the contract.
 16 Q Have you ever been a teacher before?
 17 A I have. I was a teacher for eight years.
 18 Q Where was that?
 19 A In Duval County.
 20 Q What school?
 21 A I taught two schools. I taught Brentwood
 22 Elementary, which is an inner-city school, and I taught
 23 at Crown Point Elementary, which was considered a
 24 boutique school.
 25 Q Is it part of your job duties to be familiar

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1 with the terms of the collective bargaining agreement?

2 A Absolutely.

3 Q Is it part of your job duties to be familiar

4 with the Clay County School Board policies?

5 A Absolutely.

6 Q Do you attend to both those duties?

7 A I do.

8 Q Closely?

9 A Yes.

10 Q To your knowledge, Ms. Butler, does Clay County

11 adhere to just cause principles, including progressive

12 discipline?

13 A Yes, we have just cause --

14 MR. HOLSHOUSE: Let me -- never mind. Go

15 ahead. I didn't understand the question, but they

16 way she answered it, it sounds fine to me.

17 THE WITNESS: We have just cause provisions in

18 the contract, and there are just cause provisions in

19 the school board policy, yes.

20 BY MR. DEMMA:

21 Q And to your knowledge, does Clay County try to

22 use progressive discipline in most situations?

23 A In most situations.

24 Q For Ms. Studdard's sake, to be sure we're

25 clear, just give a brief explanation of what progressive

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1 discipline entails.

2 A Well, progressive discipline is based on the

3 fact that a person is given warnings if the -- if the

4 case warrants, and then it progresses from there maybe to

5 a written, and then there are other degrees after that,

6 including suspension and termination.

7 Our contract, on the other hand, has a

8 provision that says that oral warnings can be at the

9 discretion of the principal. They're not considered

10 discipline.

11 And there is a -- the next provision is for a

12 written warning, and it is also -- the first written

13 warning is also not considered to be discipline. And

14 then the second written warning of a similar nature, for

15 an incident of a similar nature, would be considered

16 written and go in the discipline file -- or considered

17 discipline and go in the file.

18 HEARING OFFICER STUDDARD: Repeat. The first

19 written ...

20 THE WITNESS: The first written in the contract

21 is not considered to be discipline and does not go

22 into the discipline file.

23 HEARING OFFICER STUDDARD: The second?

24 THE WITNESS: The second written warning for an

25 incident similar would be considered discipline and

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1 go into the discipline file.

2 HEARING OFFICER STUDDARD: Okay.

3 BY MR. DEMMA:

4 Q Is that -- do you know what article of your --

5 I can put it in front of you. It's in the --

6 A It's teacher discipline, I want to say 10.

7 Q Joint Exhibit 1 in the joint exhibit book is

8 the contract, if you'd --

9 A Okay.

10 Q Teacher discipline is XIX, I believe. Why

11 don't you check it out, page 38.

12 A Page 19?

13 Q Page 38.

14 A Yes. This is -- the first section of teacher

15 discipline talks to just cause, and the second talks

16 about the warnings and the process that we have of

17 warnings.

18 MR. DEMMA: Do you see that, Ms. Studdard?

19 Okay. You're looking at it, too. All right.

20 BY MR. DEMMA:

21 Q The last question on this subject, in the

22 context of a notion of progressive discipline, does an --

23 do oral warnings, written or otherwise, count as a

24 disciplinary action?

25 A They do not. According to our contract, they

Page 285

1 do not.

2 Q Ms. Butler, to your knowledge, does Clay County

3 have -- Clay County School Board have a policy that

4 addresses questions of reasonable force used by teachers

5 and other staff?

6 A Yes, they do.

7 Q Do you know where that -- where that --

8 A That is policy --

9 Q Look at Joint Exhibit 2 now, if you would.

10 A Okay.

11 Q If you keep flipping back, you'll see the last

12 two pages, I believe, are what you were referring to.

13 A Yes, they do, 2.32.

14 Q Can you go ahead and read out that whole policy

15 for the court reporter to get down, the number of the

16 policy.

17 A Oh, the number at the top is G -- is

18 6GX-10-2.32.

19 HEARING OFFICER STUDDARD: 6GX-1 --

20 THE WITNESS: 10-2.32.

21 HEARING OFFICER STUDDARD: Okay.

22 BY MR. DEMMA:

23 Q If you look at the front page of this exhibit,

24 it says it's the employee handbook. Do you know this,

25 the provisions of page 84 and 85, to be an official

Page 286

1 district policy?

2 A Yes, they should be, and they are in the -- the

3 district policy handbook.

4 Q And they're exactly the same?

5 A Exactly the same, yes.

6 Q Have you -- are you familiar with the

7 conditions requiring reasonable force? Have you looked

8 at this particular provision --

9 A Yes, I have.

10 Q -- extensively?

11 A Yes, I have. I am familiar with the conditions

12 of reasonable force.

13 Q Did Ms. McCabe meet with Mr. Ford at all to

14 talk about -- to investigate the allegations that are the

15 subject of this matter?

16 A Yes. We met -- Ms. McCabe met with Mr. Ford

17 and I on April 10th and April 22nd.

18 Q Was there a subsequent meeting of any kind with

19 Ms. McCabe and Mr. Ford?

20 A Yes, in May there was a final disposition

21 meeting.

22 Q Was that fact-finding in nature primarily, the

23 last one?

24 A It was receiving the documents that were a

25 summary of her fact-finding, yes. We didn't answer any

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1 questions at that time, but we received the documents

2 that were a summary of what the two prior meetings had

3 led to.

4 Q And had you received any of the fact-finding

5 meeting note summaries prior to that?

6 A No. We -- it is standard practice that we

7 receive the entire packet the day that the final

8 disposition is -- is given.

9 Q Who else was in the room at the two

10 fact-finding meetings?

11 A At the two fact-finding meetings on April 10th

12 and April 22nd, it was myself, Michael Ford, Ms. McCabe

13 and Marilyn Ware.

14 Q Who is Marilyn Ware?

15 A Ms. McCabe's secretary.

16 Q If you know, what was she there to do?

17 A Her role was to take notes.

18 Q And you presume she typed her notes to go into

19 that report, or do you not know?

20 A It is my understanding that the notes that we

21 received on the final disposition date in -- in May were

22 the notes that Ms. Ware typed up.

23 Q Was -- does the CCEA or Mr. Ford have any right

24 to veto any particular entries in the notes or change

25 them, to your knowledge?

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1 A On the day of the final disposition, we are not

2 given any opportunity to make changes to the documents

3 that we receive, no. I did point out an issue that I was

4 able to spin through very quickly and see, because I knew

5 that packet was going to the school board in just a few

6 days, so I was able to -- quickly that jumped out at

7 me.

8 Q What?

9 A There was an incident -- is that one of the

10 exhibits?

11 Q The fact-finding is the last page of

12 Petitioner's Exhibit 26, which is in the other book. Is

13 that what you're referring to?

14 A Yes. Exhibit 26?

15 Q Yes. I hope it is. Yes.

16 A It is.

17 Q Is that -- is that what you were referring to,

18 making -- suggesting changing?

19 A Yes. When I received this, I received this

20 entire document that -- that's here as Exhibit 26. So on

21 the final disposition meeting, this document is handed to

22 us as well as the notes that Ms. Ware took and typed up.

23 And so, therefore, we get a nice little packet.

24 And we, of course, are going through and

25 reading as quickly as possible, but that meeting lasts

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1 maybe about ten minutes, and we -- when I was reading

2 through the fact-finding, knowing that that's the

3 document that the school board receives to make their

4 decision, the first thing that jumped out of me -- out to

5 me was an incident regarding the chair. I believe the

6 original said something about the chair was knocked over,

7 and I clarified that our notes -- my recollection was

8 that the chair was kicked, and so Ms. McCabe had no

9 problem with changing that. I did not get any further

10 past that point with the time frame that we had.

11 Q Did -- did you keep notes as well?

12 A I do. I always take notes.

13 Q From the meeting?

14 A Yes.

15 Q Have you subsequently had time to review all of

16 the notes Ms. McCabe had Ms. Ware type up?

17 A I do. I read all of the notes in the days

18 following the final disposition meeting, and I also

19 refreshed my memory by reading all of the notes

20 recently.

21 Q In that last page of the fact-finding document,

22 Petitioner's 26, do you see a reference to Mr. Ford

23 having stated that he used the Safe Crisis Management

24 hold?

25 A Yes, yes.

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1 Q Where is that? I'll find it if you can't.

2 A I believe it's the fourth paragraph down. It

3 says, "The student continued to curse, move from the

4 chair toward the bleachers, and ultimately towards a door

5 leading into the building. Coach Ford stated he used

6 Safe -- Safe Crisis Management to restrain the student

7 based on his concern that entry into the building where

8 other students would be in close proximity could lead to

9 a possible problem."

10 Q Do you recall Mr. Ford stating that he used the

11 Safe Crisis Management hold?

12 A Mr. Ford did not state that he used a Safe

13 Crisis Management hold in any of our meetings.

14 Q Did you check through the notes that you

15 received from Ms. Ware on behalf of Ms. McCabe -- or from

16 Ms. McCabe that Ms. Ware typed, to see if there was any

17 statement of Mr. Ford saying that in the notes?

18 A Yes, I reviewed Ms. McCabe's -- the notes that

19 Ms. McCabe gave me that were typed up by Ms. Ware, and

20 nowhere in the notes does it say anything that Mr. Ford

21 said there was a Safe Crisis Management hold used.

22 Q Did you do anything additional to make sure

23 that that was the testimony --

24 A I went back to my notes. My notes are notes

25 that I just take down, and I -- they're very thorough,

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1 because I often put quotes in my notes, because I may

2 have to go back to that. And I did go back to my notes,

3 and at no time was there any mention that Mr. Ford said

4 he used a Safe Crisis Management hold.

5 Q Let's go back to pages 84 and 85 of Joint

6 Exhibit 2, the reasonable force policy.

7 A Yes.

8 Q Were you -- were you present during the entire

9 two investigative meetings?

10 A I was.

11 HEARING OFFICER STUDDARD: Would you repeat

12 that question, please?

13 MR. DEMMA: Yes. We're going back to the -- to

14 the Joint Exhibit 2, the use of reasonable force

15 policy.

16 HEARING OFFICER STUDDARD: Okay.

17 BY MR. DEMMA:

18 Q Have you had occasion to look at your notes,

19 look at Ms. McCabe's notes, recall what happened at the

20 meeting, and have any examples of things Mr. Ford said

21 that in your mind are pertinent to the reasonable force

22 conditions listed in part C of the rule?

23 A Absolutely. Whenever we -- I attend these

24 meetings, it is my responsibility to make sure that the

25 person that is doing the investigation follows, if not

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1 the contract, if the contract is silent, it follows the

2 policy. And my job is to sit and to just make sure that

3 that is happening as advocate for our members. If not,

4 then I have to make sure that I take it to the next

5 level, which could be grieving the decision.

6 As we were going through this investigation, I

7 noticed afterwards, when I received the copies of

8 everything, I noticed that Mr. Ford's answers to his

9 questions were in direct correlation to this policy. So

10 as I went back, I noticed that the policy, for example,

11 says, "Conditions that may require use of reasonable

12 force."

13 Q Is that part C?

14 A Part B.

15 Q B, okay.

16 A And so it talks about, "While the use of

17 physical force may be needed at times in order to ensure

18 a safe and orderly environment, alternative to such force

19 should be attempted, time permitting."

20 Mr. Ford made very clear statements in the

21 investigation that he followed these conditions with

22 regards to the child being a special ed kid. He also saw

23 the behaviors of the child prior to the incident that

24 happened at the door.

25 The next, I think, and most telltale part of

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1 this is section C. Section C gives guidelines for

2 determining reasonableness. Now, we -- I think the

3 district expects their teachers to have knowledge of

4 this, and so therefore, when the investigation is being

5 done, they -- this should be used as a template to decide

6 whether -- or decide how discipline is going to be

7 applied, if any.

8 MR. HOLSHOUSER: Let me just object. I think

9 that the witness here is getting into her own

10 opinions about what should have been done and not

11 done, more of a legal conclusion that the hearing

12 officer is supposed to address. It's really not

13 factual.

14 MR. BICKNER: That's what I was just thinking

15 about, is she's invading the province of this

16 hearing officer at this point in this --

17 MR. DEMMA: I'll move on to facts, sir.

18 MR. BICKNER: That would be a good idea.

19 MR. DEMMA: I didn't ask that question, but she

20 was -- I will move on.

21 MR. HOLSHOUSER: I didn't object to your

22 question.

23 MR. DEMMA: I understand.

24 BY MR. DEMMA:

25 Q Look at part C.

<p style="text-align: right;">Page 294</p> <p>1 A Part C, yes.</p> <p>2 Q First off, you did refer to part B. Look at</p> <p>3 B-5.</p> <p>4 A Yes.</p> <p>5 Q That says -- go ahead and read it.</p> <p>6 A "Other conditions which, in the judgment of</p> <p>7 on-site employees, threaten the safety and welfare of</p> <p>8 students or adults."</p> <p>9 Q Now, part C, which is entitled Guidelines for</p> <p>10 Determination of "Reasonableness" of Force --</p> <p>11 A Uh-huh.</p> <p>12 Q -- that's where we just were a moment ago.</p> <p>13 A Right.</p> <p>14 Q Do you recall Mr. Ford and the -- and the</p> <p>15 fact-finding documents to address issues of the severity</p> <p>16 of the student's offenses?</p> <p>17 A Yes, I do.</p> <p>18 Q State some specifically.</p> <p>19 A Mr. Ford explained to Ms. McCabe in our</p> <p>20 fact-finding meetings that the child had thrown a chair,</p> <p>21 the child had thrown the grade book, the child was</p> <p>22 cursing and exhibiting violent behavior.</p> <p>23 Q Violent -- I want to be clear. Violent toward</p> <p>24 others or just generically hostile behavior?</p> <p>25 A Hostile behavior would be the better word.</p>	<p style="text-align: right;">Page 296</p> <p>1 and to verbally calm the student down in an attempt to</p> <p>2 de-escalate the situation." So yes, that does reflect</p> <p>3 what was talked about in the notes.</p> <p>4 Q Are you aware of a program called "Safe Crisis</p> <p>5 Management"?</p> <p>6 A I am.</p> <p>7 Q Is it -- is it your understanding as the</p> <p>8 union's representative that regular classroom teachers</p> <p>9 are afforded the same opportunities for that training as</p> <p>10 special ed paraprofessionals and self-contained</p> <p>11 teachers?</p> <p>12 A They are not afforded that opportunity.</p> <p>13 Q Did the CCEA, at any time during your tenure at</p> <p>14 CCEA -- well, when did you start at CCEA?</p> <p>15 A October 2011.</p> <p>16 Q At any time during your tenure at CCEA since</p> <p>17 then, are you aware of any attempts by the union group to</p> <p>18 make more of the SCM training available to regular</p> <p>19 teachers?</p> <p>20 A Yes. My role also includes trying to help a</p> <p>21 president fulfill any goals he may have, he or she may</p> <p>22 have. And when I arrived, the president at the time</p> <p>23 explained that he had made multiple attempts with the</p> <p>24 district to offer training. And he was very adamant that</p> <p>25 he wanted Safe Crisis Management training because of the</p>
<p style="text-align: right;">Page 295</p> <p>1 Q How about item 7, "Actions taken prior to use</p> <p>2 of physical force," did Mr. Ford discuss what was going</p> <p>3 on before the restraint happened?</p> <p>4 A Again, he explained those issues with the</p> <p>5 chair, he explained those issues with the throwing the</p> <p>6 book, and that the child was approaching a door, and the</p> <p>7 concern was on the other side of that door were many</p> <p>8 children. And he had explained to Ms. McCabe that he was</p> <p>9 concerned about that child entering in the state that</p> <p>10 that child was in.</p> <p>11 Q Did the fact-finding report include evidence</p> <p>12 that Mr. Ford had tried to calm the student down?</p> <p>13 A The fact-finding report -- I know that in the</p> <p>14 notes that were taken by Marilyn, there's multiple</p> <p>15 discussions about trying to de-escalate -- de-escalate</p> <p>16 the child from the point of in the field where the chair</p> <p>17 incident happened up to the door. So I know there was</p> <p>18 discussion and notes were -- it did reflect in the notes</p> <p>19 that there was de-escalation attempts.</p> <p>20 Q And how about the bottom of the third paragraph</p> <p>21 in the fact-finding report --</p> <p>22 A Yes.</p> <p>23 Q -- it starts with, "Coach Ford."</p> <p>24 A Yes. And it is reflected here, "Coach Ford</p> <p>25 stated he approached to assist in handling the misconduct</p>	<p style="text-align: right;">Page 297</p> <p>1 complaints that we receive in our office from teachers</p> <p>2 and concerns that we have when we go out and -- and</p> <p>3 advocate for teachers.</p> <p>4 So he had made multiple attempts to get this --</p> <p>5 this program in place. We were willing to offer the</p> <p>6 training in our facility and work with the district on</p> <p>7 maybe providing points or something for the teachers if</p> <p>8 they were allowed to take it.</p> <p>9 Q To your knowledge, has anything come to</p> <p>10 fruition out of that effort?</p> <p>11 A That never came to fruition.</p> <p>12 Q Did you, during the course of the investigative</p> <p>13 meetings, ask Ms. McCabe to make an inquiry as to where</p> <p>14 the key witnesses, particularly Ms. Strunz, was when D.O.</p> <p>15 was explaining to Ms. Payne what had happened?</p> <p>16 A I did. I made numerous requests in the</p> <p>17 first -- I made numerous statements of concern in the</p> <p>18 very first meeting on April 10th that Ms. Strunz was in</p> <p>19 Ms. Payne's office whenever the student was making his</p> <p>20 claim to what happened. And so I asked Ms. McCabe to go</p> <p>21 back and ask where Ms. Strunz was, as well as</p> <p>22 Mr. Rountree, whenever the child was making his claim to</p> <p>23 the -- to Bridget Payne, the assistant principal.</p> <p>24 Q Did Ms. McCabe get back with you on that?</p> <p>25 A She did. At the second -- second fact-finding,</p>

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1 she told me, and it's in the notes, that Ms. Strunz was
 2 in the office whenever the student was making his report
 3 to Ms. Payne, as well as Mr. Rountree.
 4 Q I'm not asking you to make -- I'm not -- we're
 5 not necessarily asserting that there was something
 6 untoward about that, but what was the nature of any
 7 concern you had about -- why did you want to find that
 8 out?
 9 A When I'm in those meetings, I'm there to make
 10 sure that the investigation was done so that my member
 11 is -- receives due process. That's all we're there for,
 12 is to make sure they get their due process. So I have to
 13 make sure that nobody's claim or statement is that of
 14 someone else's. So I was concerned that she overheard
 15 what the child was alleging, and therefore, is there a
 16 possibility that that's where she got her statement from.
 17 So that's what I wanted to know.
 18 Q Did I ask -- did Ms. McCabe tell you what
 19 the -- what she found out?
 20 A She did, and it is in the notes, in our -- in
 21 Ms. McCabe's notes.
 22 Q Which is?
 23 A That Mr. Strunz, Mr. Rountree and the child
 24 were all in the office with Ms. Payne when -- when the
 25 child --

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1 HEARING OFFICER STUDDARD: You're saying inside
 2 the door of the office?
 3 THE WITNESS: Inside the door, inside the
 4 office, yes.
 5 BY MR. DEMMA:
 6 Q Did Mr. Ford explain anything to Ms. McCabe
 7 about when and why he let D.O. out of the restraint?
 8 A Ask again.
 9 Q Yeah. Did Mr. Ford explain when he let the
 10 student out of -- out of the restraint?
 11 A Yes. Mr. Ford actually demonstrated the
 12 restraint for Ms. McCabe in the office. Ms. Ware was
 13 there. And I believe he said it was maybe -- I can't
 14 remember exact number, but maybe 20-plus seconds, not
 15 more than 30 seconds.
 16 Q And did he say why it was he decided -- when it
 17 was he decided to let him go? Not how long it took.
 18 A When he finally got him to calm down. The
 19 child de-escalated -- or he had, you know, calmed him
 20 down and he let go of him immediately. He explained
 21 that, yes.
 22 Q How did Mr. Ford -- how did Mr. Ford
 23 demonstrate what -- what he had -- how he had restrained
 24 the student?
 25 A Mr. Ford used me as a model, and he --

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1 Q How tall are you, Ms. Butler?
 2 A I'm typically five-nine. If I'm wearing heels,
 3 a little bit taller than that.
 4 Q Go ahead. What did -- what did he do?
 5 A Mr. Ford had me stand up, and he was behind me,
 6 and he came across with his -- his right arm, and he took
 7 my left arm with his left hand and held it at my side, so
 8 it was sort of something like this (demonstrating). And
 9 then kind of pulled me backwards a little bit, and then
 10 moved me over to the wall, and then held me there, and
 11 then turned me around.
 12 Q How did he hold you at the wall? Obviously,
 13 your head -- your face was to the wall, but could you --
 14 A I believe at that time his arm was no longer
 15 across here (indicating). It was on the back area.
 16 Something maybe -- I couldn't see it, but I could lightly
 17 feel it. Maybe something to this effect (demonstrating).
 18 (Hearing Officer and Mr. Bickner conferring.)
 19 MR. DEMMA: Do you need some further
 20 explanation, ma'am?
 21 HEARING OFFICER STUDDARD: No, I'm just asking
 22 him. I'd like to see a demonstration, this
 23 demonstration --
 24 MR. DEMMA: Okay. Do you want to do it on me
 25 or --

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1 MR. FORD: No. The last time I did this I was
 2 apologizing to three women about the --
 3 MR. DEMMA: Okay. If you want --
 4 HEARING OFFICER STUDDARD: Well --
 5 MR. FORD: Can I use Mr. Demma?
 6 HEARING OFFICER STUDDARD: If he wants to --
 7 MR. HOLSHOUSER: Is this his testimony? I
 8 mean, he's not the witness at this point. When he's
 9 a witness he can show what he did.
 10 MR. FORD: Well, then Ms. --
 11 MR. DEMMA: Can he do it on me then? I mean, I
 12 guess Ms. Butler can come back. It's up to you.
 13 MR. FORD: Yeah, she needs to corroborate what
 14 I --
 15 MR. DEMMA: Whatever the hearing officer --
 16 MR. HOLSHOUSER: Well, I'll tell you what, if
 17 you do it on him and she testifies about that, that
 18 would be fine. I don't see anything wrong with
 19 that.
 20 MR. FORD: Whatever guys you want.
 21 HEARING OFFICER STUDDARD: Okay.
 22 MR. HOLSHOUSER: As long as you two aren't
 23 talking when it happens and she's doing the talking,
 24 that's fine with me.
 25 THE WITNESS: So you want me to instruct --

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1 direct?

2 MR. FORD: Coach.

3 THE WITNESS: I shall direct.

4 HEARING OFFICER STUDDARD: This may be a little

5 unusual but, you know, you can talk all day long, I

6 want to -- I want to see.

7 MR. FORD: Nothing's unusual about this.

8 HEARING OFFICER STUDDARD: So you're going to

9 do it on Mr. Demma?

10 MR. DEMMA: Is that what -- is that what --

11 yeah, okay. That's fine.

12 MR. FORD: Why don't we use this door, because

13 that's the most realistic.

14 MR. HOLSHOUSER: Wait, wait.

15 MR. FORD: Am I -- do you not want me to talk?

16 MR. LUFKIN: Can we go off the record?

17 HEARING OFFICER STUDDARD: I don't want to --

18 MR. LUFKIN: -- unusual about the hold and all

19 this other stuff, so I -- I mean, this should all be

20 off the record.

21 MR. HOLSHOUSER: What I wanted -- what I

22 suggested is that the only one being -- doing the

23 talking on this would be Mr. Demma asking her

24 questions.

25 MR. BICKNER: She is testifying as to what he

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1 told her --

2 MR. HOLSHOUSER: Correct.

3 MR. BICKNER: -- he did.

4 MR. HOLSHOUSER: Right. But not other people

5 talking while she's the witness on the stand.

6 MR. FORD: I don't say anything, but I do it.

7 HEARING OFFICER STUDDARD: Okay.

8 MR. FORD: Is that what you want to see,

9 Ms. Studdard?

10 MR. BICKNER: You do --

11 MR. FORD: I do it.

12 MR. BICKNER: -- what she directs you.

13 HEARING OFFICER STUDDARD: However you legally

14 can work it out.

15 MR. DEMMA: So you go back -- do you want to go

16 back in that seat then?

17 THE WITNESS: I'll direct you.

18 MR. DEMMA: Okay.

19 THE WITNESS: So I'm Mr. Demma. Mr. Ford took

20 his --

21 MR. DEMMA: This is the door here

22 (indicating).

23 THE WITNESS: Mr. Ford took his right --

24 MR. BICKNER: This is what he told you he did?

25 THE WITNESS: No, this is what he did that day.

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1 He didn't tell me. He demonstrated on me during

2 that fact-finding.

3 HEARING OFFICER STUDDARD: I wanted to see what

4 he demonstrated that he did to her, not -- that's

5 not --

6 MR. BICKNER: That's what we're talking about,

7 right? He demonstrated on you?

8 THE WITNESS: Correct.

9 HEARING OFFICER STUDDARD: When the other

10 witness comes on, they may have a chance, but I

11 wanted to see what was demonstrated to you.

12 THE WITNESS: Yes, ma'am. I'm going to show

13 what he demonstrated in the -- using me as a model

14 in Ms. McCabe's office.

15 HEARING OFFICER STUDDARD: Okay.

16 MR. DEMMA: Where is the best place to do it?

17 MR. FORD: Come here.

18 THE WITNESS: Okay. So Mr. Ford put his right

19 arm across my chest in this way. So just do that.

20 MR. FORD: They can't see.

21 THE WITNESS: I'm sorry. And then Mr. Ford

22 grabbed my wrist with his left hand and he kept it

23 at my side. And he sort of pulled me back, and then

24 moved me over to -- yes, and then moved me over to

25 the wall. Use that, over to the wall.

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1 MR. DEMMA: You can use this.

2 THE WITNESS: Yeah, he came back and then moved

3 me over to the wall.

4 MR. FORD: Go that way (indicating).

5 THE WITNESS: Keep in mind, I don't know where

6 the wall was there. I'm just doing what was --

7 happened that day. So go back, and then take him to

8 that wall like that. And then whenever I was up

9 at -- I'll show you where I was at the wall.

10 MR. DEMMA: Take me over there.

11 THE WITNESS: Go to the wall, face the wall

12 with Mr. Demma. And then Mr. Ford had his arm here,

13 and then whenever -- he turned me around. I said he

14 turned me around, so turn him around.

15 MR. FORD: What, just to talk to you?

16 THE WITNESS: Yes. Like just to talk, yes. He

17 turned me around. That's what he did in the

18 meeting.

19 HEARING OFFICER STUDDARD: Okay. Thank you.

20 BY MR. DEMMA:

21 Q Do you know Bridget Payne, Ms. Butler?

22 A I have dealings with Ms. Payne. She is an

23 assistant principal. I deal with most principals and

24 assistant principals.

25 THE REPORTER: I'm sorry, she's --

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1 THE WITNESS: She's an assistant principal.
 2 BY MR. DEMMA:
 3 Q Did you have occasion to speak to her about
 4 this incident between Mr. Ford and D.O. on or about the
 5 date it happened?
 6 A The next day after the incident, Ms. Payne
 7 called my office, the CCEA office, and it was roughly
 8 9:00, 9:30, somewhere in that area, and told me that she
 9 had an incident at the school with one of my members.
 10 This is not unusual, a principal or an assistant
 11 principal will call the office and say, "We have one of
 12 your members," and they know that they're entitled to
 13 representation, so they want to make sure that they get
 14 that.
 15 And she said -- I asked her what was the
 16 incident. And she said -- well, she gave me a brief
 17 description, that there was an incident with a child, and
 18 there was a hold to restrain him, and that there was a
 19 statement made and she was concerned about the statement.
 20 She said, "I'm not so concerned about the hold. I'm
 21 concerned about the statement."
 22 Q Was that the extent of that conversation?
 23 A Yes. She said, "So just be aware that if
 24 there's any" -- any meetings, be aware that I would be
 25 attending the meetings with our member.

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1 MR. DEMMA: That's all the questions I have at
 2 this time.
 3 HEARING OFFICER STUDDARD: Any questions?
 4 MR. HOLSHOUSER: Yeah.
 5 CROSS EXAMINATION
 6 BY MR. HOLSHOUSER:
 7 Q Ms. Butler, your job as basically the union
 8 representative is to represent teachers at the Clay
 9 County school system?
 10 A Yes.
 11 Q And so your job is to -- and Mr. Ford is in the
 12 collective bargaining unit that you represent?
 13 A He is.
 14 Q So your job is to represent his interests in
 15 dealing with the Clay County School Board, correct?
 16 A No.
 17 Q It's to represent -- you're not representing
 18 bargaining unit members in terms --
 19 A Your question was do I represent his interests.
 20 I represent the interest of the contract. I make sure
 21 that they receive their due process and that they are --
 22 that they receive just cause.
 23 Q But aren't you bargaining a contract for the
 24 benefit of the members in the bargaining unit?
 25 A Absolutely.

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1 Q So you're enforcing the contract for the
 2 benefit of the members of the bargaining unit?
 3 A I'm enforcing the contract that we've agreed
 4 upon.
 5 Q Right.
 6 A Both sides.
 7 Q But you are the advocate for the employee --
 8 A I am.
 9 Q -- that's covered by the collective bargaining
 10 unit?
 11 A An advocate in his due process right.
 12 Q So your role is being an advocate for Mr. Ford
 13 in this whole process, correct?
 14 A My --
 15 MR. DEMMA: Asked and answered.
 16 MR. BICKNER: You need to allow him to finish
 17 his question before you butt in so that she can take
 18 it down; okay?
 19 BY MR. HOLSHOUSER:
 20 Q And you have no firsthand knowledge of what
 21 happened at that scene that we -- that we're here about
 22 today, right?
 23 A No.
 24 Q All the information you've got was from the
 25 fact-finding from Mr. Ford and Ms. McCabe?

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1 A The same information Ms. McCabe got.
 2 Q Now, one thing you talked about was the
 3 progressive discipline.
 4 A Uh-huh.
 5 Q And that's in -- there are circumstances,
 6 though, that -- of the contract where the conduct can be
 7 so serious that you can bypass progressive discipline to
 8 go directly to dismissal, correct?
 9 A There have been times where that's been done.
 10 Q Okay. But I mean, the contract allows in
 11 situations of serious enough offense to go -- to bypass
 12 progressive discipline and go straight to dismissal or
 13 suspension, correct?
 14 A I don't know that the contract allows it.
 15 Q Well, does the contract prohibit in any way
 16 going straight to termination if the conduct is
 17 sufficiently egregious? And you go look at page 38. And
 18 I look at A-2: "The warnings procedure in Paragraph B of
 19 this article will be filed prior to official disciplinary
 20 action where the misconduct is not so aggravated, per the
 21 recommendation of the superintendent, as to call for
 22 immediate reprimand, suspension or dismissal."
 23 Doesn't that indicate to you that there can be
 24 aggravated circumstances --
 25 A It does.

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1 Q -- where dismissal is appropriate?

2 A It does.

3 Q I just want to make that clear. Now, you've

4 talked about, I think, Safe Crisis Management not being

5 offered to non-EBD or ESE employees?

6 A I don't think that's what I said.

7 Q Okay. Well, I'm just saying the regular

8 teacher, not the paraprofessionals and teachers that deal

9 specifically with EBD students.

10 A It was not offered to all teachers.

11 Q Was there ever a discussion you had with

12 Ms. McCabe concerning that issue?

13 A I believe I had a discussion with Mr. Richards,

14 Ms. McCabe and Ms. Adams on a few occasions of our

15 concerns that people be trained in Safe Crisis

16 Management.

17 Q So that -- and you would think that the person

18 in charge of human resources would be involved in those

19 types of discussions about Safe Crisis Management

20 training to members of your unit, correct?

21 A Oh, yes.

22 Q Now, in your fact-finding conferences with

23 Ms. McCabe in the final disposition, isn't it true that

24 you never brought up the policy that you've been reading

25 about on reasonable force?

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1 A Did I bring up the policy, no.

2 Q And so you never addressed that issue in your

3 meetings leading up to the dismissal recommendation,

4 correct?

5 A We don't own these meetings. These meetings

6 are the district's. We ask questions of the district,

7 but we don't bring up policies or things in those

8 meetings.

9 Q My point is, you didn't bring up that policy?

10 A No, that's not procedure.

11 Q Now, when you were testifying about the notes

12 that Ms. McCabe had that her assistant had typed up,

13 that's not part of Exhibit 26 of the Petitioner's, is it?

14 Wasn't that --

15 MR. DEMMA: It's not.

16 THE WITNESS: I do not see the notes.

17 MR. DEMMA: I'm sorry, I'm sorry.

18 THE WITNESS: I do not see the notes here.

19 This is not the complete packet we received.

20 BY MR. HOLSHOUSER:

21 Q So you received those notes in addition to

22 that?

23 A At the same time I received this portion of the

24 packet, we received the notes.

25 Q Okay. I just want to make clear that those

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1 notes aren't a part of what you're talking about in

2 Exhibit 26.

3 A No.

4 HEARING OFFICER STUDDARD: Are the notes here

5 anywhere?

6 MR. HOLSHOUSER: They're not in our exhibits.

7 I don't know whether they're in his exhibits.

8 HEARING OFFICER STUDDARD: There's --

9 MR. DEMMA: I have them.

10 HEARING OFFICER STUDDARD: All we have is this

11 one sheet, correct?

12 MR. HOLSHOUSER: Yeah, that's the summary of

13 the --

14 MR. DEMMA: Correct, the summary which went to

15 the board.

16 HEARING OFFICER STUDDARD: Okay.

17 BY MR. HOLSHOUSER:

18 Q Now, you have -- let me turn your attention to

19 Exhibit -- Petitioner's Exhibit 20. Have you -- have you

20 seen Petitioner's Exhibit 20 before today?

21 A I have seen this. I have not read it. I have

22 seen it.

23 Q Now, this is a document that is in evidence.

24 Does it give you any concern, as the union representative

25 representing all bargaining unit employees, about the

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1 school board reinstating Mr. Ford in a situation where he

2 has admitted to being guilty of a felony?

3 MR. DEMMA: I'd object to her -- her ability to

4 answer that question as far as understanding what

5 this document is in the context of the pretrial

6 intervention.

7 MR. HOLSHOUSER: My response to that is that

8 she talked about what constitutes just cause for

9 dismissal, and I am trying to determine whether his

10 having admitted to these things in writing can be

11 just cause to support termination, or not

12 reinstatement more --

13 MR. BICKNER: In her opinion.

14 MR. HOLSHOUSER: In --

15 MR. BICKNER: In her opinion, yes?

16 MR. HOLSHOUSER: Well, in terms of a concern

17 for what might happen prospectively.

18 MR. BICKNER: I would allow it in.

19 HEARING OFFICER STUDDARD: The witness is

20 certainly not an attorney.

21 MR. BICKNER: He's asking whether or not this

22 would give her cause for concern as a union

23 representative.

24 HEARING OFFICER STUDDARD: That's her --

25 MR. BICKNER: That's her opinion.

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1 HEARING OFFICER STUDDARD: I'm going to allow
 2 that.
 3 BY MR. HOLSHOUSER:
 4 Q Would this document give you cause for concern
 5 about in the future if Mr. Ford is reinstated and some
 6 incident is alleged to have happened in the future?
 7 A What I understand of this document is that as
 8 long as certain conditions were met by Mr. Ford, then
 9 Mr. Ford is -- the plea that he entered of not guilty is
 10 what will reflect on his record. That's what I
 11 understand of this document.
 12 So what has happened in this document states
 13 that if -- from what I recall -- as I said, I've not read
 14 through the whole thing, but from what I recall of what I
 15 have read through this, once these conditions have been
 16 met, Mr. Ford will not be considered guilty.
 17 Q Well, do you have any concern, though, about
 18 this being used in the future if an incident is alleged
 19 to have occurred, to indicate that the school board and
 20 perhaps the union was negligent bringing him back to
 21 work?
 22 A Absolutely not.
 23 MR. HOLSHOUSER: I have no further questions of
 24 this witness.
 25 HEARING OFFICER STUDDARD: Do you have anything

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1 else?
 2 MR. DEMMA: No, ma'am.
 3 HEARING OFFICER STUDDARD: The witness is
 4 excused.
 5 THE WITNESS: Thank you.
 6 (Witness excused.)
 7 MR. DEMMA: We had one more community witness.
 8 And if he's here, I'll call him, and if he's not,
 9 I'll move to Mr. Ford.
 10 HEARING OFFICER STUDDARD: Okay.
 11 MR. DEMMA: We suggest a few-minute restroom
 12 break while we're going to call a witness and tell
 13 them not to come if he's on his way.
 14 (Recess from 9:43 a.m. until 10:02 a.m.)
 15 (Randy Lefko enters conference room.)
 16 HEARING OFFICER STUDDARD: We'll resume the
 17 hearing.
 18 Call your next witness.
 19 MR. DEMMA: Michael Ford.
 20 HEARING OFFICER STUDDARD: If you'll swear in
 21 the witness.
 22 MICHAEL JOSEPH FORD,
 23 having been produced and first duly sworn as a witness on
 24 behalf of the respondent, and after responding "I do" to
 25 the oath, testified as follows:

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1 DIRECT EXAMINATION
 2 BY MR. DEMMA:
 3 Q Please state your name and spell it for the
 4 record.
 5 A Michael J. Ford, F-o-r-d. Michael is spelled
 6 M-i-c-h-a-e-l. J is short for Joseph.
 7 Q Mr. Ford, are you married?
 8 A I am.
 9 Q How long have you been married?
 10 A 12-and-a-half years.
 11 Q Do you have any children?
 12 A Two.
 13 Q What are their genders and ages?
 14 A My son Keegan is eight, and my daughter Kaillynn
 15 is five.
 16 Q How long were you employed with the Clay County
 17 School District before the action of the school board in
 18 mid May?
 19 A Just short of nine years.
 20 Q And what did you teach and where during that
 21 time period with Clay County?
 22 A I was hired on Paterson Elementary as a K
 23 through sixth physical education teacher. And we had a
 24 special thing over there, a very large run-walk club, I
 25 was the coordinator. And then the last seven years, I

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1 opened up Oakleaf Junior High. It was a brand-new
 2 school. It started as a K through 8 facility. So we had
 3 two schools under one roof for three years, and then
 4 transitioned out the K through 5 over the course of two
 5 years building two schools. And it is now a sixth,
 6 seventh and eighth grade model. We call it a junior
 7 high, but it is a middle school model.
 8 Q What age groups have you taught in -- what
 9 grade levels have you taught at -- in P.E. at Oakleaf?
 10 A Seventh grade, I guess that was the first four
 11 years, and then when we got the sixth graders full time,
 12 I stepped down to sixth grade.
 13 Q How many -- have you taught in any prior -- any
 14 districts prior to your time in Clay County, school
 15 districts?
 16 A Uh-huh.
 17 Q Which one?
 18 A Pasco County for four years. Let's see. We'll
 19 go in reverse. And then I was up in North Carolina for
 20 five years, and I had -- do you want the breakdown?
 21 Q No, we'll move on.
 22 A Yeah.
 23 Q Have you ever taught at the college level?
 24 A I have.
 25 Q Where have you taught?

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1 A Four different experiences. One year at
 2 Southern Connecticut, which is my first alma mater. They
 3 hired me on from a program that I had just graduated
 4 from. East Carolina with my second degree and master's,
 5 I taught there for two years. And then I taught at
 6 Craven Community College in North Carolina, which is 45
 7 minutes from East Carolina, so I taught there. So that's
 8 four years of collegiate teaching.

9 Q Did you teach any middle school in Pasco
 10 County?

11 A I did, all four years. I had the -- I had a
 12 high school, a junior high and two elementary schools.
 13 So the responsibility at that junior high were three
 14 different self-contained units of special-needs
 15 students.

16 Q Have you had coaching experiences -- let's --
 17 at the middle school or high school level? Let's talk
 18 about in Clay County first.

19 A Clay County, I think everybody in here has
 20 heard some testimony. I started the cross-country
 21 program when we got to Oakleaf Junior, so that was a
 22 four- or five-year experience, four years, and I
 23 instigated the other junior highs starting a
 24 cross-country. I believe Ms. Studdard and Mr. Bickner
 25 have seen me advocate for the funding at the microphone,

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1 and we -- unfortunately, I fell short of getting it in as
 2 an official sport. Track and field for seven years, and
 3 then we've done some wonderful things with track and
 4 field.

5 Q Any coaching duties in Pasco County?

6 A I coordinated for those same four schools I was
 7 referring to a minute ago, Special Olympics for 75 to 86
 8 kids, in whichever given year.

9 Q Sorry. Are you saying the district had a
 10 Special Olympic coordinator and it was you?

11 A The district had a Special Olympic coordinator,
 12 and then there were nine of us county-wide in Pasco
 13 County that had the regional responsibility of the
 14 different areas. So I had the center, which was the Land
 15 'O Lakes area.

16 Q Based on your experiences teaching middle
 17 school and junior high school students, can you give a
 18 brief characterization of what you find in them
 19 developmentally?

20 A Developmentally they are at the transitional
 21 age from being the young kid to an adult. So in the
 22 sixth grade year, some of them aren't quite ready to be
 23 there. They still are elementary and they're kind of
 24 babyish. And by Christmastime they've gotten a backbone
 25 and they've -- they've matured enough. Some of them are

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1 still physically very small. They still could be four
 2 foot, you know, very -- very teeny. Some of them may
 3 have shotten up already, or may have stayed back, you
 4 know, in third grade or fourth grade.

5 By the time they get to eighth grade, they're
 6 either a young 14-year-old or almost turning 16 years old
 7 and shaving already because they have stayed back.

8 Regardless of it, it is a crazy age of
 9 developmental physically, developmental mentally,
 10 hormones all over the place, zits forming on their face,
 11 et cetera. That is that age and that population. It's a
 12 great group to teach, because they're still absorbing
 13 like a sponge, sponges, and they haven't dismissed, "Oh,
 14 I'm an adult, I know my career path and where I'm going,"
 15 and, you know. But you still have them in a very
 16 structured environment in terms of bell schedules,
 17 walking in lines, this and that.

18 Q Did you ever coach at the college -- excuse
 19 me -- yeah, coach at the college level?

20 A Yep. One year at Southern Connecticut, well,
 21 we'll call that half a year at Southern Connecticut; five
 22 years at East Carolina, and one year at Flagler College,
 23 which was the most recent, which is one of the athletes I
 24 coached is the head coach there, so I became his
 25 assistant.

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1 Q Did you ever do anything in the nature of
 2 instructing, training -- training individuals with crisis
 3 management issues?

4 A The adapted phys ed Eastern North Carolina
 5 training program, which is a direct offshoot of the
 6 American Disabilities Act, federal funded. Basically I
 7 was very fortunate to have gotten a very specialized
 8 master's degree.

9 Within the requirements of that master's
 10 degree, my responsibility was from I-95 east, the whole
 11 eastern part of North Carolina, to go out and retrain the
 12 physical education teachers, and figure out what they
 13 were doing and what I could do to enhance them with kids
 14 with disabilities. Because a lot of them just out there
 15 weren't getting any training, didn't know how to do this,
 16 didn't know how to do that. So my job essentially in a
 17 nutshell was the liaison from the academic world of the
 18 training model at East Carolina and getting it injected
 19 into the public school system all over East North
 20 Carolina.

21 Q Training in what, though, specifically?

22 A Teaching methodology, behavior management,
 23 different techniques on curriculum design, how to -- how
 24 to get a kid who's in a wheelchair to feel like they were
 25 included in a regular ed class. Some of these are

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1 self-contained units, some of these were mainstream
 2 models, some of them were inclusive models. I mean, I
 3 can get -- I don't want to get too bogged down in all the
 4 technicalities, but --
 5 Q That's -- that's sufficient.
 6 What's your highest degree level?
 7 A Master's degree.
 8 Q And what area is that in?
 9 A Master's degree in adapted physical
 10 education.
 11 Q Is that a-d-a-p-t-e-d, adapted physical
 12 education?
 13 A It's e-d, yes, because the -- it's very easily
 14 confused with IBE.
 15 Q And just if you can say it in a sentence, what
 16 is the essence of what an adapted P.E. master's degree
 17 would be helpful to -- to work in? Let me rephrase that.
 18 A Most of the people that graduate from my
 19 program are out there and are in fact the district-wide
 20 or school system-wide -- we're not going to use the word
 21 "department head," we're going to use "in charge of
 22 physical education," people that have my degree. We
 23 don't have that here; we're a small district.
 24 If you're out there in the field and you're out
 25 there instructing, basically I have a very elite degree

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1 within the physical education profession that has allowed
 2 me to know all the dynamics and the different nuances of
 3 specially designed physical education for children.
 4 Q Let me show you what I'll have marked as
 5 Respondent's Exhibit 4.
 6 MR. DEMMA: Ms. Studdard, I'm just -- this is
 7 just his resumé. I'm going to ask him -- I'll
 8 provide it -- (tendering to witness).
 9 HEARING OFFICER STUDDARD: Okay.
 10 THE WITNESS: So when I'm done, just -- they
 11 can have my copy.
 12 BY MR. DEMMA:
 13 Q Have you seen that document before, Mr. Ford?
 14 A I have.
 15 Q What is it?
 16 A This is a very extended comprehensive
 17 curriculum vitae. So it's basically a resumé on
 18 steroids. And this is a document that I have that I
 19 would -- for different jobs that I apply for, or
 20 different speaking engagements that I might go to, I
 21 might use one page, I may use three pages, I may use two
 22 pages. It just depends on what environment. It's
 23 essentially a resumé, but the education version is a
 24 curriculum vitae.
 25 Q Is everything in it accurate and current,

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1 sir?
 2 A I'm pretty sure. Hopefully, there's no
 3 spelling errors. I'm usually pretty good about editing,
 4 yes.
 5 MR. DEMMA: And I ask that that be introduced
 6 into evidence as Respondent's Exhibit 4.
 7 HEARING OFFICER STUDDARD: Okay.
 8 MR. HOLSHOUSER: I don't see the relevance of
 9 it, but I don't have any objection.
 10 HEARING OFFICER STUDDARD: Okay.
 11 So this will be Exhibit -- Respondent's Exhibit
 12 4. So it will be admitted.
 13 MR. DEMMA: Thank you.
 14 (Respondent's Exhibit No. 4 received in evidence.)
 15 BY MR. DEMMA:
 16 Q Do you have a philosophy of teaching P.E.?
 17 A I do.
 18 Q What is it, sir?
 19 A I've always described myself as a
 20 developmentalist.
 21 Q What does that mean?
 22 A Basically, it doesn't -- in my mind, regardless
 23 of whether I'm dealing with one of my students or whether
 24 I'm dealing with one of my athletes, and, again, I've
 25 coached at all levels and it doesn't matter, elite

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1 athlete or special olympian or classroom person, you find
 2 out where your student is, you pick a point, and you try
 3 and get to the next point. So developmentally, physical
 4 education revolves around three things: psychomotor,
 5 which is the physical end of it; the cognitive part of it
 6 is the academic side of it, why we're doing something,
 7 why we're exercising; and then the affective part of it.
 8 Affective can be described as social aspects of
 9 it. Most of what we do in junior high it to try and
 10 promote -- getting on through high school and into the
 11 adult years and promote some kind of lifestyle of
 12 exercise and lifetime activity. Not everybody can play
 13 football all their lives, they might have to golf or
 14 tennis or take aerobics, but that's essentially the
 15 foundation.
 16 Q How high on the priority list of things you
 17 take care of or look out for in teaching P.E. is the
 18 issue of student safety?
 19 A Safety is by far the number one priority. You
 20 might not get one academic thing done in a day, but
 21 safety is going to trump everything.
 22 Q Have you ever been -- you've heard talk here in
 23 the hearing about Safe Crisis Management, sir?
 24 A Yes, sir.
 25 Q Have you ever received training in that

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1 program?

2 A I have.

3 Q When did you receive it?

4 A That would have been September of 2008.

5 Q Did you hear any testimony about a different

6 date yesterday?

7 A I did. I believe Mr. Holshouser had stated

8 November of 2008. I'm not sure --

9 Q Mr. Holshouser or Ms. McCabe? Who answered the

10 question?

11 A One of them. But I heard November and I know

12 that's just not accurate.

13 Q Okay. Your testimony is September?

14 A It definitely was September.

15 Q Okay.

16 A It was three consecutive Saturdays.

17 Q Have you received update trainings in SCM?

18 A In August of 2009 I requested it and was

19 denied.

20 Q Have you -- have you ever asked for update

21 training subsequent to that?

22 A Yes, I did.

23 Q When was that?

24 A I believe yesterday we heard one of my

25 colleagues testify that in 2009, I believe is what I

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1 heard, and I believe when I got rejected in September --

2 or August of 2009, shortly after that, we had a

3 department meeting and we discussed it collectively, the

4 six of us. And that, I believe, is what she was

5 referring to.

6 Q Is that Ms. Rowe?

7 A Uh-huh, yes.

8 Q Have you ever been given a reason for any

9 denial of --

10 A In August of 2009, and I'm hoping -- let's see.

11 That would be Ms. McCabe, Ms. Studdard and Mr. Bickner

12 are all on the same e-mail server that I would have been

13 on, and I very specifically stated this when this whole

14 event started, there was a 24-hour period where the

15 computer server crashed, because budget cuts were coming,

16 the state was in, so everybody decided, let me send out

17 an e-mail and everybody replied to all.

18 During that same week, Ms. Zimmerman, who was

19 right here yesterday, had sent out an e-mail to the

20 administrators, the administrators had solicited, and I

21 said I would like to take it. So I contacted

22 Ms. Zimmerman, and she told me because of the budget cuts

23 coming down, we can't have any regular ed teachers take

24 it anymore. That was in August of 2009 when I tried to

25 get the renewal.

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1 Q We may address it more later, but I'll do it

2 now since we're talking about SCM. Did you ever refuse

3 to take SCM training?

4 A No, sir, I've always encouraged it.

5 Q Was there ever a time where a principal sent an

6 e-mail or a memo to you implying that you did, that you

7 can recall?

8 A I saw something in the documents just --

9 MR. HOLSHOUSE: I was going to say, do we have

10 some --

11 MR. DEMMA: I'll do it.

12 BY MR. DEMMA:

13 Q Let's address it now. Petitioner's 20 --

14 A Is it in here?

15 Q Yeah, Petitioner's 20 -- 30 -- 32, please.

16 A 32.

17 Q And that's in evidence already, I believe.

18 A 32, yep. Okay.

19 Q Is that an October 29, 2008 --

20 A It is.

21 Q -- document? Prior to this hearing process --

22 or excuse me -- prior to your termination, had you ever

23 seen this document, Mr. Ford?

24 A I saw this document for the first time on May

25 6th, in this room, ten minutes before I went upstairs to

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1 Ms. McCabe's office for the final disposition.

2 Q Does Ms. Crowder generally sign documents she

3 provides to teachers?

4 A I don't want to speak for Ms. Crowder, but I --

5 MR. HOLSHOUSE: Let me just object to the

6 question. He's -- it's speculative.

7 MR. DEMMA: I'll withdraw the question. I'll

8 withdraw the question.

9 BY MR. DEMMA:

10 Q There is an indication in the second

11 paragraph --

12 A Yeah.

13 Q -- that you were suggested --

14 A Yes.

15 Q -- Safe Crisis Management, and that you --

16 let's see, the third paragraph, you do not wish to

17 participate again.

18 A Correct.

19 Q Assuming you had received this, is there a

20 reason why you wouldn't want to have participated?

21 A Well, what we're not reading is a very specific

22 conversation that took place two weeks before this time

23 frame.

24 Q Which was about what?

25 A Which was about Safe Crisis Management. And I

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1 said, "I just took it a couple weeks ago."
 2 Q So that was before this -- this letter?
 3 A Yes, sir.
 4 Q And did -- Mr. Ford, you were present
 5 yesterday, were you not, when Ms. Lawrence and Ms. Rowe
 6 testified about the operation of the P.E. department,
 7 particularly in the last ten minutes?
 8 A Yes, I was.
 9 Q Was -- was their testimony accurate?
 10 A Yes. In very general parameters, yes.
 11 Q Is there anything particular that you would
 12 like to add to that? Let's say, talk about job
 13 responsibilities, duties.
 14 A Let's just kind of refresh --
 15 MR. HOLSHOUSER: Are we getting in the
 16 non-cumulative testimony here, or are you talking
 17 about adding to what was already testified?
 18 MR. DEMMA: Yes. Yes.
 19 MR. HOLSHOUSER: Okay. I understand. That's
 20 fine.
 21 THE WITNESS: I guess this would just be a
 22 quick refresher for everybody in the room. I think
 23 they were very specific, I think even Mr. Lefko was
 24 specific today, that this is the boy's locker room
 25 (indicating). At the beginning of class, there's

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1 six phys ed teachers. There has to be a male and
 2 female staff member in that locker room, at the
 3 beginning and end. That's consistent; okay?
 4 Doors are locked during class, because we don't
 5 want to have any klepto, thieves. There has to be
 6 one, sometimes two, depending on the period, people
 7 in the gym, because that's where the sixth graders
 8 sit. Now, if I had two more pushpins, there would
 9 be two people in this back hallway (indicating),
 10 okay, monitoring the two classrooms and the hallway
 11 at the same time. We usually kind of stay in the
 12 doorway.
 13 BY MR. DEMMA:
 14 Q Is that the beginning and end of class you're
 15 talking about?
 16 A At the end of class we have to monitor because
 17 the whole seventh grade is sitting, girl, boy, and then
 18 in the hallway, the eighth graders get the privilege of
 19 being in the hallway. The sixth graders are here
 20 (indicating). That's the end.
 21 At the beginning, what happens is someone's in
 22 the locker room, someone is on duty out here
 23 (indicating). These bleachers that you see move around.
 24 We move them for different baseball contests, softball.
 25 The incident we're talking about, it would have

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1 been softball and baseball season, so these were
 2 configured a little different. There's got to be at
 3 least one person out here, sometimes two. Sometimes --
 4 you got to remember, we have six teachers, but sometimes
 5 someone has a planning period, so we might have five
 6 people. So it can get a little -- you've got to have
 7 someone in this back hallway (indicating), one, two,
 8 three, four, sometimes five; okay? Sometimes we have a
 9 person here (indicating); okay? Regardless of it, that
 10 be would the beginning of class.
 11 The whole purpose is, is over that stagger of
 12 six, seven, eight minutes, people are dressing, they need
 13 somewhere to go, so we send them out here to sit. We
 14 need someone to stand there with them, so these people
 15 can walk the locker room, get out there with their grade
 16 book, wherever their class is, meet up with their class,
 17 then we begin our class.
 18 So it's -- anybody has any questions or
 19 clarification, I think they said it yesterday, I said it
 20 today
 21 Q What -- what period did the situation arise
 22 between you and D.O.?
 23 A We don't use the word "periods," because it'll
 24 confuse everybody in this room. We use hours. We have
 25 six hours of the day.

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1 Q What hour was it?
 2 A It was the fifth hour of the day.
 3 Q And that class, if you know, runs from what
 4 time to what time?
 5 A I believe it's about 1:55 to 2:49
 6 approximately. Maybe 1:56, give -- I'm pretty close.
 7 Q Do you concur -- instead of asking you to say
 8 it all again, do you agree that the area of that covered
 9 walkway and the hallway on the other side of the door is
 10 a difficult area for teachers, P.E. teachers at
 11 Oakleaf?
 12 MR. HOLSHOUSER: Just object as leading.
 13 THE WITNESS: I think everybody in the room has
 14 the gist of it. With a lot of people, the congested
 15 area and the back hallway is a major concern. The
 16 locker rooms are a major concern. We have twice the
 17 amount of people for the facility that we have.
 18 BY MR. DEMMA:
 19 Q On the day in question, were there any --
 20 setting aside the whole specifics of the D.O. matter for
 21 now, were there any things involving Coach Rountree's
 22 class --
 23 A Yes.
 24 Q -- that created a problem down in the hallway
 25 area?

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1 A Coach Rountree -- and I think everybody has
 2 established this, but 42 kids were out here (indicating);
 3 okay? As Coach Rountree ended his classes, he's got to
 4 come through this gate, down this sidewalk and on the way
 5 in (indicating). Let's just categorize the class as 42
 6 eighth graders with a high percentage of turkeys -- or
 7 non-compliant individuals, let's put it that way.
 8 There's a yellow line on this basketball court.
 9 Mr. Rountree, at the end of that class, had to spend a
 10 significant amount of extra time trying to get his class
 11 calm, in line, before walking this 50-yard stretch into
 12 the gym, so ...
 13 Q Who was supposed to open the boy's locker room
 14 that afternoon?
 15 A He was on duty in that locker room that day,
 16 and he never made it there.
 17 Q Where -- where was your class at the time of
 18 the -- let's say the last feet of the walk with D.O. and
 19 the entry into the doorway?
 20 A The last feet --
 21 Q Where was -- was your class -- where was your
 22 class at the time you had the problematic interaction
 23 with Cody?
 24 A All right. Well, let's just call this whole
 25 black line, that's about 50, 55 yards of sidewalk, the

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1 interaction with D.O. (indicating). My class was in the
 2 hallway (indicating) because I sent them on ahead.
 3 Rountree was having trouble with his 42, and D.O. was an
 4 island of himself. And I'm trying to catch my class, and
 5 I was detained by D.O.
 6 Q What's your recollection of where
 7 Mr. Rountree's -- excuse me -- where D.O. was at the time
 8 Mr. Rountree's students started moving towards the locker
 9 room?
 10 A My recollection is a little different than what
 11 I heard yesterday, but I will just do my testimony. D.O.
 12 was right there. Sorry. Right here (indicating). This
 13 is a dugout. You're looking at the roof of the dugout
 14 right here; okay? This is a softball field. This is a
 15 dugout. There's a water fountain right here
 16 (indicating); okay? So a lot of kids will want to get
 17 water.
 18 I think that was probably one of Coach
 19 Rountree's problems, too many kids going for water. He
 20 needed to get them water, get them in line and then he
 21 needed to get in. He's trying to get in and he's having
 22 problems.
 23 You asked me -- your question was where was
 24 D.O., correct?
 25 Q Yeah, I was moving forward.

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1 A Yeah, I don't want to jump ahead of you, that's
 2 why I was saying. D.O. was right here (indicating).
 3 Q Where was D.O. at the time Mr. Rountree's
 4 students were starting to come into the -- to the covered
 5 walkway?
 6 A Mr. Rountree's kids never left this spot
 7 (indicating). D.O. had made it all the way up this
 8 sidewalk, and I had made it all the way up this sidewalk,
 9 and Ms. Strunz made it up the sidewalk at a different
 10 pace. But this group of kids never made one movement
 11 down this sidewalk until the whole incident in question
 12 was over.
 13 Q And where was D.O. at that time?
 14 A D.O. was down the sidewalk, down the sidewalk,
 15 to the door with me, here's the railing in question, and
 16 then here is the side of the brick wall (indicating).
 17 Q And what was he doing at that time?
 18 MR. BICKNER: Which time?
 19 THE WITNESS: At which time?
 20 BY MR. DEMMA:
 21 Q At the time that you just described where he
 22 was standing on the side of the brick wall.
 23 A Can I demonstrate against this wall?
 24 HEARING OFFICER STUDDARD: Okay.
 25 THE WITNESS: (Demonstrating.) A little

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1 verbal, that, and this is the calm part
 2 (demonstrating).
 3 BY MR. DEMMA:
 4 Q Had the students -- had any of your students
 5 seen D.O. earlier in the sequence when he was using bad
 6 language, calling kid's parents gay and all of that
 7 stuff?
 8 A Yep. Let's use these again. Right there, D.O.
 9 would have been approximately there (indicating). There
 10 was a lot of talk about the chair, the chair was there,
 11 D.O. was there. His class he was supposed to be in was
 12 here. He was facing this way (indicating). There was an
 13 occasional kid that ended up over here (indicating).
 14 They were playing Frisbee. That age level,
 15 there aren't too many kids that can throw a laser; okay?
 16 They throw things up that, wherever. So if you can
 17 imagine Frisbees just being everywhere and an occasional
 18 kid coming over. So his yelling was directed this way
 19 (indicating).
 20 Q And did you hear his yelling when he was --
 21 A Yes.
 22 Q -- talking to kids in his class?
 23 Where were you at that time?
 24 A I was positioned right there (indicating).
 25 HEARING OFFICER STUDDARD: On the sidewalk?

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1 THE WITNESS: Yeah. This is -- this is the
 2 basketball court (indicating). Yes, I'm on the
 3 sidewalk. This is the basketball court. This is
 4 the tennis court (indicating). My class was so
 5 large that I had to do two activities. So I had
 6 basketball hoop, basketball hoop, basketball hoop,
 7 basketball hoop. I think I had three on threes or
 8 five on four and fives.
 9 Over here, I don't allow any more than three
 10 versus three, three versus three. We only have two
 11 tennis courts, and if you get any more than three
 12 people swinging tennis rackets, it can be dangerous.
 13 So I had to be here to watch (indicating). But this
 14 noise, my class, and then eventually I had to get
 15 closer (indicating).
 16 This distance right here (indicating) is
 17 approximate. I mean, I don't know if you want
 18 quantifiable, but --
 19 BY MR. DEMMA:
 20 Q No.
 21 A No.
 22 Q You were going to say how -- approximately
 23 what?
 24 A This wall to this wall (indicating), I measured
 25 it with a tape measure yesterday, it's 20 feet; okay?

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1 This distance right here is two and a half -- let's just
 2 call it, for the sake of argument, it's three distances,
 3 it's 60 feet, this (indicating).
 4 Q That's the distance where you were hearing him
 5 yelling?
 6 A 60 feet. Three -- three times the length.
 7 Q Since he's there -- did you know why he was in
 8 the chair at the time?
 9 A The -- I inquired, and I believe yesterday we
 10 heard Ms. Strunz was here (indicating), outside the
 11 fence. What happened to my -- there we go. She was here
 12 outside the fence. There was a bleacher that day
 13 positioned right there (indicating). There was a
 14 bleacher, but it's not in this picture, but it's
 15 insignificant. She was there, outside the fence
 16 (indicating). I stepped close enough to kind of say,
 17 "You okay?" She said, "Yeah, yeah."
 18 Q Who did?
 19 A I said to Ms. Strunz, "Are you okay?" I think
 20 what she said yesterday -- I don't want -- am I allowed
 21 to testify to what she said?
 22 Q You just --
 23 A She might have just got there -- well, you
 24 know.
 25 Q Don't put together what you think.

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1 A All right. I don't want to put together --
 2 yeah.
 3 Q So since we're there --
 4 A Yeah.
 5 Q -- at -- is that where the chair was roughly,
 6 where the pin is, the white pin?
 7 A The chair was here (indicating). It did a
 8 little moving.
 9 Q What -- did D.O. kick the chair?
 10 A Yes.
 11 Q Is it a chair like that (indicating)?
 12 A Yes.
 13 Q Demonstrate what he did.
 14 A This was one action (demonstrating). This was
 15 another action, like that (demonstrating).
 16 Q Did he do --
 17 A The third action I can't do in here because
 18 someone's going to get hurt.
 19 Q Just describe it, please.
 20 A Well, here we go. I'm going to use the word
 21 discuss, because I've explained it through six months the
 22 same way (indicating). Again, that is 20 feet,
 23 one-and-a-half times that distance. And if you know an
 24 old western movie of tumbleweed --
 25 HEARING OFFICER STUDDARD: Excuse me just a

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1 minute.
 2 THE WITNESS: Yes.
 3 HEARING OFFICER STUDDARD: You're saying that
 4 the chair was thrown --
 5 THE WITNESS: Yes.
 6 HEARING OFFICER STUDDARD: -- how many feet?
 7 THE WITNESS: How many feet?
 8 HEARING OFFICER STUDDARD: I mean, how far did
 9 you say that chair was thrown?
 10 THE WITNESS: 20 plus -- half distance, you're
 11 somewhere between 20 and 30 feet, about 20 feet.
 12 HEARING OFFICER STUDDARD: And which direction
 13 was the chair thrown?
 14 THE WITNESS: We'll use this pen. That would
 15 be the chair (indicating); okay? I can't see this.
 16 My eyes are going bad. Okay. I'm sorry, I'm going
 17 to reposition Cody.
 18 MR. DEMMA: You can just position it and then
 19 move away, Mr. Ford.
 20 THE WITNESS: Yeah. Right there (indicating).
 21 HEARING OFFICER STUDDARD: And that distance is
 22 one-and-a-half feet --
 23 THE WITNESS: That's a baseball -- that's a --
 24 that's a baseball -- home plate to first base, you
 25 know. So that kind of --

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1 HEARING OFFICER STUDDARD: I just wanted to get
 2 the perspective.
 3 THE WITNESS: Right. You got to remember, a
 4 baseball field is a longer distance than softball,
 5 you know. So, again, I don't know what you can
 6 relate to, Ms. Studdard. But that's a strong
 7 distance. And my tumbleweed analogy, blowing
 8 tumbleweed on a western front, I mean, this thing,
 9 doot, doot, doot, tumbled.
 10 BY MR. DEMMA:
 11 Q Where was Ms. -- Ms. Strunz was still there?
 12 A Still there. Never -- never -- never -- well,
 13 this is where she was (indicating). And after the throw
 14 of the chair, Cody's path -- I'll just use a pointer
 15 here. I think it will be easier. I don't want to
 16 keep -- Cody's path, he walked right past the chair, he
 17 walked this direction, and this gate, there's a gate
 18 right there, he walked out this gate (indicating).
 19 At this gate he -- you know, the fences are six
 20 feet high. There was a -- I'll borrow one of these real
 21 quick. Oh, crap, I hope I'm not messing somebody up.
 22 The grade book was stuck in the fence like that
 23 (indicating). He grabbed it and then came down this
 24 sidewalk right here (indicating). And somewhere right in
 25 here (indicating) --

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1 Q Kind of behind the dugout?
 2 A Yeah, that's the dugout. See, this dugout has
 3 a black steel roof, but it also has a screen on the
 4 fence. So you can't -- so it has a black screen. So
 5 visually you can't really see through it, but right about
 6 here is where I saw him (indicating). Ms. Strunz had
 7 kind of repositioned herself over here, saw him. And I
 8 think her and I would be pretty consistent with this, I
 9 think he went up and down (indicating). Regardless of
 10 it, it was like a flailing duck is the way I've been
 11 describing it.
 12 Q And that was Coach Rountree's grade book?
 13 A That was Coach Rountree's grade book.
 14 Q What happened next?
 15 A Doo, doo, doo, doo. So I've got to reposition.
 16 Here's Ms. Strunz (indicating). On that day --
 17 Q Have you -- have you engaged Ms. Strunz, or has
 18 she engaged you yet about what's going on with Cody?
 19 A Yeah, you got to reverse a little bit, you
 20 know. I said, "Hey, you okay," the first time. Then
 21 he's still yelling out.
 22 I had said, "You know, hey, you're supposed to
 23 be sitting in the chair." He was very defensive, "I
 24 didn't break the chair," da, da, da, da, da, da. I never
 25 really accused him of that, you know, and, you know, he's

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1 very defensive about that. So I had walked a little
 2 closer, like the second interjection, you know. So I'm
 3 trying to compress this for you-all. I mean, you know,
 4 you're talking over a four- or five-minute period.
 5 And, you know, she had said, you know, Coach
 6 Rountree put him in time-out. I had no reason not to
 7 believe he wasn't in time-out. He was sitting in a chair
 8 and -- but when we get over here (indicating) -- this
 9 piece of brown is actually grass. There was actually a
 10 bleacher there; okay? So this bleacher that was pointed
 11 to yesterday, give or take ten feet -- you know, I don't
 12 think it's in -- significant or not, but there was a
 13 bleacher.
 14 And it was the oddest thing, a very aggressive
 15 pace coming down that sidewalk, coming towards me, coming
 16 towards Ms. Strunz, and if you can imagine one, two,
 17 three chair bleacher, someone's going stomp, stomp,
 18 stomp, sat down. So he was coming directly at me and
 19 then took a turn right into the bleacher.
 20 And I looked at Ms. Strunz, Ms. Strunz and I
 21 looked at each other, and we kind of said, "Okay."
 22 Q Mr. Ford, you agree Mr. -- Cody was
 23 Mr. Rountree's student, right?
 24 A Correct.
 25 Q So how -- how much interaction had you had with

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1 him as of that time?
 2 A None, because he was Mr. Rountree -- let's just
 3 steal some pins here. Mr. Rountree was here
 4 (indicating). Now, Ms. Studdard, for the sake of you
 5 understanding what's going on here and everybody else in
 6 the room --
 7 MR. BICKNER: I think it's real inappropriate
 8 for her to -- him to address her directly.
 9 THE WITNESS: Oh, I'm sorry.
 10 MR. BICKNER: He needs to answer your questions
 11 and not interact with her.
 12 THE WITNESS: All right. Okay.
 13 BY MR. DEMMA:
 14 Q Go ahead.
 15 HEARING OFFICER STUDDARD: What was your
 16 question?
 17 MR. DEMMA: I didn't take it that Ms. Studdard
 18 was insulted, but I'll direct him not to --
 19 MR. BICKNER: Would you allow it to be --
 20 HEARING OFFICER STUDDARD: I wasn't insulted
 21 but --
 22 MR. BICKNER: Would you allow it to be done by
 23 the judge in a courtroom?
 24 MR. DEMMA: We would say perhaps "Your Honor."
 25 MR. BICKNER: I don't think witnesses are going

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1 to address judges in the courtroom. You're
 2 addressing --
 3 HEARING OFFICER STUDDARD: Just --
 4 MR. DEMMA: We'll move on, Mr. Bickner.
 5 HEARING OFFICER STUDDARD: Just ask your
 6 questions.
 7 MR. DEMMA: Thank you.
 8 THE WITNESS: Well, I guess I should just put
 9 it this way: If anybody has any questions at any
 10 time. But, Mr. Demma, it's obviously your floor
 11 right now, and they've had their opportunity to
 12 question. I'm here.
 13 BY MR. DEMMA:
 14 Q Go ahead. So what happened?
 15 A Okay. You had -- you had asked me where
 16 Mr. Rountree was. I believe I was about to show you
 17 that.
 18 Q You --
 19 A This right here (indicating). Okay.
 20 Q Did you -- did you ever try to communicate with
 21 Coach Rountree or --
 22 A Yes, I did.
 23 Q What was the -- was there more than one
 24 effort?
 25 A Yes.

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1 Q What was the first one?
 2 A I had a walkie-talkie on my hip; okay? My
 3 first two communications were to the administration
 4 building, my third communication was to Ms. Rountree
 5 [sic] --
 6 Q Mr.
 7 A -- on the radio.
 8 Q At what time in the sequence of events did you
 9 try to communicate with the administration?
 10 A The sweeping of the chair that I demonstrated
 11 here (indicating) was one of the administration call on
 12 channel 1, no response. The tossing of the chair here,
 13 the long throw (indicating), channel 1, no response. As
 14 Cody worked his way to the gate, right around the same
 15 time he was getting the grade book, I radioed. I -- I
 16 did not get a response from Mr. Rountree. I'm not sure
 17 if he heard or not. I don't know. I'm not going to
 18 testify for Mr. Rountree. Regardless of it, I'm very
 19 loud, I yelled out there.
 20 That is -- this distance right here
 21 (indicating) is 300 and -- hundred feet -- 320 feet. If
 22 you divide by three, that is 100 yards. That is the full
 23 length of a football field. This is a very large
 24 designed baseball field. It's not regulation junior
 25 high.

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1 Regardless of it, this position where I was,
 2 there were kids here that heard me, turned and got his
 3 attention. Mr. Rountree, non-verbal (indicating), I'm
 4 like that, I see him starting in, that's an
 5 acknowledgement, he knew what I was talking about. He
 6 sees his student charging off the field, grade book --
 7 grade book gets grabbed. He's now behind here. There's
 8 no way Rountree can see the grade book go. As -- well, I
 9 don't want to jump ahead -- I don't want to jump ahead
 10 from your questions.
 11 Q Did you have any additional communications with
 12 Ms. Strunz other than what you've just discussed, which
 13 is that you -- you talked to her somewhere around -- you
 14 said you talked --
 15 A I spoke to her twice.
 16 Q What was the second time?
 17 A From this position, I spoke to her twice; okay?
 18 Let's see. Let's go back in the memory banks here six
 19 months.
 20 First time I said, "Hey, you okay?" It was a
 21 very quick, "Yeah." All right. Second time I
 22 interjected, I said, "Why is he sitting there," or
 23 something along those lines. You know, she, you know,
 24 had -- you know, acknowledged he was in time-out.
 25 The next communication I probably had with her

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1 was right here (indicating), bleacher, Cody's sitting.
 2 As soon as he's sitting, I said, "You got him?" "Yeah,"
 3 she did. Okay, whatever, he's sitting, she's there.
 4 I walked over here, picked up the grade book.
 5 Rountree has made his way over here (indicating). I
 6 think he called his class and said, "Hey, start lining
 7 up." Rountree got out here (indicating). I had a brief
 8 30 seconds and described this is what I saw, this is what
 9 he did, threw a chair down, wasn't sitting in the chair,
 10 he was sitting on the back of the chair like this at one
 11 point (demonstrating), you know, in between the pounding
 12 the chair, sweeping the chair, da, da, da, da, da.
 13 And, you know, I handed Rountree his grade
 14 book. I said, "Look, I'm going to line my class up. You
 15 got this?" He did. Well, whatever -- I don't -- you
 16 know, I'm not going to testify to what Mr. Rountree and
 17 Strunz talked about, and Cody, I have no idea; okay?
 18 I go back, call my class in, "Tennis courts
 19 come in, line up; basketball come in." I get them lined
 20 up on the yellow line, and I'm heading down here
 21 (indicating). I stop at the water fountain. Rountree's
 22 class is behind me, coming in, working their way, and
 23 they're hitting the yellow line.
 24 So I'm conscious of the time and send my class
 25 down here (indicating). I'm waiting for the last kid to

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1 go, is going, and then I get -- I don't know how to -- I
 2 guess the right word would be I was -- well, go ahead.
 3 Q Well, did you -- where was Cody then?
 4 A Let's move the pins for you-all. Cody is going
 5 to be silver, Strunz will be white, and I am going to be
 6 the silver one. So this is kind of like a little piece
 7 of grass right here, next to the edge of the dugout
 8 (indicating).
 9 Q Did you engage Cody at that time?
 10 A He called me over.
 11 Q What did he say?
 12 A He said, "Coach Ford, you like the MS, don't
 13 you?" (Indicating.)
 14 Q You touched your arm. What did he do?
 15 A He had permanent magic marker, he had MS on his
 16 arm, for like his -- a tattoo that he tattooed on
 17 himself.
 18 Q Did you -- what did you say?
 19 A I said, "Cody," I said, "I'm going to tell you
 20 the same thing I told you yesterday." I said, "I'm not
 21 going to endorse the MS." I said, "I told you yesterday
 22 that" -- well --
 23 Q We'll go back to yesterday --
 24 A I think what -- I think what I did was -- okay.
 25 The MS, he didn't describe it the first day. He

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1 described it that day, that's what happened. I said,
 2 "What is exactly MS?" And he goes, "Well, it's the
 3 mystery machine." And, again, this is where it makes no
 4 sense to anybody. MS is supposed to be the Shaggy
 5 character from the Scooby Doo cartoon and the Mystery
 6 Machine. That is Shaggy's van, okay, in the Scooby Doo
 7 cartoon. So that is his gang, that's his -- that's his
 8 group, that's his call sign, you know, whatever it's
 9 called these days.
 10 Q So did you just have a further discussion with
 11 him?
 12 A Uh-huh. Conversation, again, we're all right
 13 here (indicating); okay? Now, you've got to remember, we
 14 just described -- here's my pen (indicating). Here's
 15 Rountree's class, with my thumb, here's half of my pen
 16 (indicating), that's 42 eighth graders that he's trying
 17 to line up, and it took him a significant amount of time.
 18 They're loud. So I'm here with Cody (indicating). The
 19 conversation is very quick.
 20 "Cody," I said, "I'm going to tell you what I
 21 told you yesterday." I said, "I'm not going to support
 22 the MS, the" -- you know, and he was a little insistent,
 23 that's what Cody does. He is very -- part -- part of
 24 his -- I don't want to discuss his disability. It's not
 25 appropriate. I mean, the -- it's very stereotypical of

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1 an EBD student, and very stereotypical, and he baits,
 2 and, you know, he -- he wants you to support him. So
 3 that's -- that's --
 4 Q Mr. Ford, can you quickly sum up what happened
 5 the day before, the conversation you're referring to?
 6 A The conversation that was the day before,
 7 Mr. Rountree had brought it to my attention in this back
 8 hallway (indicating) -- again, we've established this is
 9 a very congested, very loud, a lot of people around, take
 10 the same little configuration here, but even closer
 11 proximity.
 12 Ms. Strunz would ask me almost every -- "Coach
 13 Ford, can you unlock the laundry room?" I unlocked the
 14 laundry room door. Cody got his stuff. So I'm standing
 15 here, there's the laundry room door, there's Ms. Strunz
 16 (indicating). He goes in and gets his stuff, comes out.
 17 Mr. Rountree's standing there. He says, "Yeah, this is
 18 the one I was telling you about," da, da, da, da.
 19 Q Well, what -- what do you mean, "this is the
 20 one I was telling you about"?
 21 A Spray paint on his shoes, cars, graffiti
 22 bathrooms. The conversation that took place that day was
 23 making good choices.
 24 Q You and who?
 25 A Cody, myself, Mr. Rountree was part of it

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1 before he got pulled away to some crisis near a water
 2 fountain. Ms. Strunz is standing there. She could have
 3 been three or four feet away. Don't know what she heard,
 4 didn't hear. Regardless of it, Cody is kind of a
 5 braggart, very bragging but whatever his accomplishments
 6 are. Unfortunately, they were mostly negative; okay?
 7 And we were talking about damaged cars, this and that.
 8 So what do I do? I say, "Look," -- let me give you an
 9 example. Mostly what teachers do, we give examples.
 10 So, again, I said, "Well, listen, I said, "if
 11 you damage my wife's \$38,000 truck," I said "there will
 12 be repercussions of that." Okay? I said, "Your parents
 13 will be held accountable and it will be very expensive to
 14 fix." So, again, I call this the hidden curriculum,
 15 little lessons of life. This is junior high. If we
 16 don't get any math or English in, this is what we get
 17 accomplished during junior high. That is the
 18 conversation that took place with Cody the day before in
 19 a very mentoring way. I don't -- I don't know how else
 20 to say it.
 21 Q Did that -- did that conversation get heated in
 22 any way?
 23 A Did it get heated?
 24 Q Uh-huh.
 25 A No, he -- he was a little insistent. I think

<p style="text-align: right;">Page 354</p> <p>1 that's kind of where he mentioned the MS the first day. 2 And I didn't ask him for a definition of it until the 3 next day, which would have been right there 4 (indicating). 5 Q So now we're back to there again? 6 A Yeah, so now we're back to there. 7 Q What next got your attention about what Cody 8 was doing? 9 A What got my attention? 10 Q Or what did Cody do? 11 A Well, okay. I'll just replay it here. My 12 class goes up the sidewalk. Mr. Rountree's having a hard 13 time lining his kids up. Cody steps towards me and gets 14 on the sidewalk, and he's starting to walk in. Well, I 15 need to walk the same direction. I need to go walk to 16 catch up to my class. I also have a set of keys that 17 they're relying on, and Mr. Rountree needed to get there. 18 Regardless of it, the dialogue -- I'm going to call it 19 stage one, stage two, stage three, on to the door. 20 Q Why did you separate by stages? 21 A Because I think it's significant to explain to 22 everybody in this room what the dialogue was. 23 Q Okay. So stage one dialogue, what happened? 24 A Stage one dialogue, let's see. You guys have 25 to make me remember months and months of stuff. Okay.</p>	<p style="text-align: right;">Page 356</p> <p>1 maximum escalation. 2 Q Who's -- who's speeding up the pace? 3 A Well, Cody's walking faster; okay? I'm trying 4 to -- I'm kind of ahead of him, and then he's kind of 5 side by side with me, and then when we get all the way 6 here (indicating), he has kind of blown past me. Take 7 two drag racing cars, that's basically what happened, you 8 know. 9 Q Is he upset during this walk? 10 A Upset? 11 Q Is he cursing? Is he doing any of that? 12 A The cursing begins here (indicating), begins 13 here again (indicating). I say, "Cody, you can't use 14 that kind of language." Cody, "Well, I hate this F'ing 15 school. I hate every -- teachers in the school." I 16 said, "Cody, you may hate everybody in this school, but I 17 can't let you use that language," you know. And he 18 hushed for a second or two, then it comes again. Hushes 19 for a second, and then when we get to the door, is the 20 final stage where the F bombs -- and then they got "F 21 you," you know, towards me. 22 Q How far from the door was he when he said "F 23 you" to you? 24 A Probably his last two or three strides. 25 Q Where was Ms. -- did you see Ms. Strunz at that</p>
<p style="text-align: right;">Page 355</p> <p>1 Right in here (indicating), what's he say to me first? 2 We're talking about choices. We're talking about making 3 good decisions. We're talking about good choices. And, 4 again, you know, we're walking at a very leisurely -- 5 leisurely pace; okay? 6 Q Where are you in relation to him? 7 A Well, I'm looking back at Rountree like this 8 and I'm walking this way (indicating), so I tend to walk 9 backwards; I tend to walk forward. This sidewalk is ten 10 feet wide. That's a very wide sidewalk. 11 Q So stage one sounds like a continuation of the 12 prior day about choices? 13 A Uh-huh. 14 Q What's -- what's stage two? 15 A Let's see. Let's just kind of reposition 16 (indicating). So, again, we're right in here. Now we're 17 right in here (indicating). The only way to describe 18 this is if, hopefully -- well, there's enough age in the 19 room not to insult anybody, and I'm old enough too, that 20 I learned to drive on a stick shift. There weren't a 21 whole lot of automatic vehicles. But first gear, you're 22 moving at 10, 20 miles an hour, third -- second gear 23 you're moving a little faster, third gear you're moving 24 faster. So the stages here, the speed of the walk is 25 getting faster and faster and faster, to the point of</p>	<p style="text-align: right;">Page 357</p> <p>1 time as you got very close to the door? 2 A I -- I saw her once, I saw her twice, and then 3 I didn't see her anymore once I had to have full 4 attention, because my back was completely to her. 5 Q And the times you saw her, how far away from 6 your -- 7 A Never any closer than 10, sometimes as far as 8 20 feet. Because we're moving fast and we're moving away 9 from her. She was not keeping pace. 10 Q Mr. Rountree's students are -- was it noisy in 11 the area? 12 A This crowd of people that Rountree was lining 13 up is extremely loud; okay? This door was in the closed 14 position (indicating), so naturally there would have been 15 noise in there, but regardless, it was in the closed 16 position. But this was very, very loud (indicating). 17 But you only had two people on that sidewalk, myself, 18 Cody, and then Strunz is dragging behind, so let's call 19 it three people. 20 Q Did you restrain Cody because he said "F" -- "F 21 you"? 22 A Nope. 23 Q What happened -- what does the door look 24 like? 25 A Okay. This door right here (indicating). It's</p>

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1 a stereotypical Clay County building. This glass window
 2 (indicating), there's two of these side by side. The
 3 backside of this has a kick plate. There's a -- there's
 4 a key that you put in, and you set the kick plate in the
 5 morning. We always set the door on this side open, that
 6 other door would remain locked. So that size, that
 7 framing, that's a -- that's a standard 36-inch door right
 8 here (indicating).
 9 Q The witness is walking over to the double
 10 doors --
 11 A Right there.
 12 Q -- that are the entry to this room.
 13 A So that glass window, here --
 14 MR. HOLSHOUSER: I don't --
 15 THE WITNESS: -- and here (indicating).
 16 MR. HOLSHOUSER: I'm just going to raise an
 17 objection here just to the witness moving around the
 18 room without the permission of the hearing
 19 officer.
 20 THE WITNESS: All right. Well, I apologize,
 21 then, because I don't know protocol, Mr. Bickner.
 22 HEARING OFFICER STUDDARD: Let's move on.
 23 BY MR. DEMMA:
 24 Q What does -- what does D.O. do next, right at
 25 the door?

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1 A Can I -- can you ask the referee? I'm not sure
 2 I'm allowed to address directly.
 3 Q What do you want to know? Can you go to the
 4 door?
 5 A It'll be easier to show everybody.
 6 MR. DEMMA: Mr. Ford would like to -- Mr. Ford
 7 would like to demonstrate what Cody did at the door,
 8 Madam Chair.
 9 HEARING OFFICER STUDDARD: Okay.
 10 MR. DEMMA: Thank you.
 11 THE WITNESS: All right. This door right here
 12 (indicating) -- I'm just trying to -- can't get up
 13 to speed in the small room. Bam, and this door
 14 ripped completely open. This door went to its
 15 maximum opening. Glass window right here
 16 (indicating), he was just to the left and above it.
 17 Another three inches this way. That glass window
 18 has been broken three times since I worked in that
 19 building.
 20 BY MR. DEMMA:
 21 Q Now, Mr. Ford, as you were approaching that
 22 door, did you have any expectation about students being
 23 on the other side?
 24 A Here's Cody's body (indicating), and I am right
 25 on his tail, right there (indicating), this door is open,

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1 and all I see is legs and bodies of human beings.
 2 Q Of students?
 3 A Yes.
 4 Q What -- did you have any particular concern?
 5 A Grave concern.
 6 HEARING OFFICER STUDDARD: Is the demonstration
 7 over?
 8 MR. DEMMA: Yeah. You can sit down.
 9 HEARING OFFICER STUDDARD: You can sit down.
 10 THE WITNESS: Sure.
 11 BY MR. DEMMA:
 12 Q Grave concern about what?
 13 A Well, we deal with, and I think all day
 14 yesterday and today, it's a crowded place back there, and
 15 we've had many incidents back there, so the last thing we
 16 needed to do is have bodies entangled. There was
 17 potential for something. I don't -- I can't tell you
 18 what the something is, I don't have the crystal ball, but
 19 it was better to not have an escalated student enter a
 20 crowded hallway, and then later said, "I should have done
 21 this, I could have done this or this." It was better to
 22 be proactive and not let him in the back hallway.
 23 Q Did you -- did you feel you had an opportunity
 24 to somehow get in front of him and prevent him from
 25 getting in the hall?

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1 A There's no way, no way I could have. I am
 2 extremely fast on my feet, and there is absolutely no way
 3 I could have gotten in front of him, blockaded him, kind
 4 of done one of these (indicating), you know, to say,
 5 "Hey, hey, stop," you know, I mean.
 6 Q Mr. Ford, have you been in positions to have to
 7 intervene in student shoving incidents, student fights?
 8 A All the time. All the time. More than I'd
 9 care to -- a lot. Many, many, many, many. You know,
 10 when I say "many," ladies and gentlemen, I am not talking
 11 about 12. I'm talking seven years in that building, and
 12 I have crested over a hundred conflicts of some kind, you
 13 know.
 14 Q What kind of things have -- well, let me strike
 15 that.
 16 Junior high school kids, what kind of things
 17 trigger fights in your experiences?
 18 A It can be this: Every -- fights occur with
 19 split seconds. You know, there's -- there's -- sometimes
 20 someone is looking at each other the wrong way, and
 21 sometimes, you know, someone brushed up upon each other,
 22 and sometimes, "Hey, why you tripping me," you know. You
 23 know, this -- this situation right here, you had kids
 24 sitting on the ground, standing on the ground, you know,
 25 moving around, you know.

<p style="text-align: right;">Page 362</p> <p>1 Kids -- someone trips over someone, 2 reacts. I mean, usually the person that gets called -- I 3 tell the kids all the time, the person that gets the 4 yellow flag on the football field is not the person that 5 did it; it's the person that reacts. You know, so 6 it's -- it's -- for every action, there is a reaction. 7 It's very simple. 8 Q Okay. 9 MR. DEMMA: Madam Chair, may we take a break 10 and put the video on just down the hallway thing. 11 We'll just go right down the hallway to the door and 12 talk about what happened once we -- 13 HEARING OFFICER STUDDARD: Okay. Ms. McCabe, 14 did you say you were to call someone in IT to set 15 this up? 16 MS. McCABE: I will call IT if they can't get 17 it to operate correctly. 18 HEARING OFFICER STUDDARD: Let's see. I think 19 it was working while ago. 20 THE REPORTER: Shall we go off the record? 21 HEARING OFFICER STUDDARD: Yes, please go off 22 the record. 23 (Recess from 11:07 a.m. until 11:26 a.m.) 24 HEARING OFFICER STUDDARD: We're back on the 25 record.</p>	<p style="text-align: right;">Page 364</p> <p>1 Q A little bit -- 2 A -- before that. 3 Q Okay. Go ahead and run it some more. 4 A Okay. Okay. Now -- 5 Q I think we'll get back to this. 6 A Yeah, we'll get back to this. That -- that 7 was -- 8 Q This -- 9 A This spot right now. Right there, see that 10 grass and the softball (indicating)? 11 Q What's that? 12 A That is where I described -- that is right here 13 where I described D.O. and Ms. Strunz were standing 14 (indicating); okay? That garbage can is about here 15 (indicating), and I was kind of called over. What you're 16 looking at is a side view of that whole -- 17 Q Same hallway? 18 A Yep. 19 Q Can you go back just a bit and stop it on the 20 side view of the whole hallway, if you can. 21 A All right. I'll try. 22 Q It was a side view that went all the way to the 23 door, wasn't it? 24 A Well, it's not a still shot. 25 Q Okay. Keep running.</p>
<p style="text-align: right;">Page 363</p> <p>1 (DVD being shown on TV screen.) 2 BY MR. DEMMA: 3 Q Mr. Ford, up on -- what is that that's up on 4 the TV screen right now that the hearing officer is 5 looking at? 6 A This position right here, you're standing right 7 here (indicating). You're looking at a sidewalk going 8 towards the front of the gym, looking at a sidewalk going 9 towards the gym. It's about to turn to the left right 10 here (indicating). 11 Q Okay. Run it forward again. 12 A All right. Here we go. Here it is. 13 Q Stop it there. What's -- what's that whole 14 view represent? 15 A Okay. There's a trash can right there 16 (indicating). For lack of a better word, give or take a 17 foot or two, I was standing by the trash can facing 18 (indicating). 19 Q Facing which way? 20 A The way everybody is looking, everybody -- 21 facing the audience. 22 Q And is that where -- where the stages of 23 discussion and the walk began that you were talking about 24 earlier? 25 A Just -- just a second --</p>	<p style="text-align: right;">Page 365</p> <p>1 A Okay. 2 Q Stop it there. 3 A Okay. 4 Q Okay. Now, is what you see right in the middle 5 of that, the concrete, is that part of the hallway going 6 toward the door, the walkway? 7 A The sidewalk going from left to right, in 8 everybody's view, is heading towards the gym. 9 Q Go ahead. Run it some more. Okay. Stop it 10 there. 11 A There we go. 12 Q What's on the -- what's all the way at the end 13 of the photo, farthest away? 14 A Farthest away on the sidewalk, if you look far 15 to your right, you see a drink machine, a garbage can, 16 the door. If you're working your eyes over to the left, 17 there's a door (indicating). It's hard to see, but it 18 looks black. 19 Q Are those the doors -- 20 A Uh-huh. 21 Q -- that represent what you -- 22 A Yes. 23 Q -- what you did over here on this door 24 (indicating)? 25 A Yes.</p>

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1 Q And what's on the left side there? It looks
 2 like a building?
 3 A That is Portable 821 with the adjacent railing
 4 ramp, we call them ramps, to the door.
 5 Q Go ahead. And -- go ahead. Run it forward.
 6 A Okay.
 7 Q What's that? Stop it.
 8 A Pause. That is the door.
 9 Q And the last, what, five or six feet or so of
 10 concrete?
 11 A Correct.
 12 Q Stop it there.
 13 A Sorry, it jumped. Do you want me to go back?
 14 Q Sure. That's okay. We saw the door. What's
 15 it panning to now, Mr. Ford?
 16 A Okay. Play it?
 17 Q Yeah, go ahead.
 18 A Yeah. It's coming -- door -- okay. Here it
 19 comes. That is the wall, right where those windows
 20 are --
 21 Q Stop it there. Okay.
 22 A Dad-gummit.
 23 HEARING OFFICER STUDDARD: Well, I know it.
 24 BY MR. DEMMA:
 25 Q Okay. So the wall that we're looking at there,

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1 the brick wall, what, if anything, took place concerning
 2 this matter on the brick wall?
 3 A That's where after I de-escalated him, released
 4 him from the hold, right where those windows are, the
 5 furthest away from the door on the other side of the
 6 windows, that's where he was standing against the wall.
 7 Q And against that wall farther down, is that
 8 where you were describing Cody up against the wall?
 9 A Correct.
 10 Q After he was calmed down?
 11 A Correct.
 12 HEARING OFFICER STUDDARD: Excuse me. Are you
 13 speaking about the brick wall?
 14 THE WITNESS: Yeah.
 15 MR. DEMMA: The brick wall to the left of the
 16 doors goes on --
 17 HEARING OFFICER STUDDARD: Where the windows
 18 were? I want to be sure.
 19 MR. DEMMA: Okay. Let's go ahead and run it
 20 forward, Mr. Ford.
 21 THE WITNESS: Working on it. For some reason
 22 it's --
 23 BY MR. DEMMA:
 24 Q Stop it there.
 25 A Bang.

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1 Q Why don't you just point, if you can get up
 2 there, where was Cody?
 3 A Right here (indicating), that was the furthest
 4 part of the wall, away from the sidewalk.
 5 Q And was that at the end of the whole thing
 6 before he left for the office?
 7 A Correct.
 8 Q What is the little front sort of dirt grassy
 9 area in front of that?
 10 A That is seven years of building a school,
 11 construction slag, not ever landscaping or laying grass.
 12 There's eight to 12 inches to 18 inches of erosion, and
 13 occasional rebar, nails from the roof, rock, slag. It's
 14 a non-essential expenditure area.
 15 Q All right. Run it forward. Now stop there.
 16 Is that the door that Cody tried to enter?
 17 A Yes.
 18 Q At the time that you restrained Cody, was the
 19 door open that much, less, further?
 20 A Fully open. This is halfway open. I only had
 21 enough ruler --
 22 Q To keep it open?
 23 A Yeah, to wedge it open.
 24 Q And is the other side of that door the hallway
 25 we've been talking about all through this proceeding --

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1 A Yes.
 2 Q -- where the kids are waiting to go to the
 3 locker room and leave?
 4 A Yes.
 5 Q So now --
 6 (Brief interruption.)
 7 BY MR. DEMMA:
 8 Q As you stated, the door was fully open, and
 9 where -- where did Cody get to before you restrained him?
 10 If you can point it on the video. It's hard to do
 11 because the door is not all the way open, but ...
 12 A I got it. His hand, left hand here
 13 (indicating), right hand was holding this (indicating).
 14 Now, again, sweeps in, releases, but --
 15 Q Where did he get to into the hallway before you
 16 were able to restrain him, how far?
 17 A I think he was in the process of taking one
 18 stride, so I don't think he made it past the doorjamb.
 19 Q And you already did a demonstration with me,
 20 realizing it's not on -- in that area, but the
 21 demonstration you did on the -- the hold on me, that's
 22 where it took place, correct?
 23 A Yes.
 24 Q And when you moved -- I think you showed moving
 25 back, moving me back --

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1 A Right.

2 Q -- in the restraint.

3 A Right.

4 Q Where did -- can you run it forward and show

5 where that ended up?

6 A Sure.

7 Q Where you ended up with Cody as you moved him

8 back.

9 A Sure. I believe these are all still shots.

10 They -- the camera does the same thing, old-fashioned

11 shots as well as video.

12 Q Some more shots of the same doorway?

13 A Right.

14 Q What's that? Stop it there.

15 A Bang.

16 Q Okay.

17 A Okay. Close.

18 Q So what is that area there?

19 A That is the railing. That was the -- from door

20 to railing, that was the place that I demonstrated

21 against that wall (indicating). That is where for 18 to

22 25 seconds I had Cody in the hold, talking to him,

23 calming him down, and released him.

24 Q How long did the actual -- well, did you have

25 your hand across his chest the entire time, your right

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1 arm?

2 A No.

3 Q How long did you have your arm across his

4 chest?

5 A As soon as I got over to the railing, my -- I

6 mean, talking, at the most, a second.

7 Q And roughly how long a distance is it from the

8 doorway to that railing?

9 A 12 feet.

10 Q So you had to take a few steps backwards with

11 him and turn him around?

12 A Uh-huh.

13 Q And now, how do you -- how do you have him up

14 against the railing? Where are your arms with respect to

15 him?

16 A This arm never moved from that same spot

17 (indicating).

18 Q Which was where?

19 A The forearm (indicating). I'm here the whole

20 time.

21 Q All right. And --

22 A I can give you a reason, if you want, why I did

23 that.

24 Q What did you do with your right arm when he was

25 up against the railing?

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1 A Came behind, to his shoulder blades right there

2 (indicating), right where you would put a squat bar.

3 Q Did he struggle with you at all during this

4 encounter?

5 A This area right here, from the door to here,

6 (indicating), he --

7 MR. DEMMA: Madam Chair --

8 THE WITNESS: Is it okay --

9 HEARING OFFICER STUDDARD: You can stand there.

10 THE WITNESS: Right here.

11 HEARING OFFICER STUDDARD: You don't need to

12 walk all over the room.

13 BY MR. DEMMA:

14 Q So did he struggle?

15 A Correct.

16 Q How long?

17 A One thousand one, one thousand two, one

18 thousand three.

19 Q Were you still walking backwards when he

20 stopped struggling, or was he still struggling?

21 A Stride back, another stride back, he chose to

22 go to the left. Because kids are going to do three

23 things: They're either going to go to the left, go to

24 the right or drop to the ground. And usually that's the

25 little -- little guys, the little guys at elementary

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1 school. He went to the left, which is where all this

2 sidewalk ends, and there's a six-inch let's go into the

3 treacherous dirt, rock, slag. He went down to the left,

4 and as his momentum went down there, my body was

5 connected to him.

6 Q And you turned him to the rail?

7 A Turned him to the rail -- well, again, this is

8 all his body. I'm just going with him. That's what you

9 do, you go with the momentum. He's down, and then I got

10 him back erect. Yesterday you heard the words "prone"

11 and "supine," I don't know how much everybody understood

12 what that meant, but I did. He -- I'll use the word

13 "down," and I got him back erect, back up. There's only

14 two ways that could have gone: down or stay up.

15 Q How long did the -- did the entire incident

16 last from the moment you restrained him in the doorway to

17 when he calmed down and you got him on the wall?

18 A Anywhere from 19 to 29 seconds.

19 HEARING OFFICER STUDDARD: You can sit down

20 now, Mr. Ford.

21 THE WITNESS: Sure.

22 BY MR. DEMMA:

23 Q During that movement you just described

24 between -- with you and D.O. --

25 A Right.

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1 Q -- do you believe Ms. Strunz could see your
 2 arms at all times?
 3 MR. HOLSHOUSER: Let me just object to that
 4 question as calling for speculation.
 5 HEARING OFFICER STUDDARD: All right. That
 6 is.
 7 MR. BICKNER: Sustained.
 8 HEARING OFFICER STUDDARD: Sustained.
 9 BY MR. DEMMA:
 10 Q Well --
 11 A Okay.
 12 Q Where was Ms. Strunz, if you know, at the time
 13 you were moving Cody those three steps backwards to the
 14 railing?
 15 A Ms. Strunz -- let's make sure it's my
 16 testimony. There is -- the last time I looked back,
 17 back, I was one or two seconds away from Cody and I
 18 hitting that door, and she was 20 yards back. Where she
 19 was when I got to the door, I can only assume somewhere
 20 between 20 and 10 yards back, you know. I mean, I
 21 don't -- I don't know. But my back was completely to her
 22 and Cody was in front of me. So not -- it's a ten-foot
 23 wide sidewalk.
 24 Q Do you recall -- you were here when Ms. Strunz
 25 testified, correct?

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1 A I did.
 2 Q Do you recall her mentioning that at some point
 3 in this process, she just knew something was going to
 4 happen bad?
 5 A I think I heard it three times.
 6 Q Do you have instincts as a veteran teacher
 7 about when things are about to happen that are bad?
 8 A I'd say I'm a pretty instinctive guy, yes.
 9 Q Did you respond by to restrain -- did you
 10 restrain Cody because you were mad that he told you to F
 11 off?
 12 A Absolutely not.
 13 Q Did you see the young man's arm or elbow,
 14 the area that was -- has been talked about as bleeding,
 15 after the incident?
 16 A I did. I did and another colleague, that,
 17 again, I can't testify for that person, but yes, I saw
 18 it.
 19 Q Was that Mr. Rountree?
 20 A That would have been Mr. Rountree.
 21 Q Did you see blood?
 22 A There was no blood.
 23 Q What did you see?
 24 A I saw a little scratch.
 25 Q How long a time went by between the last couple

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1 of steps of the walk and when you acted?
 2 A The last couple steps and when I acted. You
 3 know, I mean, the last --
 4 Q Let me say it --
 5 A Yeah, you've got to say it a different way.
 6 I'm not sure what you're asking me.
 7 Q How much time did you have to make a decision
 8 whether to restrain Cody or not?
 9 A No more than a second and a half. I mean, I'd
 10 say it was under a second. That door came flying open,
 11 there's bodies, and I was right there on his tail or his
 12 six, military talk, and split-second reaction.
 13 Q Let's look at -- is that near the end? Do you
 14 want to finish it up, if we're at the end?
 15 A Uh-huh. It's at the very end.
 16 Q Let's turn that off, then.
 17 A Okay.
 18 Q Or you can leave that up, it's okay, in case we
 19 have to go back. I want to get the --
 20 MR. DEMMA: May I approach? I just want to get
 21 the book since he's done at the table.
 22 BY MR. DEMMA:
 23 Q Petitioner's Exhibit, I believe, 30 --
 24 A 30?
 25 Q 30 -- I'll find it, which one. Yeah, let's

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1 look at No. 30.
 2 A 30.
 3 Q Do you know what that is, Mr. Ford? You can
 4 take a moment to read it.
 5 A Hold on one second here. Okay. Is it a
 6 memorandum?
 7 Q Yes.
 8 A Of Larry Davis?
 9 Q Yes.
 10 A Okay.
 11 Q Did you provide a response to this document,
 12 Mr. Ford?
 13 A I did.
 14 Q When you subsequently received -- when did you
 15 first get a copy of this after the 2008 time? Well, let
 16 me strike that.
 17 Did Mr. Davis give this to you?
 18 A Mr. Davis gave this to me on April 14, yeah.
 19 Q Did he give you a copy at that time? Did you
 20 have one?
 21 A Did I have one? Yes.
 22 Q Was there -- did the school district -- did
 23 Mr. Davis do an investigation into this matter?
 24 A He did not.
 25 Q So what is this, then?

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1 A There are two issues that are dealt with in
 2 these four paragraphs. One issue was a very severe
 3 situation that occurred in a locker room. The second
 4 issue was my responsibilities as a track coach, and the
 5 whole boy's track team using some pretty profane language
 6 that I needed to get the reins on. And I addressed the
 7 whole team, and I repeated the words that were being used
 8 in the locker room as non-acceptable, and somehow it got
 9 twisted that I was using those words.
 10 Q That's the language issue?
 11 A That was the language issue.
 12 Q And as to the locker incident, did the matter
 13 get sent to the Department of Education?
 14 A It got sent to -- it got sent to the Department
 15 of Education.
 16 Q And the outcome?
 17 A And I was cleared of -- I'm not sure what the
 18 right legal term is, but I believe I was -- I'm just
 19 going to say I was cleared.
 20 Q Look at Petitioner's 31.
 21 A 31.
 22 Q What is this document?
 23 A This is a memo, probably the last day of school
 24 that year, that was written to Mrs. McCabe from Larry
 25 Davis, my principal at the time. And there's two key

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1 points. There is the suggestion -- yeah, they used the
 2 word "suggested." They suggested the following actions,
 3 and that would be some additional training on how to
 4 appropriately handle students with behavioral issues, as
 5 well as completing anger management counseling class.
 6 Q Did you do those things?
 7 A I did.
 8 Q The document in here does say that the DCF
 9 closed the case with some indicators of abuse, neglect or
 10 abandonment. Is that talking about the same incident
 11 that you just mentioned being cleared by professional
 12 practices on?
 13 A Yes.
 14 Q The locker incident?
 15 A Yes.
 16 Q Let's see. Flip to No. 32. We talked about
 17 this some earlier. I believe we discussed that
 18 thoroughly.
 19 A Yes.
 20 Q Mr. Ford, if you and Mr. Rountree or any
 21 situation, if you see a student who's bleeding or in need
 22 of first aid, is there some kind of protocol?
 23 A Anything that's minor we can -- we have our own
 24 first aid kits, we have multiple, because we run a phys
 25 ed department as well as an athletic department. They're

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1 in the center of the indoor hallway, in the athletic
 2 director's office, which last year was also my office. I
 3 shared it with Ms. Rowe that everybody met yesterday. So
 4 we would provide the Band-Aid or this or that, if
 5 needed.
 6 Q Did you and Mr. Rountree do that in this
 7 instance?
 8 A We did not.
 9 Q Mr. Ford, did you place D.O. in a choke hold on
 10 April 3rd, 2013?
 11 A No, I did not.
 12 Q Did you have your right arm around his throat,
 13 Adam's apple or neck?
 14 A I did not.
 15 Q Where was your right arm?
 16 A It was across his chest.
 17 Q Did you make a threat to the young man to the
 18 effect that you would put him in the hospital?
 19 A I did not.
 20 Q Did you say to him that -- anything to the
 21 effect that he didn't know what you were allowed to do?
 22 A I did.
 23 Q What did you say, and what was the context?
 24 A I said, "Cody, you don't know what we're
 25 allowed to do."

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1 Q Was this in response to something?
 2 A It was in response to his comment, "You can't
 3 put your hands on me. You can't touch me. What are you
 4 going to do?"
 5 Q Where did he say that?
 6 A He said that about 75, 80 percent of the way
 7 down the actual sidewalk, two or three seconds before we
 8 got to the door.
 9 Q And what were you referring to when you said,
 10 "You're not -- you don't know what I'm allowed to do"?
 11 A It's a pretty general, automatic answer that I
 12 give -- have given multiple times and dozens of times to
 13 kids that are 11, 12, 13, 14 years old that feel they are
 14 empowered and have been raised that no one can ever put
 15 their hands on them and they all of a sudden become legal
 16 experts.
 17 Q Did you decide to put Cody in a hold -- excuse
 18 me -- in a restraint, the restraint you described, with a
 19 desire to embarrass him?
 20 A No, sir. He did enough of that on his own
 21 throughout the 20-minute incident.
 22 Q Did you do anything at all to limit his
 23 embarrassment?
 24 A Can I use the video screen?
 25 Q We've already been through it. You can just

1 describe it.

2 A When I had him on this railing, I am now

3 attentive to him. My eyes can capture 50 yards down.

4 Mr. Rountree was just starting to move his class down the

5 sidewalk. There was nobody on that sidewalk until right

6 at the moment where I released Cody and sent him over to

7 the wall. The purpose of that was twofold: to not allow

8 Cody to have an audience, which is very stereotypical of

9 his disability; and to not cause any further

10 embarrassment that he had already caused himself with

11 many of his classmates and all his outbursts in the seven

12 or eight minutes that were prior to that. That's why he

13 was moved away from the sidewalk towards the wall, and he

14 complied.

15 Q Did you -- based on your experience and your

16 testimony today, do you believe you were subjecting Cody

17 to something harmful?

18 MR. HOLSHOUSER: Object to the -- asks for an

19 opinion.

20 HEARING OFFICER STUDDARD: Sustained.

21 MR. DEMMA: I asked it based on his experience

22 as an educator. I don't -- he's not a --

23 MR. BICKNER: I would allow him to answer.

24 HEARING OFFICER STUDDARD: Huh?

25 MR. BICKNER: I would allow him to answer the

1 A I was interviewed in Ms. Butler's office by

2 Deputy Sosa and Deputy Bruce Owens, and I believe in the

3 first paragraph you'll see I did not make an official

4 statement.

5 Q I understand that. But I'm looking at the

6 reporting officer's narrative, and it said: "Mr. Ford

7 advised that he had training from the school board on how

8 to handle incidents like that," referring to this

9 incident. Is that something you told the officers?

10 A To my recollection, I said I've had trainings

11 through the years. I don't know if I specifically said I

12 had it through Clay County.

13 Q All right. And then it says here: "When asked

14 if his training had taught him to grab a student for

15 using profane language, he," meaning you, "stated that he

16 did not want to answer the question."

17 A Because at that point, the two officers were

18 somewhat aggressive, somewhat confrontational with

19 Ms. Butler. They were a little annoyed that she was in

20 the room. And I chose not to answer.

21 Q So that statement in this narrative is

22 accurate?

23 A If you could repeat the statement.

24 Q It said: "When asked if his training had

25 taught him to grab a student for using profane language,

1 question.

2 HEARING OFFICER STUDDARD: All right. Okay.

3 Overruled.

4 THE WITNESS: So I'm answering?

5 BY MR. DEMMA:

6 Q Yeah.

7 A Your question was?

8 Q Believe you were subjecting him to a harmful

9 condition.

10 A Absolute -- absolutely not. I think I was

11 preventing a harmful condition.

12 MR. DEMMA: That's all the questions I have.

13 THE WITNESS: Thank you.

14 MR. HOLSHOUSER: I do have some cross

15 examination.

16 HEARING OFFICER STUDDARD: Okay.

17 Mr. Holshouser.

18 CROSS EXAMINATION

19 BY MR. HOLSHOUSER:

20 Q Mr. Ford --

21 A Yes, sir.

22 Q -- I'm looking at a reporting officer narrative

23 in connection with this incident, and I'm just going to

24 read to you part of it and see if it -- well, you were

25 interviewed by the police, right, Officer Sosa?

1 he stated he did not want to answer the question."

2 A I cannot say that that is accurate. I have

3 found a lot of inaccuracies with the report. So I'm not

4 going to sit here and say yes or no to you. I am going

5 to say that that was six months ago.

6 Q But generally speaking, you did -- you declined

7 to answer a question about that?

8 A I declined several questions --

9 Q Okay.

10 A -- when asked.

11 Q Just wanted to know.

12 Now, you said, I think, that you had attended

13 on a suggestion that's mentioned in Petitioner's Exhibit

14 31, back in 2008, to go to anger management classes. And

15 you did that, you went to those anger management classes

16 back in 2008?

17 A It was one class, 45 minutes long.

18 Q One class. Okay.

19 A And I was released.

20 Q And then you also, as part of your pretrial

21 intervention, you went to anger management class again.

22 Was that -- was it the same sort of class you went to

23 again for -- under the pretrial intervention in 2013?

24 A The various governmental agencies we have have

25 no consistency.

<p style="text-align: right;">Page 386</p> <p>1 Q I'm just asking, was it similar to what you had 2 before?</p> <p>3 A I -- I guess, if you want to talk from a 4 curriculum standpoint, sure.</p> <p>5 Q It was just one session?</p> <p>6 A This past time?</p> <p>7 Q Yeah.</p> <p>8 A A few more.</p> <p>9 Q How many?</p> <p>10 A Eight.</p> <p>11 Q Okay. Now, are you currently employed?</p> <p>12 A I am not.</p> <p>13 Q Now, you got -- I think you said you got Safe 14 Management Crisis training, correct, Safe Crisis 15 Management training?</p> <p>16 A Yeah, September of 2008. Somewhere -- 17 somewhere over here it said November 2008, but 18 essentially, let's say, five years ago, six, whatever.</p> <p>19 Q And you had also received Safe Crisis 20 Management training in Pasco County; isn't that right?</p> <p>21 A They use a different curriculum. There's five 22 or six curriculums that are out there. Clay County, for 23 whatever reason, chooses to do Safe Crisis Management; 24 Pasco County uses CPI. Again, that was ten years ago. 25 I'm not sure if they're on to the next company. It's</p>	<p style="text-align: right;">Page 388</p> <p>1 had been trained in Safe Crisis Management.</p> <p>2 A Did I bring it up?</p> <p>3 Q Yeah. Was it discussed in those meetings?</p> <p>4 A Safe Crisis Management was discussed mostly by 5 Mrs. McCabe. And I had said I had had the training in 6 the past, yeah.</p> <p>7 Q That's all -- that's all I'm trying to get at.</p> <p>8 A Yeah.</p> <p>9 Q Now, in the school board -- Clay County School 10 Board Safe Crisis Management training, you're aware of 11 policy that you're only to restrain a student if danger 12 of serious harm is imminent, correct, that we talked 13 about yesterday?</p> <p>14 A Which policy are you talking about?</p> <p>15 Q I'm talking about the Safe Crisis Management 16 policy of the school board.</p> <p>17 A I believe the two key words are "harming 18 themselves" or "harming someone else."</p> <p>19 Q Right. But you understand that's the standard 20 for a physical restraint?</p> <p>21 A For Safe Crisis Management.</p> <p>22 Q Correct. And I'm not talking about just 23 reasonable force generally. I'm talking about a specific 24 subset of reasonable force being restraint. That's the 25 standard under Safe Crisis Management, right?</p>
<p style="text-align: right;">Page 387</p> <p>1 basically a profit. It's like buying a math book.</p> <p>2 Q Yeah. The same sort of thing, correct?</p> <p>3 A There are some similarities. The differences 4 are who sues who on what year, and let's change the 5 curriculum because that's no longer allowed, and it 6 changes.</p> <p>7 Q Now, in the Safe Crisis Management training you 8 took through Clay County School Board, was one of the 9 things you were taught that hold that you described here 10 a couple of times today? Was that taught to you as an 11 appropriate hold?</p> <p>12 A That specific hold?</p> <p>13 Q Correct.</p> <p>14 A The answer would be no.</p> <p>15 Q And in your fact-finding, though, with Toni 16 McCabe, you did mention that you had had Safe Crisis 17 Management training, correct?</p> <p>18 A In the fact-finding, which, again, we keep 19 getting back to Ms. McCabe's notes somehow, there are a 20 lot of inaccuracies.</p> <p>21 Q I'm not asking whether the notes are 22 inaccurate.</p> <p>23 A Right.</p> <p>24 Q I'm just asking you whether in those 25 fact-finding conferences you brought up the fact that you</p>	<p style="text-align: right;">Page 389</p> <p>1 A Under their curriculum, yeah.</p> <p>2 Q And do -- do you also know from the Safe Crisis 3 Management curriculum that you're not supposed to 4 restrain a student unless you have -- are certified in 5 that area, correct? Isn't that something you've learned 6 in that course?</p> <p>7 A You're not supposed to use the Safe Crisis 8 Management hold if you don't have certification, an 9 intelligent person would have to say yes to that.</p> <p>10 Q Well, isn't it -- isn't that policy also that 11 you're not supposed to do any physical restraint unless 12 you're certified in Safe Crisis Management?</p> <p>13 A That's absolutely incorrect.</p> <p>14 Q That's not in the policy?</p> <p>15 A Absolutely incorrect. Because the Florida 16 State statute trumps that, so --</p> <p>17 MR. HOLSHOUSER: Well, let me object here --</p> <p>18 THE WITNESS: Again, you have to be -- you have 19 to be very careful what policy you're talking 20 about.</p> <p>21 BY MR. HOLSHOUSER:</p> <p>22 Q I'm talking about the school board's policy on 23 who can do -- physically restrain a student.</p> <p>24 A Who can --</p> <p>25 Q You have to be certified in Safe Crisis</p>

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1 Management, right?

2 A Anybody can do it. Their school board policy

3 is reasonable force.

4 Q I'm not talking about reasonable force

5 generally. I'm talking about just physical restraint of

6 a student.

7 A I disagree with you, so I mean --

8 Q I'll move on.

9 A -- I totally disagree with you.

10 Q I don't want to get in an argument. I just

11 want --

12 A I don't want to argue about it either.

13 Q You know, the policy's in the record, so we can

14 look at it --

15 A Exactly.

16 Q -- anytime we want.

17 Now, you know Ms. Strunz was an ESE aide?

18 A At that particular year, yes.

19 Q At the school. And did you understand that

20 those aides who had to deal with EBD students were

21 certified in Safe Crisis Management?

22 A I understand that is one of their requirements

23 for the job. I also understand that we have timelines

24 and deadlines that don't get met by employees in this

25 county, so yeah.

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1 Q Did you understand that she was at least

2 supposed to be trained in Safe Crisis Management?

3 A Yeah, absolutely.

4 Q Now, there are some disputes we've heard about

5 how far away she was, but she was on the scene generally

6 speaking during that day, correct?

7 A General is a good word.

8 Q What about, did you ever ask her to take charge

9 of restraining or doing anything with D.O. during that

10 time going into the P.E. building?

11 A I asked Ms. Strunz if she was okay at the

12 beginning of the incident, then I checked back with her a

13 second time. The third time she wasn't keeping pace with

14 coming down the sidewalk. You know, I looked at her like

15 three times, "Hey, coming with us?" You know, "You

16 coming" --

17 Q You said that to her, "You coming with us," or

18 are you just looking at her and thinking that?

19 A Okay. Well, when you are standing and you're

20 moving at a fast pace down there with a kid, down a

21 straight sidewalk and you're waiting for the aide to

22 follow, who's getting farther and farther and farther

23 away, there's one adult, one kid. I'm the adult; D.O --

24 Q I'm just asking you what happened. I'm not

25 asking you --

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1 A I'm telling you what happened.

2 Q Okay. Go ahead.

3 A I'm telling you what happened.

4 Q Okay. And at some point during that walk down

5 the -- down that corridor, were you walking backwards in

6 front of D.O. toward the P.E. building?

7 A I was walking backwards at the beginning. He

8 was close to Rountree's class. I was walking backwards.

9 Then he came side by side with me, and then we were both

10 walking towards the gym. And then I looked backwards

11 once, if not two more times, back to Rountree and Strunz,

12 and Cody was equal with me, equal with me, and then

13 ultimately surpassed me.

14 Q Okay. Well, where did he pass you? Can you

15 show on the overhead photograph?

16 A Yes.

17 MR. DEMMA: Put the pin there.

18 BY MR. HOLSHOUSER:

19 Q You can put the pin wherever -- wherever it was

20 that he passed you after you had been walking backwards

21 in front of him.

22 A Approximately there (indicating).

23 Q So up until that point where that white pin is,

24 say, what, 12 feet from the door?

25 A Uh-huh.

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1 Q Is that a yes, for the record?

2 MR. DEMMA: You said uh-huh.

3 THE WITNESS: You said 12 feet?

4 BY MR. HOLSHOUSER:

5 Q Yeah. And you said uh-huh. That's why -- I'm

6 just trying to get --

7 HEARING OFFICER STUDDARD: He just wants you to

8 say yes.

9 THE WITNESS: Don't know if it's 12 feet; don't

10 know if it's 20 feet. When you're moving at that

11 rate of speed, that's a pretty -- but, you know.

12 BY MR. HOLSHOUSER:

13 Q So up until whatever distance -- it looks like

14 it's about the same distance from the end of the building

15 to -- and the reason I said 12 feet, because I think you

16 testified earlier it was 12 feet from the door --

17 A Right, to the railing.

18 Q -- to the railing.

19 A Yeah, yeah.

20 Q So this looks like about where the railing

21 starts, where you put the pin just now, and it looks

22 about the same distance to the railing from the door

23 approximately. So you -- up until that point is the time

24 when Cody passed you and you turned around behind him?

25 A I'm not going to say for exact sure. I'm going

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1 to say I don't remember exactly six months from now, but,
 2 you know, let's give or take a little leeway there, plus
 3 or minus -- you know, I'm not going to say minus. Let's
 4 maybe add a few feet. I'm not -- I can't give you an
 5 exact precise quantifiable number there. So I mean ...
 6 Q And then you -- what did Cody say -- the last
 7 thing he said before you restrained him?
 8 A I believe -- well, I know what Ms. Strunz said.
 9 He told me to fuck off.
 10 Q It wasn't to shut the F up?
 11 A It could have been, that -- that -- shut the
 12 fuck up.
 13 Q And how much time between the time he said
 14 "Shut the F up" and when you restrained him?
 15 A A second or two, give or -- give or take.
 16 Q And he was -- you testified here that you
 17 restrained him because you saw him going into the
 18 building --
 19 A Uh-huh.
 20 Q -- where there are other students inside?
 21 A Correct.
 22 Q Did you say -- did you yell to him "Stop"?
 23 A (Witness indicating.)
 24 Q At that point?
 25 A (Witness indicating.) Did I yell to Cody to

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1 stop?
 2 Q When he's opening the door, did you yell to him
 3 "Stop"?
 4 A During this area right here (indicating)?
 5 Q I'm talking about when he opened the door, did
 6 you yell to him to stop?
 7 A Don't remember.
 8 Q Now, when Cody -- or Cody, D.O.
 9 MR. HOLSHOUSER: And just for the record, Cody
 10 and D.O. are the same person. I don't think that's
 11 ever been articulated.
 12 HEARING OFFICER STUDDARD: I kind of gathered
 13 that.
 14 MR. DEMMA: I think it was earlier, but we
 15 haven't said it for a long time.
 16 HEARING OFFICER STUDDARD: Yeah, yeah. It was
 17 said in the beginning.
 18 BY MR. HOLSHOUSER:
 19 Q When he threw the chair, the blue chair --
 20 A Out here (indicating).
 21 Q -- who did he throw it at, if anyone?
 22 A Well, he was having dialogue with the chair,
 23 and was angry about whatever transpired here and whatever
 24 time-out he was in, but, you know ...
 25 Q Was anybody --

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1 A I'm not going to try and speak for Cody, he's
 2 not here, but there was a major crack in this chair, and
 3 when he had sat on it (demonstrating) --
 4 Q Mr. Ford, I don't -- I'm asking you just
 5 questions about what happened.
 6 A Well, I don't want you --
 7 Q What I'm asking you: Did he appear to be
 8 throwing the chair at someone?
 9 A No, I think he just ...
 10 Q And when he went around and took Coach
 11 Rountree's grade book and threw it, was he throwing it at
 12 anyone?
 13 A No.
 14 Q When you were going into the door and
 15 restrained him, had he -- had he come at you?
 16 A No.
 17 Q Was he in the act of trying to hit or strike
 18 any other student or individual when you restrained
 19 him?
 20 A No.
 21 Q Was he trying to hurt himself? Was he in the
 22 process of hurting himself when you restrained him?
 23 MR. DEMMA: I'd object to the question. It's
 24 too vague.
 25 MR. BICKNER: I think it's real clear. I'd

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1 overrule that.
 2 HEARING OFFICER STUDDARD: Overruled.
 3 THE WITNESS: Okay. Am I answering?
 4 BY MR. HOLSHOUSER:
 5 Q Was he in the process of doing something to --
 6 A Well, when you --
 7 Q Hurting himself?
 8 A -- slam your hand against a door like that,
 9 whether he intentionally wanted to do it or not, but, you
 10 know, with the force of a loud bang on a door and
 11 glass --
 12 Q Mr. Ford, that's --
 13 A I don't know what to tell you.
 14 Q Was there any apparent injury from him slapping
 15 his hand on the door?
 16 A Don't know.
 17 Q I said "apparent injury." Anything you
 18 observed?
 19 A All I was shown was his elbow, saying, "Look at
 20 this, look at this" (indicating).
 21 Q When did he say, "Look at this"? Was that
 22 after he had been up against the wall?
 23 A Over here against the wall (indicating), and
 24 Rountree had gotten his class down here (indicating).
 25 They entered the hallway. I was standing here

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1 (indicating), Rountree was standing next to me, the kid
 2 was over here (indicating). So Rountree got his class to
 3 the door then joined me. I -- you asked -- your question
 4 was?
 5 Q Where was he when he said, "Look at this, look
 6 at this," pointing to his elbow?
 7 A He is against the wall, and then he said,
 8 "Look, look, look, look at what you did."
 9 Q Now, was Ms. Strunz in the area at that time?
 10 A I'm trying to testify to what I knew versus
 11 what I've heard over the last six months and heard
 12 yesterday. So I thought Ms. Strunz was on this sidewalk
 13 behind me. It turns out that she had left, went inside
 14 to join her co-worker for some time, 30 seconds, two
 15 minutes, I don't know, and then rejoined us. Where I
 16 remember Ms. Strunz being, and, again, I didn't know she
 17 disappeared and came back, was right over here
 18 (indicating).
 19 Q I'm just asking whether her testimony where she
 20 said --
 21 A Right.
 22 Q -- D.O. pointed to his elbow said, "Look at
 23 this, look what he did" --
 24 A Right.
 25 Q -- that's consistent with yours, right, that he

Page 399

1 did that when he was standing up against the wall?
 2 A I think she testified yes. Well --
 3 Q Never mind.
 4 A -- I think she -- I think what she --
 5 Q Never mind.
 6 A -- testified to, Mr. Holshouser, is that she
 7 walking around the back of the building as he was in
 8 speed racer pace and was saying that. So, again, I don't
 9 know. Rountree and I were standing next to each other;
 10 we assessed the situation. I have no idea where Strunz
 11 was. I know she was not a participant.
 12 Q I think you testified that your own voice is
 13 very loud, in your direct examination?
 14 A Yes, it is.
 15 Q So your voice does carry well when you speak
 16 up?
 17 A Yes.
 18 Q And you also, I think, testified that when you
 19 were restraining D.O., that your attention was on him,
 20 you weren't looking to see where Ms. Strunz was at that
 21 point in time, were you?
 22 A When did I testify that?
 23 Q When you restrained D.O. and took him over to
 24 the railing that we've talked about.
 25 A Right. But when did I testify, today?

Page 400

1 Q Yeah. Isn't it true -- well, let me ask you
 2 this, whether you testified or not: Isn't it true that
 3 when you restrained D.O. at the door and took him over to
 4 the railing --
 5 A Uh-huh.
 6 Q -- you were not observing where Ms. Strunz was
 7 at that time?
 8 A She was not my first priority.
 9 Q Right. I understand. I'm just asking whether
 10 that -- that it's true that you weren't looking to see
 11 where Ms. Strunz was when that happened.
 12 A I know that I did catch a glimpse of her, but I
 13 wasn't specifically trying to locate where she was, if
 14 that's your question.
 15 Q So your testimony is that when you were
 16 restraining D.O. and taking him over to the railing, you
 17 could catch a glimpse of her during that point -- that
 18 time frame?
 19 A When he was at the railing --
 20 Q I'm talking about before. I'm talking about
 21 when you restrained him at the door --
 22 A Impossible.
 23 Q -- and were taking him to the railing, you
 24 caught a glimpse of her?
 25 A Impossible. She was back there somewhere.

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1 Q Okay. So my point is, you didn't see where she
 2 was during that time frame?
 3 A Last glimpse I got of her --
 4 Q Mr. Ford -- Mr. Ford --
 5 A I got to play it out in my head, Mr.
 6 Holshouser. This is -- this is not the real world in
 7 here. I lived in --
 8 Q Mr. Ford --
 9 A -- the real --
 10 Q -- you're supposed to stay seated as a witness
 11 until you get permission from the hearing officer to move
 12 out of that chair.
 13 A So I ask you permission now, your question, her
 14 permission?
 15 Q I'm just asking you --
 16 A Sure.
 17 Q -- or confirming with you that you weren't
 18 looking at where Ms. Strunz was when you were in the act
 19 of restraining D.O. and pulling him over to the railing;
 20 isn't that correct?
 21 A That is true.
 22 Q Okay. That's all I wanted to --
 23 HEARING OFFICER STUDDARD: Okay. Is that all
 24 your questions?
 25 MR. HOLSHOUSE: I'm just looking through my

Page 402

1 notes to make sure.

2 BY MR. HOLSHOUSER:

3 Q Now, one -- one quick question. You've seen

4 Petitioner's Exhibit 20, the plea that we've talked

5 about?

6 A Can I look?

7 MR. DEMMA: It's in the book there.

8 BY MR. HOLSHOUSER:

9 Q It's in the book right there. It's the

10 petitioner's exhibit.

11 A 20?

12 Q Are you familiar with that document, right?

13 A This document? I saw this document on June

14 4th.

15 Q Okay. Did you keep a copy of that document?

16 A I was not provided a copy on June 4th.

17 Q Did you -- were you provided a copy between

18 June 4th and anytime leading up to this hearing?

19 A I believe sometime in the past two weeks you or

20 Mr. Lufkin, your law firm, provided it to my counsel who

21 provided it to me.

22 Q Did your criminal attorney, defense attorney

23 have a copy of that document?

24 A We were not able to get this document. May I

25 ask --

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1 Q No, you can't ask anything.

2 A I can't?

3 Q No. I'm just asking whether you had a copy of

4 it.

5 MR. HOLSHOUSER: I don't have any further

6 questions at this time.

7 MR. DEMMA: I just have one question.

8 THE WITNESS: Sure.

9 HEARING OFFICER STUDDARD: Okay.

10 REDIRECT EXAMINATION

11 BY MR. DEMMA:

12 Q When you were -- two questions, I'm sorry, I'll

13 correct myself.

14 When you were being questioned by law

15 enforcement officers --

16 A Yes.

17 Q -- did you have your assigned attorney

18 present?

19 A I did not.

20 Q And did you -- did you perceive that you could

21 be in criminal jeopardy based upon what was happening

22 with law enforcement?

23 A Did I perceive?

24 Q Yes.

25 A They were there -- yeah, absolutely.

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1 Q And with respect to SCM, your prior SCM

2 training, at the fact-finding meeting you had with

3 Ms. McCabe, did -- were you asked a question about SCM

4 training or did you bring it up as the basis for your

5 hold?

6 A I was asked a question about SCM training.

7 MR. DEMMA: That's all I have.

8 MR. HOLSHOUSER: I have no further questions.

9 HEARING OFFICER STUDDARD: So you've both

10 rested here?

11 MR. DEMMA: We rest.

12 MR. HOLSHOUSER: We have a very short rebuttal

13 with Ms. McCabe.

14 HEARING OFFICER STUDDARD: Okay. Okay.

15 Rebuttal witnesses.

16 THE WITNESS: I'm excused?

17 HEARING OFFICER STUDDARD: Yes, you're excused.

18 (Witness excused.)

19 MR. DEMMA: Well, I'm not excusing you. You

20 have to come over here.

21 HEARING OFFICER STUDDARD: Over there. All

22 right. And so, Mr. Holshouser, you have a rebuttal

23 witness?

24 MR. HOLSHOUSER: Yes, Ms. McCabe, a few

25 questions I have to ask her.

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1 THE REPORTER: Shall I re-swear her from

2 yesterday?

3 HEARING OFFICER STUDDARD: Yes, let's do it

4 again.

5 TONI ANN McCABE,

6 having been produced and first duly sworn as a witness on

7 behalf of the petitioner, and after responding "I do" to

8 the oath, testified as follows:

9 REBUTTAL EXAMINATION

10 BY MR. HOLSHOUSER:

11 Q I just want to go back to some -- you've heard

12 Mr. Ford's testimony, and I think you heard him testify

13 about a discussion during that walk between him and D.O.,

14 that D.O. said Mr. Ford couldn't put his hands on him and

15 that Mr. Ford responded saying words to the effect, "You

16 don't know what I'm allowed to do." You heard that

17 testimony just a few minutes ago?

18 A I heard that today.

19 Q Was that ever brought up in any of the

20 fact-finding or any of the discussions you had with

21 Mr. Ford when you were deciding what to do with his

22 employment?

23 A No, it wasn't. I haven't heard that before

24 today.

25 Q Now, did he mention that D.O. had talked about

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1 MS at all in the conversation you had with him leading up
 2 to the -- well, let me strike that. Let me just move on.
 3 In the fact-finding or anytime during those or
 4 the -- I guess the last conference you had with
 5 Ms. Butler and Mr. Ford, did either of them bring up
 6 anything about the reasonable force policy of the school
 7 board?
 8 A No.
 9 Q Was Safe Crisis Management discussed?
 10 A We had discussed Safe Crisis Management during
 11 fact-finding.
 12 Q And Mr. Ford had told you at that time that he
 13 had had Safe Crisis Management training?
 14 A Yes, as well as a training by another company
 15 in another school district, I believe Pasco County.
 16 Q Now, what about the -- there's also some
 17 testimony, I think, from Ms. Butler earlier that you
 18 heard today that there was discussions between union
 19 representatives with your involvement about providing
 20 Safe Crisis Safe Crisis Management training for regular
 21 teachers.
 22 Were you a part of any discussions along those
 23 lines with the union about SCM training for regular
 24 teachers?
 25 A I believe Mrs. Butler was referring to the

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1 former president of CCEA, Steve Richards, and we never --
 2 I never was involved in a discussion with Tracy Butler
 3 and Steve Richards regarding Safe Crisis Management
 4 training.
 5 Q Now, you've heard all the testimony, some
 6 conflicting, about where the hold was. Have you received
 7 any information throughout these proceedings or before
 8 that would explain why D.O. had a red mark across his
 9 neck and still was just restrained across the chest? Any
 10 explanation of how that could have happened from Mr. Ford
 11 or anybody representing Mr. Ford?
 12 A No, I have not.
 13 Q Now, one of the things -- and I've got a
 14 rebuttal exhibit here.
 15 MR. HOLSHOUSER: And if I may approach the
 16 witness to hand an exhibit.
 17 HEARING OFFICER STUDDARD: Okay.
 18 MR. HOLSHOUSER: And this we'll mark as
 19 Petitioner's Exhibit 33.
 20 BY MR. HOLSHOUSER:
 21 Q Ms. McCabe, can you identify Petitioner Exhibit
 22 33?
 23 A This document is the document of record of a
 24 teacher's in-service record of the county.
 25 Q Whose teacher -- which teacher?

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1 A I'm sorry. This particular record is for
 2 Michael Ford.
 3 Q Now, you heard testimony about him receiving
 4 Safe Crisis Management training, and he claims that it
 5 occurred in September 2008 before he received the letter
 6 in October 2008.
 7 A Correct, I heard that.
 8 Q Now, is this a record, Petitioner's Exhibit 33,
 9 that's kept and maintained in the ordinary course of
 10 business?
 11 A It is.
 12 Q Can you indicate to the hearing officer when
 13 Mr. Ford completed Safe Crisis Management training as
 14 reflected on that document?
 15 A Initial certification for Safe Crisis
 16 Management, November 1, 2008.
 17 MR. HOLSHOUSER: I'd like to move that entry
 18 into evidence.
 19 MR. DEMMA: Voir dire.
 20 HEARING OFFICER STUDDARD: Okay. Your
 21 question.
 22 VOIR DIRE EXAMINATION
 23 BY MR. DEMMA:
 24 Q Ms. McCabe, did you provide this training?
 25 A I was not the trainer, no.

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1 Q And do you have any personal knowledge that
 2 every date that's on a document like this is accurate?
 3 A I only know what's on the record that I can see
 4 here.
 5 Q One more question. Who is it that supposedly
 6 provides the information that gets -- that goes into this
 7 record?
 8 A The coordinator or the trainer, for example, of
 9 Safe Crisis Management would be responsible for ensuring
 10 that the information got into the teacher's in-service
 11 record.
 12 Q Is there an actual sign-in sheet for the
 13 courses?
 14 A There should be, yes.
 15 MR. DEMMA: I object to this document as not
 16 the best evidence of when the course was completed,
 17 because somebody could turn it in with the wrong
 18 date or somebody could not turn them all in until a
 19 later date. It isn't knowledge that it's a legal
 20 issue at the time they turn it in.
 21 MR. HOLSHOUSER: May I respond?
 22 HEARING OFFICER STUDDARD: Yes.
 23 MR. HOLSHOUSER: I think it's clearly a
 24 business record, something maintained and kept in
 25 the ordinary course of business. Anybody can

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1 testify as to whether it's accurate or not. Mr.
 2 Ford's already testified. But it's a business
 3 record. It constitutes non-hearsay evidence, and
 4 we're admitting it for that purpose.
 5 MR. DEMMA: For the truth of the matter
 6 asserted?
 7 MR. HOLSHOUSER: Yeah, it's not hearsay. It's
 8 a business record exception to the hearsay rule.
 9 HEARING OFFICER STUDDARD: I'll admit this as a
 10 business record.
 11 MR. BICKNER: It will be Exhibit number what?
 12 MR. HOLSHOUSER: 33, Petitioner's Exhibit 33.
 13 (Petitioner's Exhibit No. 33 received in evidence.)
 14 MR. HOLSHOUSER: And I have no further
 15 questions of this witness.
 16 HEARING OFFICER STUDDARD: Okay. Mr. Demma.
 17 REBUTTAL EXAMINATION
 18 BY MR. DEMMA:
 19 Q The notes that your assistant typed for you
 20 from the meetings, Ms. McCabe, those notes were not
 21 shared with Mr. Ford or Ms. Butler?
 22 MR. HOLSHOUSER: Let me just object. He's
 23 going well outside the scope of my rebuttal
 24 examination. He's limited to the subjects I
 25 covered. He had plenty of time to cross examine

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1 Ms. McCabe when she testified in the case in
 2 chief.
 3 MR. DEMMA: On rebuttal you raised the issue of
 4 whether certain things were brought to her attention
 5 during the meetings.
 6 MR. HOLSHOUSER: Okay. Maybe I misunderstood.
 7 You were talking about notes, and I didn't have any
 8 discussion about notes. If you just want to talk
 9 about those items that I asked her about, that's
 10 fine.
 11 HEARING OFFICER STUDDARD: I'm not clear now.
 12 What was your question again?
 13 MR. DEMMA: I need to start again.
 14 BY MR. DEMMA:
 15 Q What I want to ask is: Is it correct that you
 16 and Ms. Ware controlled the timing and the process of
 17 when those materials were provided to Ms. Butler and Mr.
 18 Ford and that was at the final meeting, which was about
 19 15 minutes long?
 20 MR. HOLSHOUSER: Same objection.
 21 BY MR. DEMMA:
 22 Q Here's where I'm going: If the notes aren't
 23 complete, if there's something that was said that was
 24 missed or that you didn't think was important enough to
 25 put in notes, they don't have enough time to bring it to

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1 your attention before the notes are final. And you're
 2 now here testifying that things -- things were not
 3 mentioned to you that may have been mentioned to you
 4 except for your notes.
 5 MR. HOLSHOUSER: I have the same objection that
 6 we just talked about. This could have all been on
 7 cross examination in the case in chief and it's
 8 simply a rebuttal witness on a couple of points that
 9 Ms. Butler testified to.
 10 MR. BICKNER: Sustain.
 11 HEARING OFFICER STUDDARD: Sustained.
 12 MR. DEMMA: I don't have additional
 13 questions.
 14 MR. HOLSHOUSER: I have no further questions.
 15 MR. BICKNER: Anything further from the
 16 witness?
 17 MR. HOLSHOUSER: No further witnesses.
 18 HEARING OFFICER STUDDARD: No further
 19 witnesses. The witness is dismissed.
 20 (Witness excused.)
 21 MR. BICKNER: Can we go off the record for just
 22 a moment?
 23 HEARING OFFICER STUDDARD: Off the record.
 24 (Off-the-record discussion.)
 25 HEARING OFFICER STUDDARD: I want each side to

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1 provide me with their proposed findings of fact and
 2 conclusions of law. How much time do you need?
 3 MR. HOLSHOUSER: I think we're going to need a
 4 certain amount of time after the transcript is
 5 ready.
 6 MR. BICKNER: How much time for a transcript?
 7 HEARING OFFICER STUDDARD: Can the transcript
 8 be ready in ten days?
 9 (Off-the-record discussion.)
 10 MR. HOLSHOUSER: And my thought is, with a
 11 two-day hearing, maybe 45 days from there to submit
 12 the proposed order.
 13 HEARING OFFICER STUDDARD: Two weeks. Two
 14 weeks for the transcript. Proposed findings of
 15 fact, conclusions of law, how many days after that?
 16 MR. DEMMA: 45.
 17 MR. HOLSHOUSER: Why don't we just go with
 18 45.
 19 MR. DEMMA: 45 is acceptable to me.
 20 MR. BICKNER: 45 days after the transcript?
 21 MR. HOLSHOUSER: Right.
 22 HEARING OFFICER STUDDARD: So we've got 14 days
 23 on the transcript and then 45 days after that that
 24 you'll have your findings of fact to me.
 25 MR. HOLSHOUSER: Uh-huh.

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1 MR. BICKNER: And then --

2 HEARING OFFICER STUDDARD: And then I will

3 provide each side with a recommended final order

4 blank days after receipt of -- you can't spell --

5 porpp, p-o-r-p-p --

6 MR. BICKNER: You're not supposed to call that

7 to everybody's attention.

8 HEARING OFFICER STUDDARD: It's a habit of my

9 mine, I'm sorry.

10 MR. BICKNER: 45 days for the finding of fact

11 and conclusions of law, and then I need a time

12 frame --

13 HEARING OFFICER STUDDARD: Just a minute. This

14 is the first of October. We're talking middle of

15 October, then 45 days, middle of November, into

16 December. You're getting me right into Christmas.

17 Merry Christmas.

18 MR. DEMMA: I could go a bit less than 45 if it

19 helps with some kind of scheduling, but I at least

20 need 30 because I'm going on two weeks of R and R

21 and then I'm coming back to another brief.

22 HEARING OFFICER STUDDARD: Well, I could do

23 what?

24 MR. BICKNER: Can we go off the record?

25 HEARING OFFICER STUDDARD: Go off the record

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1 again.

2 (Off-the-record discussion.)

3 MR. BICKNER: Now, as I understand from our

4 discussion off the record, two weeks for a

5 transcript from today, and then beyond that, an

6 additional 45 days for findings of fact and

7 conclusions of law which would put us to about

8 December the 1st, give or take a day, and then

9 final -- proposed final order by the hearing officer

10 by January the 30th, 2014.

11 HEARING OFFICER STUDDARD: By January 30th.

12 MR. BICKNER: And then that will put it on the

13 February board meeting and that will give you

14 sufficient time for your objections to that final

15 order, if there are any.

16 HEARING OFFICER STUDDARD: Our board meetings

17 are the third Thursday.

18 MR. DEMMA: DOAH usually allows 15 days, I

19 believe.

20 HEARING OFFICER STUDDARD: The third Thursday

21 is our regular board meeting day.

22 MR. BICKNER: January 30th would give you till

23 February the 13th, and that would be another

24 probably six days before the hearing at the February

25 board meeting.

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1 MR. HOLSHOUSER: That's agreeable to --

2 HEARING OFFICER STUDDARD: The February board

3 meeting would be the 20th.

4 MR. BICKNER: Is that agreeable with everyone?

5 Mr. Demma, yes?

6 MR. DEMMA: Would it be possible to provide an

7 order to that effect?

8 MR. BICKNER: I will. I just want to make sure

9 what I'm writing down.

10 MR. DEMMA: Thank you, sir.

11 HEARING OFFICER STUDDARD: If there's no

12 further business, this hearing is adjourned.

13 (Off-the-record discussion.)

14 CHAIRMAN STUDDARD: We're concluded.

15 (The proceedings concluded at 12:33 o'clock p.m.)

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1 C E R T I F I C A T E O F O A T H

2

3

4 STATE OF FLORIDA)

5 COUNTY OF DUVAL)

6

7

8 I, the undersigned authority, certify that the

9 witnesses personally appeared before me and was duly

10 sworn on Tuesday, October 1, 2013, and Wednesday, October

11 2, 2013.

12

13 WITNESS my hand and official seal this 14th day of

14 October 2013.

15

16

17

18

19

20 *Tanya L. McCranie*

21 Tanya L. McCranie

22 Notary Public - State of Florida

23 Commission No.: DD 923552

24 Expires: October 26, 2013

25

C E R T I F I C A T E

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STATE OF FLORIDA)
COUNTY OF DUVAL)

I, TANYA L. McCRANIE, Registered Merit Reporter,
certify that I was authorized to and did stenographically
report the proceedings; that a review of the transcript
was not requested; and that the transcript is a true and
complete record of my stenographic notes.

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

DATED this 14th day of October 2013.

Tanya L. McCranie
Tanya L. McCranie, RMR

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