



Ann M. Rogers

Reported by:

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9:38 A.M.

BALTIMORE, MARYLAND

200 E. NORTH AVENUE, ROOM 406

AUGUST 26, 1999

* * * * *

BEFORE: JAMES L. WIGGINS, HEARING EXAMINER

IN THE MATTER OF * DIANA WILLIAMS

OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM

BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS

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CHERYL X. HASKINS, Esquire,

SANDRA HOLMES, Esquire,

Assistant City Solicitors

Education Division

200 East North Avenue, Suite 208

Baltimore, Maryland 21202

on behalf of the Baltimore City

Public School System and the

Chief Executive Officer

Diana Williams (pro se)

Jane Fields

Gordon Ayres

Carol Glover

1 requested; meaning, that only the witness who

2 is going to testify in that chat right there

3 right now can stay in here, the other witnesses

4 will wait out in the lobby.

5 Do you want to exercise that right?

6 MS. WILLIAMS: Absolutely, certainly.

7 MR. WIGGINS: Now, Ms. Haskins, I want

8 you to have all your witnesses, other than the

9 one who is going to testify, to step out in the

10 lobby. I will tell the witnesses do not discuss

11 the case amongst yourselves. Is that okay?

12 Okay. Now, who are you having first to

13 testify, Ms. Haskins?

14 MS. HASKINS: I have a question.

15 MR. WIGGINS: Yes, ma'am.

16 MS. HASKINS: Does Ms. Williams have any

17 witnesses?

18 MR. WIGGINS: Ms. Williams, do you have

19 witnesses?

20 MS. WILLIAMS: Yes, I do, but they are

21 not here right at the present.

1 MR. WIGGINS: who are the two people

2 with you now?

3 MS. WILLIAMS: This is my assistant, and

4 she's just here on behalf of --

5 MR. WIGGINS: She won't testify?

6 MS. WILLIAMS: No, not really, no.

7 MR. WIGGINS: Okay. Then they may stay.

8 MS. HASKINS: Mr. Wiggins, I have

9 another question.

10 MR. WIGGINS: Yes.

11 MS. HASKINS: Am I allowed to have one

12 of the persons involved in the case stay with

13 me?

14 MR. WIGGINS: Well, which one is that?

15 MS. HASKINS: That will be Jane

16 Fields.

17 MR. WIGGINS: Yes.

18 MS. HASKINS: Thank you. The first

19 witness is going to be Dr. Abernethy. I'm going

20 to ask you to have a seat in the lobby.

21 MS. WILLIAMS: Could I --

P R O C E E D I N G S

MR. WIGGINS: This is James Wiggins,

Hearing Examiner for Baltimore City -- for the

New Board of School Commissioners for Baltimore

City Public Schools. We're here in the matter of

Diana Williams, a dismissal case. Here on behalf

of the CEO of the Baltimore City Public Schools

is Ms. Cheryl Haskins. Ms. Williams is here pro

9 se.

10 Before we begin, are there any

11 stipulations that have been agreed upon between

12 the parties? Ms. Haskins?

13 MS. HASKINS: Yes, sir. I'd like to

14 enter the statement of charges as --

15 MR. WIGGINS: Well, no. I'm not asking

16 if you're ready to enter anything into evidence.

17 I'm asking are there any stipulations that you

18 agreed to with Ms. Williams.

19 MS. HASKINS: No, sir.

20 MR. WIGGINS: Okay. Ms. Williams, you

21 have a right to have the witnesses to be

1 MR. WIGGINS: Not yet.
 2 (Witnesses left the room.)
 3 MR. WIGGINS: How, ma'am, you wanted to
 4 say?
 5 MS. WILLIAMS: Yes, sir. I wanted to
 6 address some -- in civil court it's called, I
 7 guess, pretrial, prehearing issues.
 8 MR. WIGGINS: Right, pretrial hearing.
 9 MS. WILLIAMS: Okay. Could I address
 10 you?
 11 MR. WIGGINS: Certainly.
 12 MS. WILLIAMS: First of all, I'd like to
 13 refer to Ms. Donaldson's memo that she sent in
 14 regard to the issues that I had addressed, four
 15 issues, I believe it's dated 8-11-99, in which
 16 she acknowledged the receipt of my letter dated
 17 August -- on correspondence dated August 5th.
 18 MR. WIGGINS: Okay.
 19 MS. WILLIAMS: Number 1, she asked
 20 Mr. Maher, the Director of Labor Relations, to
 21 consider my request in response to the issue of

1 MR. WIGGINS: Right. That's what I
 2 said.
 3 So was it your impression that
 4 Mr. Maher could override me?
 5 MS. WILLIAMS: No. My impression was
 6 that he had given more or less -- I would hate
 7 to use the term directive, but that's the only
 8 one I can think of at this time.
 9 I understood the memo to mean that she
 10 had requested that he review the situation and
 11 see whether, in fact, we were going to have an
 12 open hearing. So maybe I misunderstood.
 13 MR. WIGGINS: She may have referred your
 14 request to him to see whether or not the school
 15 Board may have had a change of opinion, but I've
 16 already ruled in that regard.
 17 MS. WILLIAMS: Right.
 18 MR. WIGGINS: Your concerns are noted
 19 for the record, but the hearing is closed.
 20 MS. WILLIAMS: Okay.
 21 MR. WIGGINS: The next pretrial

1 the relevance hearing regarding the public
 2 hearing.
 3 I have yet to hear from Mr. Maher in
 4 regard to any of this matter, and I'd like to
 5 just have it on the record.
 6 MR. WIGGINS: Okay. So you made a
 7 subsequent request for a public hearing?
 8 MS. WILLIAMS: Yes.
 9 MR. WIGGINS: And you were advised that
 10 it was going to be directed to Mr. Michael Maher,
 11 Director of Labor Relations --
 12 MS. WILLIAMS: Yes, sir.
 13 MR. WIGGINS: -- for consideration, and
 14 you haven't heard anything back in that regard?
 15 MS. WILLIAMS: Not at all, sir.
 16 MR. WIGGINS: Okay.
 17 MS. WASKINS: Excuse me, Mr. Wiggins.
 18 MR. WIGGINS: Yes.
 19 MS. WASKINS: This request was
 20 subsequent to the request for a public hearing,
 21 when was that?
 1 MS. WASKINS: No, sir.
 2 MR. WASKINS: Any pretrial matters?
 3 MS. WILLIAMS: All right. I thank you
 4 then. That's it at this point in time.
 5 MR. WIGGINS: Any pretrial matters?
 6 MS. WASKINS: No, I don't issue any
 7 level requests for punitive damages would be
 8 addressed or not.
 9 MR. WIGGINS: No, I don't issue any
 10 damages, ma'am. That's at court.
 11 MS. WILLIAMS: All right. I thank you
 12 then. That's it at this point in time.
 13 MR. WASKINS: Any pretrial matters?
 14 MS. WASKINS: No, sir.
 15 MR. WASKINS: Any pretrial matters?
 16 MS. WASKINS: No, sir.
 17 MR. WASKINS: Any pretrial matters?
 18 MS. WASKINS: No, sir.
 19 MR. WASKINS: Any pretrial matters?
 20 MS. WASKINS: No, sir.
 21 MR. WASKINS: Any pretrial matters?

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1 Ms. Casella Spears, contacted the Department of

2 facilities to confirm the accuracy of that

3 letter.

4 I will also note that facilities

5 advised Ms. Spears at that time that they were

6 not aware of any citations being issued against

7 #144 for the alleged violations.

8 Moreover, facilities confirmed that all

9 Baltimore City Public Schools had been inspected

10 for such hazards in accordance with established

11 laws.

12 The Chief Executive Officer and the

13 School Board considers the misconduct of

14 Ms. Williams as inappropriate behavior. Case law

15 supports the definition of misconduct in the case

16 of respect versus State Board of Education,

17 that's 284 Maryland 5371979.

18 The case describes misconduct by saying

19 to constitute misconduct in office, a teacher

20 must engage in unprofessional conduct which bears

21 upon a teacher's fitness to teach such that it

1 Maryland Annotated Code, Education Article, 1998

2 Supplement, section 6-202 (a) (11),

3 Dr. Robert Booker has recommended the dismissal

4 of Diana Williams, a teacher last employed at

5 Southeast Middle School, for misconduct in

6 office.

7 This misconduct consists of circulating

8 to parents and students at Southeast Middle

9 School, #255, a letter which erroneously stated

10 that the school's drinking water had been tested

11 for lead and found to have levels higher than

12 acceptable by the Environmental Protection

13 Agency.

14 This consisted of engaging in conduct

15 that caused disruption in the Baltimore City

16 public school system, including writing a letter

17 to Mayor Schomke, which stated that staff and

18 students at her former school, Fairmount-Harford,

19 #456, had been exposed to lead due to a

20 renovation project at the school.

21 This example of misconduct also

1 consisted of giving copies of the letter to the

2 staff, students, and parents at School #456,

3 Ms. Williams referring to herself as a lead

4 apartment expert, and discounting the results of

5 the November 1996 study by The Johns Hopkins

6 University, which specifically found that the

7 renovation project had not exposed the staff or

8 students at #456 to unsafe amounts of lead.

9 The misconduct also consists of writing

10 and distributing a letter that claimed that an

11 expert had cited three Baltimore City public

12 schools as lead-based paint and asbestos

13 hazards. In this instance, Ms. Williams

14 identified herself as a lead expert and gave

15 copies of this letter to staff, students, and

16 parents.

17 I will note that one of the schools

18 mentioned in this instance was James Mosher

19 Elementary, #144. Ms. Williams' activities in

20 that regard caused panic among parents of

21 students at #144 such that the principal,

15 MR. WIGGINS: Ms. Williams, your opening

16 statement, ma'am?

17 MS. WILLIAMS: Yes. Good morning. I

18 plan to, through facts and supporting evidence,

19 to refute each of the charges that have been

20 brought up against me, as well as through

21 testimony, witnesses, and, in fact, I plan to

13 recommendation for Ms. Williams' dismissal.

12 We request that you uphold the

11 on the students and the School System.

10 future classroom performance and overall impact

9 of a public school teacher and undermines her

8 renders her unsuitable to the discharge of duties

7 that her conduct was unprofessional, and it

6 inappropriate behavior by the actions described,

5 believe that Ms. Williams has engaged in

4 Commissioners and the Chief Executive Officer

3 The Baltimore City Board of School

2 overall impact on her students.

1 undermines her future classroom performance and

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1 assignment on November 1st, 1998.

2 Q. How long have you been Southeast Area
3 Executive Officer?

4 A. Since that same time. Prior to that,
5 I've been in education since 1968, and also have
6 been a superintendent of schools previously in
7 New Jersey.

8 Q. Okay. What are your duties as an Area
9 Executive Officer?

10 A. The bottom line, and anything else that
11 is assigned, my major responsibility is for the
12 instruction of all students in the 20 schools for
13 which I supervise the principals in the Southeast
14 quadrant of the City. I'm responsible not only
15 for instruction, but to ensure that there's
16 smooth processes, that policies are enforced.
17 The general responsibility of a
18 superintendent, without the Board direct line, is
19 what I do in our area, as all other Area
20 Executive Officers. It's a very large scope of
21 responsibility for the schools, to ensure the

1 show that, in fact, there was misconduct in
2 office.

3 There were erroneous statements made;
4 however, they have the wrong party. In fact, the
5 charges should be brought against those
6 individuals that have perpetrated the crime, and,
7 again, facts in evidence will make it very
8 obvious who those individuals were. Thank you.

9 MR. WIGGINS: Okay. Do you want to call
10 your first witness, Ms. Haskins?

11 MS. HASKINS: Yes. Dr. Patricia
12 Abernethy.

13 PATRICIA ABERNETHY, Ph.D.,
14 being first duly sworn to tell the truth, the
15 whole truth, and nothing but the truth, testified
16 as follows:

17 MR. WIGGINS: Excuse me, sir. Your
18 pager is kind of disruptive. You can turn it off
19 or step out.

20 MR. WIGGINS: I'll turn it off.
21 MR. WIGGINS: Ms. Haskins?

1 EXAMINATION BY MS. HASKINS:

2 Q. Okay. Dr. Abernethy, the questions that
3 I'm going to ask you, if there's any documents
4 that support the questions, I will be showing
5 them to you.

6 A. Okay.
7 Q. Could you please state your name and
8 current position for the record?

9 A. Dr. Patricia Abernethy, and I'm the Area
10 Executive Officer for Southeast.

11 MR. WIGGINS: Please spell Abernethy for
12 me.

13 A. Abernethy is A-B-E-R-N-E-T-H-Y.

14 Q. Okay. And what is your educational
15 background?

16 A. I have a Bachelor's in education and a
17 Master's in mathematics and a Doctorate in
18 educational psychology and research.

19 Q. And how long have you served in the
20 Baltimore City Public School System?

21 A. I arrived in Baltimore to begin my
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1 safety of the children and all policies and
2 procedures.

3 Q. Okay. Are you familiar with Diana
4 Williams?

5 A. Well, she and I personally just met this
6 morning, but I have had occasion to speak with
7 her before, yes.

8 Q. Can you recall your first contact with
9 Ms. Williams?

10 A. Yes. On February 25th I received a
11 phone call from the principal of Southeast Middle
12 School, Ms. Jane Fields, advising me that there
13 was a letter that had been sent to parents, and
14 she read that letter to me, and in that letter
15 there had also been a card, an individual's card,
16 that had the name Diana Williams with a phone
17 number on it. It said she's a lead abatement
18 expert.

19 I called -- I asked for Ms. Fields to
20 please get Ms. Diana Williams to come to the
21 phone, and if there was no one available to cover

1 her class that Ms. Fields would do that, and

2 asked Ms. Williams to come to the phone

3 immediately to ask if she were the one that sent

4 this letter.

5 The letter, and I'm sure you have a

6 copy of that letter, identified, according to the

7 person as Diana Williams, it said that there was

8 lead in the water and that a brain is a terrible

9 thing to waste, et cetera -- there's a lot more

10 that's in that letter, and I'm not going to be

11 able to recall all of it -- and that the parents

12 should please take their children immediately to

13 be tested.

14 So when I asked Ms. Williams to come to

15 the phone, she did come, and I asked her three

16 times did you write this letter, and each time

17 she said well, if you can prove it, I'll take the

18 charge. I asked again; if you can prove it, I'll

19 take the charge.

20 Finally, when I was asking her would

21 you please answer my question, she said that she

1 When I put all of this together, I

2 wrote a memo of recommendation for suspension

3 without pay to be reviewed by Dr. Booker, because

4 what happened here was that parents were unduly

5 alarmed, that there was access to all of the

6 files of all of the students in that school

7 unauthorized, because the letters were sent to

8 these children and we didn't give permission for

9 that.

10 Parents were concerned, teachers were

11 concerned, and an emergency faculty meeting had

12 to be held by Ms. Fields the following

13 afternoon. We had to send a letter of

14 clarification to parents and our Public Relations

15 Department had to talk to the press as well. It

16 was a serious disruption of the educational

17 process and unduly alarming them.

18 As a matter of fact, the report from

19 February 11th from the Health Department noted

20 that there was one faucet that had more than the

21 parts per billion, and that faucet, in fact, had

1 would not answer my question until I talked about

2 what the School System was doing.

3 So at that point she hung the phone up

4 on me. She wouldn't answer it, so she did hang

5 up on me. That's the only time I've ever met

6 with her on the telephone.

7 Q. Okay. As a result of that conversation,

8 did you take any further action?

9 A. Yes. I immediately notified the CEO

10 about the situation and our Labor Relations about

11 the situation, I talked to Ms. Fields about it,

12 and Ms. Fields then conducted -- had a meeting

13 with her, and she can tell you more about the

14 details of that meeting, I was not present, and

15 subsequent to that Ms. Fields recommended her

16 suspension.

17 I reviewed the case to ensure that we

18 had corroborating facts from the February 11th

19 health report, as well as the 1993 initial review

20 of lead in all the water in the schools, checked

21 with Mr. Elam about that as well.

1 been labeled out of order and had to be turned on

2 to have the test. So there was no substantiation

3 for lead in the water.

4 So based on all of that information, I

5 made my recommendation in a memo to Mr. Maher,

6 our Director of Labor relations, to please

7 present the situation to Dr. Booker for his

8 review.

9 MS. HASKINS: Okay. I'd like to have

10 Dr. Abernethy identify a memorandum that she

11 wrote to Mr. Maher on February 25th, 1999 and the

12 attachments that went with it.

13 MR. WIGGINS: Are all three of those one

14 memo?

15 MS. HASKINS: I believe so, but I need

16 for Dr. Abernethy to identify it.

17 MR. WIGGINS: Well, give a copy to

18 Ms. Williams, a copy to me. Okay. These three

19 sheets we will mark for identification as CEO

20 Exhibit 1. I see you have some paper clips

21 there. May I have a paper clip? Thank you.

1 Okay.

2 (Whereupon, CEO Exhibit No. 1 marked.)
3 Q. Dr. Abernethy, could you please identify

4 the document?

5 A. Yes, I can. The letter I sent to

6 Mr. Maher, Office of Labor Relations, and the
7 second one was before I -- in order to present

8 enough information with this, I had asked

9 Ms. Fields to please summarize the facts, to her

10 best knowledge, from 1993 about what had been
11 done for the lead and water sampling results, and

12 I attached a copy of the letter with a Xerox of
13 the card that was inside that envelope sent to

14 each parent.

15 Q. Okay.

16 MR. WIGGINS: Let me change that. If I

17 understand her testimony, the first one was sent

18 out February 25th to Mr. Michael Maher; is that

19 correct?

20 A. That's right.

21 MR. WIGGINS: And then Ms. Jane Fields

1 MR. WIGGINS: Okay. It's so admitted

2 into evidence.

3 MS. HASKINS: Thank you.

4 Q. Dr. Abernethy, after you sent this

5 information to Mr. Maher, who is the Director of

6 Labor Relations, did you take any other action or

7 have any other contact with Ms. Williams?

8 A. No, not until today.

9 Q. Okay. Did you receive any

10 communications about Ms. Williams from any of the

11 other principals in your area?

12 A. Yes. In order for me to understand the

13 whole situation -- once you have a suspension

14 without pay, you do not want to extend that

15 longer than necessary, you want to be able to

16 take the next action step -- I did want to do my

17 own review of what had happened so far.

18 So I did sit down for a conference with

19 Ms. Fields and Ms. White to put some chronology

20 together of what happened. So I did meet with

21 the two principals to understand more about what

1 sent you --

2 A. Before I sent this, I asked her to do
3 this and send it so I could send it all
4 attached.

5 MR. WIGGINS: One package.

6 A. And this as well, yes.

7 MR. WIGGINS: Okay.

8 A. So she did her homework after our

9 conversation to be able to send this. So I gave

10 them the information, because my memo references

11 the Health Department in 1993.

12 MR. WIGGINS: Okay. Marked for

13 identification as CEO Exhibit Number 1 is the

14 memorandum from Patricia E. Abernethy to Michael

15 Maher dated February 25th, 1999 and the

16 attachments thereto.

17 MS. HASKINS: I'd like to move the

18 document into evidence, please.

19 MR. WIGGINS: Any objections,

20 Ms. Williams?

21 MS. WILLIAMS: No, not at all.

21 A. No.

20 activities?

19 other communications regarding Ms. Williams

18 Q. Okay. Did you yourself send out any

17 principals of those schools.

16 any. Anything I received was from the two

15 A. No, I don't have any recollection of

14 activities?

13 City Public School System regarding Ms. Williams

12 communications from anyone else in the Baltimore

11 Q. Okay. Now, did you receive any

10 issue. That was her next step.

9 with her subsequent to that, but that was not my

8 then in Ms. Fields' -- Ms. Fields had a meeting

7 A. No, nothing administratively. It was

6 further action administratively?

5 with Ms. Fields and Ms. White, did you take any

4 Q. Okay. As a result of your discussion

3 and I didn't have any of that history.

2 from Ms. Fields, as I was new here as of November

1 happened at Fairmount-Harford and greater detail

1 Q. Okay. Did you subsequently recommend the dismissal of Ms. Williams?

2 A. The dismissal process is Dr. Booker's process. Mine was for the initial suspension.

3 Q. Okay. Are you aware when Dr. Booker took that action?

4 A. Oh, I'm aware that he took his action, 8 yes.

5 MR. WIGGINS: That's not relevant as to whether or not she's aware if Dr. Booker took that action. I mean, that's why we're here.

6 MS. HASKINS: Okay. The question is -- aware of it or not. Why we're here is on the charges that are in the statement of

7 Dr. Booker made that recommendation. I know why we are here. I need for you to move us along, Ms. Haskins. Next question, please.

8 MS. HASKINS: Okay. I perhaps didn't state the question properly. My question is if Dr. Abernethy had any further communication with

9 Dr. Booker regarding the matter.

10 A. No. The only recommendation and initial information I had was --

11 MR. WIGGINS: Excuse me, Dr. Abernethy. A. I've already answered that, I guess. I've answered it.

12 MR. WIGGINS: When the attorney and I or Ms. Williams and I, when we're having a discussion about whether or not something is coming in, do not respond until after I rule. Okay?

13 THE WITNESS: Excuse me.

14 MS. HASKINS: Okay. Thank you.

15 MR. WIGGINS: Excuse me.

16 MS. HASKINS: No more questions.

17 MR. WIGGINS: Do you have questions of Dr. Abernethy?

18 MS. WILLIAMS: Yes, sir.

19 EXAMINATION BY MS. WILLIAMS:

1 when she told me that the Health Department said you were --

2 Q. I wanted to know what documentation --

3 A. -- said you had called, yes.

4 Q. Thank you.

5 A. Identified you as the caller.

6 Q. Okay. Did she state -- maybe I didn't -- did she tell you what date the Health Department said that I had called, made the call?

7 A. No, I don't have that date. I just know -- all I know is what I've told you so far.

8 Q. Okay.

9 A. And the only part I --

10 MR. WIGGINS: No, ma'am. Once she asks you a question, you answer the question, and then let's move on. Ms. Williams, please.

11 MS. WILLIAMS: Yes, sir.

12 Q. Secondly, I'd like to ask you, during

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